

EXECUTIVE SUMMARY

01. The Indian-Origin Tamils in Sri Lanka were brought from Tamilnadu, South India, as immigrant labour with the concurrence of the then rulers of British India and Ceylon (Sri Lanka) from 1820s to work in the Coffee and thereafter Tea and Rubber Plantations. Although they were guaranteed various, socio-economic, cultural, civic and equal rights by the British colonialists in par with the other citizens of the Country, unfortunately they have been marginalized in all sectors and deprived of Citizenship Rights by Act No 18 of 1948. Thereafter they were disenfranchised which retarded their socio-economic and Cultural development as they were classified as Stateless Persons. This was a total violation of the declaration of **UNDHR**, which states, **Everyone has the Right to Nationality**.

02. The government followed a process of granting Citizenship gradually through the following Acts:-

(1) Indian and Pakistani Resident Citizenship Act No 03 of 1949,

(2) Srimala-Sastri Pact of 1964, Srimala-Gandhi Pact of 1974,

(3) Indo-Ceylon Agreement (Implementation) Act No 14 of 1967,

(4) Grant of Citizenship to Stateless Persons Act No 05 of 1986,

(5) Grant of Citizenship to Stateless Persons (Special Provision) Act No 39 of 1988,

(6) Grant of Citizenship to Persons of Indian Origin Act No 35 of 2003.

These are ample testimony to indicate that vast number of Indian Origin Tamils remained Stateless Persons for more than five decades and still they face various discriminations on the grounds of Citizenship and the Indian Origin Tamils as the main Citizenship Act No.18 of 1948 remains unchanged. Thus, the statement of

government party under clause 62 of their report to the effect that **“thus the government ensured that there would be absolutely no discrimination and that they would have same Rights, privileges, and entitlements to which the Citizen was entitled”** is not fully implemented. The GoSL should take positive steps to repeal all discriminatory Acts on Citizenship, implement and ensure equality to the Indian Origin Tamils, compensate the community by taking speedy, economic social and cultural development of this community.

03. Although the government claims to have technically resolved the problem of statelessness through the Citizenship (Amendment) Act No 35 of 2003. and its previous amendments, the main discriminatory Citizenship Act No. 18 of 1948 has not been amended or repealed. Also, Indian Origin Tamils continue to face difficulties in the following areas of discriminations

a) In getting registered as voters

b) Obtaining services, assistance, welfare facilities from Local government authorities, Prashia Saba, Provincial Councils and Grama Niladhari Divisions (GND) as sufficient GND are not established to serve the Tamil People in Plantation Sector, thus excluding them from administrative services of the Government.

c) In obtaining basic documents such as Birth, Death, Marriage Certificates and National Identity Cards in Tamil Language from public officers, where Indian Origin Tamil received step motherly treatment.

04. Since the state of emergency is in operation throughout the island, though partially relaxed since May 2010, the Prevention of Terrorism Act remains in force. Approximately 1900 Tamils including a good number of Indian Origin Tamil youths remain in detention under emergency laws more than one year since the war ended.

05. Re-establishment of the Ministry of Estate Infrastructure – The Chandrika Bandaranaike Government established a separate Ministry for the Social Development of the Indian Origin Tamils and the people of the Plantation Sector, a Ministry was established due to the continuous campaign, advocacy and lobbying by Civil Society and in the year between 2005 – 06. The Ministry of Nation Building Estate Infrastructure and Livestock Development in collaboration with UN agency – UNDP – prepared a 10 year National Plan of Action for the Social Development of the Plantation Community (2006 – 2015) in consultation with the State Party, INGOs, NGOs, Trade Unions and National and International financial institutions and Civil Society on the **THEME** of Reduction of Poverty, in keeping line with the **MILLENNIUM DEVELOPMENT GOALS (MDGs)**, and as well as the **SAARC DEVELOPMENT GOAL (SDGs)** but the State Party (Government) of Sri Lanka had arbitrarily closed down the said Ministry and failed to implement the National Plan of Action (NPA) though it was approved by the Cabinet of the Ministers but failed to provide Resources and necessary Funds for the implementation of the Plan.

The Indian Origin Tamils, working in the Plantation Sector, consider this as a violation of their Rights to Economic, Social and Cultural development, though the Plan was designed with a theme of **VOICE OF THE PEOPLE** under the following areas of development:

Rights to:

- Education
- Gender Equality
- Health
- Human Right
- Employment and Vocational Trainings
- Child Rights
- Housing, Water supply and Sanitation
- Empowerment of the Community
- Roads
- Sports
- Economic Development

06. The Plantation Sector Social Forum, a Network of the Civil Society, Trade Unions, NGOs, Women groups and Academics working in the Plantation Sector, urge the UN Committee on Economic, Social and Cultural, to recommend to the STATE PARTY to take necessary steps to implement the proposed National Plan of Action (NPA) with adequate Resources and required Funds, to ensure the Rights to Development of the Plantation Community.

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THE FOLLOWING ARE THE AREAS OF VIOLATION OF RIGHTS:-

Articles 02 and 03: The Non Discrimination and Equality

Sri Lanka is the one of the Countries that has brought various Acts with regard to the Citizenship Rights of the Indian Origin Tamils since 1948. Prior to 1948, all people of Indian Origin Tamils had the Right to vote but after the Act No.18 of 1948, the voting Rights of the majority of the people of Indian Origin Tamils were withdrawn and they were kept as non- Citizens (Stateless Persons) without any Fundamental Rights. The Right to participation in the people's Representative bodies and Parliament elections were completely denied to them until 1977.

Questions

- 1) What are the obstacles prevailing that delays the State Party from taking any steps/to repeal the Acts and to treat the Indian Origin Tamils as equal Citizens of Sri Lanka?
- 2) What are the problems involved for the State Party to act against the provisions enshrined in the Constitution of Sri Lanka to treat all Citizens equal irrespective of their status?

Recommendation

- *Repeal all discriminatory provisions of Act No 18 of 1948 and other Acts and regulations relating to the Citizenship issue of the Indian Origin Tamils*
- *Treat the Indian Origin Tamils as equal Citizens of Sri Lanka without any discrimination*
- *Ensure registration as voters without any special requirement from the persons of Indian Origin Tamils*
- *Establish adequate Divisional Secretariats to cover 20000 – 30000 on the basis of growth of population, Pradeshiya Saba and Grama Niladhari Divisions on the criteria of 1500 eligible Voters in the Plantation area.*
- *Ensure implement of quality.*

Chapter V of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Article 11: The Right to Adequate Housing

The Land and housing issues are very serious and have continued for many decades. The present housing of Plantation people is of barrack-type line rooms constructed over 100 years ago. The occupants are not given Rights to Land & housing ownership, though the State Party promised to vest the ownership of Housing and vegetable gardens to the workers families. Furthermore, the housing schemes in the Plantation Sector are not in accordance with the UN General Comment No.4 on the Right to adequate housing which defines seven basic contents of the Right which the Government must ensure with due priority to those social groups living in unfavorable conditions. The houses provided to the Plantation Communities are in most unhygienic and deplorable conditions and unfit for human habitation. Apart from this situation there are considerable amounts of families living in temporary sheds for many years and over-crowded. Consequent to the continuous campaign, advocacy and lobbying, the State Party took initiative to provide housing facilities to the Plantation Community, in keeping with the State policy document called 'Mahinda Chintana' and in accordance with the provisions of National Plan of Action (NPA), the question of housing, water supply, Sanitation, allied facilities and Infrastructure were given priority both in terms of quantitative and qualitative development and to allocate minimum of 7 perches of land to each family to develop the housing and change the deplorable situation with regard to housing in the Plantation Sector. But still the State Party has not taken steps to fully implement the program.

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Questions

- (1) What are the reasons for the GoSL for not vesting the ownership of the land and house occupied by the respective persons/families of the Plantation Community for many years?
- (2) Why the GoSL has not taken any meaningful steps to fulfill the General Comment No.4 of the UN on ESCR on Right to adequate housing?
- (3) What will the time frame be for the GoSL to ensure the vesting of ownership of the Land and Housing of the Plantation Community?

Recommendation

- Vest ownership of quarters and vegetable gardens to the respective occupants/families;
- Separate the housing settlements from the direct control of the plantation management and make it independent
- Bring the plantation housing under a single authority
- Extend the services of the Local Government bodies to the Plantation Community and bring Estate housing units under a separate administration
- Provide Single housing unit to each family with all allied and infrastructure facilities
- Formalize and upgrade the informal settlements in the Plantation Sector and it should be the preferred approach to improve and protect the Rights to adequate housing
- The State Party should ensure that Economic, Social and Cultural Rights indicators are correctly reflected in the national censuses
- To ensure the State Party Minimum obligations in the Plantation Sector especially with regard to infrastructure and provision of security of tenure
- Ensure the grant of minimum seven perches of land to new housing units.
- Ensure the grant of minimum seven perches of new housing units.

Article 12: The Right to Health

Although a Government report claims that “people in Sri Lanka are enjoying high standards of life, whereas the situation of hunger, malnutrition, anemia, health care, preventive measures and Ambulance services are very poor in the Plantation Sector. Further the State Party had not taken any positive action to streamline the health services in the Plantation Sector and the health situation in the Plantations is not in par with the national health system.

The National health services are not easily accessible to the Plantation people. The health services system is not fully extended to the Plantation Community. Lack of qualified Medical Personnel and drugs affects the people in the Plantation. Pregnant mothers and seriously ill patients have to travel long distances to get medical attention. On many occasions patients died on the way to the hospital. Pregnant mothers are transported in Lorries and Tractors they sometimes give birth on the way in the vehicles themselves and the babies die. No proper medical care and transport are provided to the Plantation Community. Most often, no Ambulance facilities are provided to the Community. Malnutrition, Infant mortality and death rates are higher in the Plantation Sector when compared to the national averages.

Questions

- (1). Why the GoSL is not taking positive measures to streamline the health services of the Plantation Sector with the National Health system?
- (2). Why the GoSL is treating the Indian Origin Tamils Plantation Community in such discriminatory manner?
- (3). Why the GoSL has not taken any steps to appoint qualified Medical Personnel to the Plantation area?
- (4). Has the GoSL taken any steps to combat malnutrition and reduce mortality and death rates in the Plantations?

Recommendations

- *All Plantation-based District Hospitals should be upgraded and Developed*
- *The Plantation health services should be integrated with the National Health Services.*
- *Ensure easy access to the National, Provincial and District health services to the Plantation Community.*
- *Implement preventive measures to combat malnutrition and to reduce the mortality and death rates*
- *Take proper care to reduce the Anemia rate in the Plantation Sector*
- *Existing Plantation-based dispensaries and hospitals should be incorporated into the National system*
- *Appoint qualified Medical Practitioners to the Plantation Hospitals*

Article 13: The Right to Education

The Schools in the Plantation Sector was under the purview of the Estate managements for decades till the gradual take-over of schools by the State, between the period 1977-1991, but the quality of education in the Plantation Schools are not in par with that of the National Level. Literacy rates and educational attainment of the Estate population remain far behind that of the rest of the community. However, during the last decade or two some improvements have taken place in Primary and Secondary level education among them. Swedish assistance to improving Plantation Schools has played a key role in this. However, post-secondary education including tertiary education is sadly lacking among them. Non-attendance at schools and the rate of school drop-out are very high. In most schools, there are no proper Science Laboratory facilities and transport facilities to the children to attend higher education

classes. The NPA requires Rs.10.4 billion for the development of the Plantation education services at every level but the State Party has not taken steps to implement this plan or provide the required funds.

- **Preschool and early childhood educational development**

Early childhood and pre-school education remains within the purview of the Plantation management and the Crèches, a centre which provides custodial care for the children while the mothers are at work, is another area in which the Rights of the children are violated. The Crèche Attendant who is supposed to do double work as (1) Crèches Attendant and (02) Pre-School Teacher is not competent in Pre-school education. The Pre-Schools are conducted against the concepts of Pre-school education. Furthermore, the Pre-School Teachers and Crèche Attendants are not Tamil Speaking, the mother tongue of the children.

At the secondary level students perform poorly at the G.C.E (O/L) Examination due to lack of professionally-qualified Teachers, Infrastructure facilities and other resources. No National School/Colleges which have proper facilities for providing secondary education are there in the Plantation areas to accommodate the children of the Indian Origin Tamils. All these contribute to the violation of the Right to Education for the Plantation Community. The Pre-school process is not included in the work plan and agenda of the Pradesiya Sabhas and provincial Councils(Local Government Policies)

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Questions

- (01) Why has the GoSL not taken any meaningful measures to develop the education of the Indian Origin Tamils?
- (02) Why has the GoSL completely failed to set proposed special resources and funds as per the NPA to develop education in the Tamil Schools in the Plantation Sector?
- (03) Why has the State Party not taken steps to upgrade and develop the Tamil Schools in the Plantation areas?

- (04) Why has the GoSL not taken positive measures to ensure provision of Pre-School education in the Plantations?
- (05) Why has the GoSL not decentralized power to all local bodies to develop the process of early childhood education in the Plantation Sector?

Recommendations

- *Establish National Schools by upgrading the existing Schools in Plantation areas*
- *Separate Pre-School Building should be constructed in every Plantation*
- *Pre-School education should be brought within the implementation plan of the respective Local Government bodies*
- *Recruit Plantation youths and provide proper mechanism to train them as Pre-School Teachers in Tamil Language in the Plantation areas*
- *Set up sufficient Technical and Tertiary Education Institutions in Tamil Language for the Plantation Community*
- *Pay special attention to the children with special needs(the differently-able) for proper care and education*
- *Provide equal Education Facility.*

The above-mentioned are some of the recommendations in respect of education concerning Indian Origin Tamils.

Articles: 6, 7, 8 and 9 The Rights to work and Social Security

01. The workers' Rights to join and organize TUs is facing serious challenges with the introduction of neo-liberal globalization policies by the Government and employer and the Right to organize in terms of the ILO convention is not taking place in all sectors, especially in the Free Trade Zones, Tea Small holdings and new enterprises. Social security net covering the unemployment and disablement is not ensured to the workers employed in Plantations. The State Machinery is not fully involved in the mediation and settlement of disputes. Trade Union Rights are being violated by various parties. 56% of the women in the Plantations are contributors to the Trade Unions but there is no women leadership at decision-making levels. The State Party decision and judiciary involvement affect the Right to Strike. The ILO Core-Convention should be implemented by the State Party in

all sectors. The State Party should not seek judiciary assistance to combat Right to Strike.

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Questions

- (01). Why the Gosl has not taken action to fully implement the ratified conventions in all sectors?
- (02). Why the Right to Strike is not fully endorsed by the State Party, without using state power to combat such Rights?
- (03). Why has the State Party not made provisions to well equip with sufficient staff/personnel to the Department of Labour to handle disputes including the appointment of Tamil staff?

Recommendations

We urge the committee to recommend to the state party to:-

- *Ratify all ILO Conventions and take steps to implement all conventions.*
- *State Party should refrain from seeking intervention of the Judiciary against the Right to Strike.*
- *The State Party should introduce necessary legal framework to implement ILO Core Conventions.*
- *To implement the labour laws strengthen the Ministry of Labour*

02. There is no opportunities and space to the Indian Origin Tamils for employment in the State Sector. Unemployment rate is very higher among the youth of the Indian Origin Tamil Community. There are no employment opportunities for them in the administrative, Security and Government services to the Indian Origin Tamils. Non implementation of language policy in State sector is another serious factor in obtaining services of the State. No proper security to elders, unemployed youths and disables in the Plantation Sector. The discriminatory policy between State and Private sector employees in regard to the maternity leave should be regularized and equally treated. Occupational security is needed to improve the dignity of the workers. The ILO convention on decent work should be implemented. The workers are not provided with social security benefits such as old aged pension, unemployment doles and health insurance etc to

the Plantation workers. Relief is not granted to the Plantation workers during drought and natural disasters.

Questions

- (1) Why has the State Party not provided employment opportunities to the Indian Origin Tamils in the security and government services in keeping line with the population strength?
- (2) Why are the Plantation workers not provided with improved social security benefits, such as Old Age pension, unemployment benefits etc?
- (3) Why is the State Party taking discriminatory action in granting maternity leave to the Plantation women?
- (4) Why is the State Party not providing relief for natural disasters and accidents to the Plantation Community?

Recommendations

- *The State Party should take necessary steps to establish a mechanism to provide social security benefits such as Old age Pension and unemployment benefits to the Plantation people*
 - *All ILO Conventions on decent work should be implemented*
 - *Provide all benefits, that are provided to the State sector employees in Sri Lanka to the Indian Origin Tamils*
 - *Provide relief to the Plantation Communities suffering from natural disasters*
03. The services of the Presidential Task Force and Samurthi Officers dealing with youth suicide have not been extended to the Plantation Sector. Plantation Community is not motivated in respect of the youth suicide rate by the said PTF or others. There is an increase in the suicide rate among youth in the Plantation Sector in the recent past which need immediate and positive intervention of the State;.
04. The Tamils of Indian Origin are the victims of all communal violence and civil war that took place in Sri Lanka during the years 1977, 1981, 1983 and 1986 and many lives and properties were destroyed and still they are unable to regain the lost properties and recover from the mental agony. Furthermore, the Ethnic ratio of the Indian Origin Tamils was 10.6% in 1963, which has now come down to 5.6% in 2001 Census. This is partly due to

shortcomings in the Census system where many Indian Origin Tamils are recorded as Sri Lankan Tamils. Migration of Indian-Origin Tamils to the North and East due to various ethnic conflicts and violence has also contributed to this.

05. The workers are discriminated and not provided with social security benefits such as old age pension, unemployment doles, health insurance etc to the Plantation workers.

Questions

- (1) What are the steps taken by the State Party to extend the services of the Presidential Task Force to the Plantation Sector?
- (2) What are the measures taken by the State Party to extend Samurthi services to the Plantation Sector?
- (3) Why Samurthi Officials are not appointed as per the population of the Indian Origin Tamils?

Recommendations

- *Extend the services of the Presidential Task Force to the Plantation Sector*
- *Create awareness about suicide among youths in the Plantation Sector*
- *Implement program to combat suicides among youths in the Plantation Sector*
- *Establish Counseling service and media exposure.*

Article 11: The Right to Adequate Food

The poverty level in the Estate Sector is the highest (32%) in the country. The State Party is not taking action to extend the Samurdhi services fully to the Plantation Sector. The poverty condition in the Plantation Sector is very much higher than the National Level. Nuware Eliya District has the highest level of poverty in the country of 34%. Children of under-weight, height are higher in this sector. The Government Economic and Industrial Development Program are not extended to the Plantation Sector. No security and care taken by the State Party towards the families of migrant workers in the Plantation Sector. The poverty conditions of the conflict-affected families and refugees are not taken into consideration and the well-being of the children of the migrant workers are not addressed by the State in the Plantation Sector. The basic

needs are not met to eradicate/reduce poverty among the Plantation people. The strategy of poverty reduction of 2003 is not extended to the Plantation Sector. The constant rise in the taxation and prices of essential food items contribute to poverty but the State Party is not addressing the issues in a positive manner.

Section 01 OPC Annex 1-3

**Poverty Headcount Index by Sector by survey period
1990/91 to 2006/07**

Sector	Poverty headcount index by survey period			
	1990/91	1995/96	2002	2006/07
Sri Lanka	26.1	28.2	22.7	15.7
Sector				
Urban	16.3	14.0	7.7	6.7
Rural	29.5	30.9	24.7	15.7
Estate	20.5	38.4	30.0	32.0

Source: Department of Census and Statistics, Ministry of Finance and Planning Sri Lanka, Household Income & Expenditure Survey 2006/07

Poverty of Plantation Sector	%
Stunted	35%
Underweight	45%
Weight & Size birth rate less than 2.5 Kg	31%
Low birth weight	38.3%
Under weight pregnant mothers	41.7%

(Source: Nutrition and Food Security Assessment in Sri Lanka, Medical Research Institute of Ministry of Health Sri Lanka WFP and UNICEF March 2010)

**Average Retail Prices of Selected Consumer Items
2000-2009**

Food Item	Year / Retail Price in LKR		
	2000	2004	2009
<i>Rice (Samba) (kg)</i>	<i>29.16</i>	<i>40.93</i>	<i>74.97</i>
<i>Beans</i>	<i>41.16</i>	<i>57.18</i>	<i>90.45</i>
<i>Spinach (Niviti)</i>	<i>22.19</i>	<i>25.70</i>	<i>46.17</i>
<i>Potato</i>	<i>39.82</i>	<i>65.98</i>	<i>89.81</i>
Chicken	115.0	177.68	332.38
Sprats	123.46	171.38	330.62

Dhal	53.74	69.49	201.42
Coconut	7.48	12.75	20.03
Coconut oil	44.93	68.90	139.50
Banana (Ambul)	2.09	2.39	46.25
Fresh Milk (Dairy)	16.80	25.48	52.77
Milk Powder (Anchor)	98.26	137.24	258.60
Tea	197.29	249.14	648.20
Wheat flour	17.73	25.89	71.40
Sugar	29.86	37.55	78.61

(Source: Economic and Social Statistics of Sri Lanka, Central Bank of Sri Lanka, 2010, Table 7.4, p.66)

- Facilities to the families of the migrant workers should be extended
- Proper security measures to be taken for the children of the migrant workers
- Review the poverty level indicators
- Develop the industrial sector to generate income for poverty reduction

Article: 15: The Rights to Cultural

The State Party is giving preference only to the Religion and Culture of the majority community of Sri Lanka while the religion and culture of other minority communities are not equally treated.

There are also instances where the practicing of other religions is prevented. There were separate Ministries in the State to deal with Cultural and Religious affairs of all communities but in the recent past these Ministries have been amalgamated into one Ministry where the fund allocations for minority religions are not sufficient. The State Party does not print, distribute and publish Tamil classical and modern literatures. This is a sad situation as far as the Indian Origin Tamils are concerned.

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Questions:-

- (01). What are the measures taken by the State Party in ensuring and guaranteeing the life and properties of the Indian Origin Tamils living in various parts of Sri Lanka?
- (02). Why has the GoSL not given equal treatment for the Religious/Cultural Rights of Minority Communities?
- (03). What are the reasons for the State Party in not allocating funds for the Religious and Cultural development/of the minorities?

Recommendations

- The State Party should ensure and guarantee the Right to life and properties of the Indian Origin Tamils.
- Provide equal Rights and privileges to Cultural and Religious and issues of IOTs
- Protect and develop the Cultural and Religious Institutions of the Ethnic Groups.
- Protect the Cultural heritage of the IOTs

Questions

- (1) What are the steps initiated by the State Party to reduce the prevalence of poverty in the Plantation Sector?
- (2) What are the measures taken by the State Party to address this issue?
- (3) Why has the State Party not taken any action to control the situation?

Recommendations

- Provide all facilities to overcome the present condition of the people in the Plantation Sector
- Take appropriate action to address the issues to control the situation
- Provide necessary facilities to overcome the higher degree of poverty
- Extend the Samurdhi services fully to the Plantation Sector
- The People of Nuwara Eliya District should be given preference in poverty reduction measures
- The strategy of poverty reduction of 2003 should be extended to the Plantation Sector
- Provide essential food items on concessionary rate
- Take action to reduce malnutrition rate in the Plantation Sector

- *Establishment of an Authority to monitor Community development of the Plantation Sector*
- *Protect and develop the ethnic identity and ratio of the IOTs living in the Country*
- *Implement the National Plan of Action and allocation of necessary Resources and Funds.*
- *Continue the collaboration with UNDP and other international agencies for the implementation of NPA.*
- *State should treat all religions alike without discrimination in the allocation of funds and resources, to develop the Hinduism and Christianity religions.*