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Responses to Information Requests

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17 March 2017

LKA105756.E

Sri Lanka: Treatment of Tamils in society and by authorities; the Eelam People's Democratic Party (EPDP), including relationship with the Tamil population (2014-February 2017)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Treatment of Tamils in Society

According to a 2015 Oakland Institute[1] report that is based on research and fieldwork conducted between January 2014 and April 2015, "[t]housands of Tamils are still internally displaced and remain without land or livelihoods" (The Oakland Institute 2015, 3). In a 2016 report, the UN Committee on the Elimination of Racial Discrimination (CERD) states that it is

concerned by the situation of internally displaced persons [IDPs], a majority of whom belong to the Tamil, Moor and Muslim ethnic and ethno-religious minority groups, who continue to remain displaced and face challenging living conditions in camps and delays in reintegration into society. Once reintegrated, those communities also face challenges in access to basic services, employment and adequate housing. (UN 6 Oct. 2016, para. 25)

According to Freedom House's *Freedom in the World 2016* report on Sri Lanka, "Tamils report systematic discrimination in areas including government employment, university education, and access to justice. ... Ethnic tensions occasionally lead to violence" (Freedom House 2016). The US Department of State's *Country Reports on Human Rights Practices 2016* reports that "[b]oth local and Indian origin Tamils maintained they suffered longstanding, systematic discrimination in university education, government employment, housing, health services, language laws, and procedures for naturalization of noncitizens" (US 3 Mar. 2017, 19). According to Freedom House, "[t]he status of Sinhala as the official language puts Tamils and other non-Sinhala speakers at a disadvantage" (Freedom House 2016). A 2017 report by the UN Special Rapporteur on minority issues, on her mission to Sri Lanka from 10 to 20 October 2016, states that the "language gap often places Tamil speakers at a significant disadvantage with respect to employment and access to services" (UN 31 Jan. 2017, para. 22). According to same report,

[m]any of the Tamil-speaking representatives, including Muslims in the North and East, highlighted the difficulties of not being able to use Tamil when dealing with State institutions, including provincial and local authorities, the police and the hospitals. ...

Similarly, law enforcement officers and members of the military deployed in Tamil-speaking areas often lack Tamil language skills. (UN 31 Jan. 2017, paras 22 and 23)

Similarly, *Country Reports 2016* states, regarding services for assisting survivors of rape and domestic violence, that "[l]anguage barriers between service providers and victims ... were reported in the north and east, where Tamil speaking victims lacked access to Tamil speaking service providers" (US 3 Mar. 2017, 17).

Similarly, the UN Special Rapporteur's report provided the example of minority women "who have suffered domestic violence" and who, in addition to "gather[ing] courage to ... make a complaint," "face the challenge of explaining [their complaint to the authorities] in a language they do not command" (UN 31 Jan. 2017, para. 23). *Country Reports 2016* further states that "[a] shortage of court appointed interpreters limited the right of Tamil speaking defendants to free interpretation as necessary, but trials and hearings in the north and east were in Tamil and English" (US 3 Mar. 2017, 9).

According to a 2016 report by CERD,

Tamils of Indian origin, also referred to as "Plantation Tamils" continue to face the following challenges:

- a. High levels of poverty, poor compensation for work and poor working conditions;
- b. Poor housing conditions and difficulty in gaining access to health services;
- c. Lack of quality education and higher dropout and child labour rates than the national average;
- d. Difficulty in obtaining citizenship papers or identity documents, leading to problems with owning housing, opening bank accounts and avoiding detention;
- e. caste-based discrimination. (UN 6 Oct. 2016, para. 20)

The 2017 report by the UN Special Rapporteur on minority issues states that "[a]ccording to all the socioeconomic and health indicators, including access to housing, health, education, literacy, sanitation and safe drinking water, Plantation Tamils are the most deprived group in the country" (UN 31 Jan. 2017, para. 54).

Freedom House reports that, according to the Sri Lanka-based Federation of University Teachers' Association, there is a "lack of tolerance for dissenting views by both professors and students, particularly for academics who study Tamil issues" (Freedom House 2016). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Treatment by Authorities

2.1 Media

Reporters without Borders (RSF), a Paris-based NGO founded by journalists that works on freedom of information (RSF n.d.a.), indicates that the government elected in 2015 "said journalists and cyber-dissidents would no longer have to fear for reprisals for their political views" (RSF n.d.b.). The same source adds that "[t]he Tamil media – long a target of the authorities, including after the official end of the civil war in 2009 – have seen a decline in harassment" (RSF n.d.b.). According to Freedom House, "the level of verbal and physical attacks on journalists ... dramatically lessened during [2015]," although "Tamil-language outlets such as the *Uthayan* newspaper faced greater constraints" (Freedom House 2016). The same source further reported that "[t]he blocking of online media, particularly Tamil-language news sites and other independent outlets, such as the investigative news website *Colombo Telegraph*, lessened in 2015" (Freedom House 2016).

2.2 Surveillance

According to Amnesty International [AI] *Report 2016/2017: The State of the World's Human Rights for Sri Lanka*, "Tamils continued to complain of ethnic profiling, surveillance and harassment by police who suspected them of LTTE [Liberation Tigers of Tamil Eelam] links" (AI 22 Feb. 2017). In a telephone interview with the Research Directorate, the Executive Director of The Oakland Institute indicated that Sri Lanka is not safe for people who are seen as being linked to the LTTE (The Oakland Institute 2 Mar. 2017).

According to People for Equality and Relief in Lanka (PEARL)[2], "[t]he ongoing climate of fear in the North-East makes it difficult, and even unsafe, for civil society actors, journalists and human rights activists to work" (PEARL 27 Apr. 2016). AI's 2016/2017 report states that "[p]eople engaged in activism in the north and east continued to report harassment or surveillance by security forces" (AI 22 Feb. 2017). According to *Country Reports 2016* "[t]he most significant human rights problems were incidents of arbitrary arrest, lengthy detention surveillance, and harassment of civil society activists, journalists, members of religious minorities, and persons viewed as sympathizers of the [LTTE]" (US 3 Mar. 2017, 1). The same source further states that "Tamils throughout the country, but especially in the north and east, reported security forces regularly monitored or harassed members of their community, especially young and middle-aged Tamil men" (US 3 Mar. 2017, 19).

2.3 Military Presence

According to the 2015 Oakland Institute report, "a silent war continues under a different guise. One major issue is the displacement of people from their lands and homes as result of persistent military

occupation of the Northern and Eastern provinces" (The Oakland Institute 2015, 3). According to the same source,

Sri Lanka's army still occupies "high security zones" in the North and East of the country. In 2014, at least 160,000 soldiers, almost entirely Sinhalese, were estimated to be stationed in the North. With the Northern Province's population estimated at just over one million in 2012, this yields a ratio of one army member for every six civilians, despite the official end of hostilities six years ago. (The Oakland Institute 2015, 3)

The Guardian cites the Sri Lanka High Commission in London as stating, in response to the report by The Oakland Institute, that the "the number of soldiers deployed in the north was 'much less' than 160,000, adding that troops were deployed in different provinces of Sri Lanka according to local security assessments" (*The Guardian* 28 May 2015).

In an article in *The Diplomat*, a "current-affairs magazine for the Asia-Pacific region" (*The Diplomat* n.d.), Alan Keenan, a senior analyst on Sri Lanka at International Crisis Group, states that the government "partially scaled back the heavy military presence in Tamil-majority areas in the north and east of the island" in the "first nine months" of Maithripala Sirisena's presidency, following his January 2015 electoral win over former president Mahinda Rajapaksa (*The Diplomat* Jan. 2017).

According to an IRIN article, "between 1990 and 2009, the military confiscated 11,629 acres in the northern tip of Sri Lanka - the Tamil heartland - to create the Palaly High Security Zone" adding that under the government of President Sirisena, "some land has been released" and that "[r]esidents of Tellipallai and other communities" were "allowed to return" in April 2015 (IRIN 19 June 2015). Similarly, according to Freedom House, policies encouraging "settlement by ethnic Sinhalese civilians" in Tamil areas and "heightened military presence" "have ended" under the government of President Sirisena, and "some land has been released," however, "displacement of Tamil civilians remains a concern, and a significant amount of land - 44,000 acres - is still under military control" (Freedom House 2016). The UN CERD report "notes efforts by [Sri Lanka] to demine and release land, but it is concerned by reports that land is also still being held by the military in the North and East ..." (UN 6 Oct. 2016, para 25). The 2017 report by the UN Special Rapporteur on minority issues states that "with the army's ethnic make-up being almost entirely Sinhalese and its disproportionately heavy presence in the Northern Province, the military is seen as an occupying force that is believed to be continuing to stigmatize Tamils as militants" (UN 31 Jan. 2017, para. 38).

2.4 Sexual Violence

According to a 2016 report by the International Truth and Justice Project Sri Lanka (ITJP)[3], "one year after the change of government in Sri Lanka the security forces continue to detain, torture and sexually violate Tamils in a network of sites across the island" (ITJP Jan. 2016, 9). The 2017 report by the UN Special Rapporteur on minority issues indicates that

[w]hile the incidence of sexual assaults by military personnel is said to have decreased with the downsizing of the army in the North and East, a climate of fear remains among the Tamil women in an area where the military presence has continued. (UN 31 Jan. 2017, para. 47)

The Executive Director of The Oakland Institute indicated that there are thousands of Tamil war widows with no job opportunities in the North of Sri Lanka who live in fear of sexual violence and with intimidation (The Oakland Institute 2 Mar. 2017). The same source indicated that sexual violence continues to be committed by the army, both against Tamil men and Tamil women (The Oakland Institute 2 Mar. 2017).

In February 2017 Agence France-Press (AFP) cites former President Chandrika Kumaratunga, who is the chairman of the Office for National Unity and Reconciliation, as saying to the Foreign Correspondent Association of Sri Lanka that "'Tamil women who survived Sri Lanka's civil war now face widespread sexual exploitation by officials in their own community, as well as from the army'" (AFP 15 Feb. 2017). The same source further cites Chandrika Kumaratunga as saying that "'women who were widowed during the 37-year conflict were among the victims of abuse by officials who frequently demand sexual favours just to carry out routine paperwork'" (AFP 15 Feb. 2017). In response, the Sri Lankan Ministry of Defence issued a statement that the army "refutes the allegations of sexual exploitation of [T]amil women" and that the Sri Lankan army has a "Zero Tolerance Policy on sexual abuses" (Sri Lanka 18 Feb. 2017).

2.5 Treatment Under the Prevention of Terrorism Act (PTA)

According to a 2016 op-ed in Inside Story[4] by International Crisis Group senior analyst Alan Keenan, "[r]ecent arrests of Tamils under the draconian Prevention of Terrorism Act (PTA) ... and continued reports of the torture of detainees have sown concern about the government's ability to rein in abuses" (Keenan 26 May 2016). PEARL reported in April 2016 that "[a]bductions and arrests of many Tamils across the North-East ... have been greatly increasing in recent weeks" (PEARL 27 Apr. 2016). According to Human Rights Watch, the

government had "asserted that the PTA was a necessary tool in its battle against the [LTTE]", but that in early 2017, "nearly eight years after the war's end," the PTA "continues to be used to arrest and detain people" (Human Rights Watch 20 Feb. 2017). The same source states that "[l]awyers and relatives of PTA detainees told Human Rights Watch in May 2016 that police arrests were still being made in the notorious white vans used by the previous government, creating fear of a return to a culture of enforced disappearances"[5] (Human Rights Watch 20 Feb. 2017).

According to AI's *State of the World's Human Rights 2016/2017*, "Tamils suspected of links to the [LTTE] continued to be detained under the PTA, which permits extended administrative detention and shifts the burden of proof onto the detainee alleging torture or other ill-treatment" (AI 22 Feb. 2017).

According to the information gathered by the Office of the High Commissioner for Human Rights' (OHCHR's) Investigation on Sri Lanka (OISL), a 2015 report covering a time period from February 2002 to November 2011, in Colombo, "many Tamils" arrested under the PTA and Emergency Regulations "were held in Welikada ('Magazine') remand prison, Negombo prison, various police stations in the city, including Kessalwatta and Hultsdorf, TID facilities in Colombo (sometimes referred to as the '6th floor'), and at CID headquarters (known as the '4th floor')" (UN 16 Sept. 2015, para. 369). According to OISL, the "Kalutara prison and Boosa detention centre in Galle" were used to hold "hundreds of Tamils arrested under the PTA or the Emergency Regulations" (UN 16 Sept. 2015, para. 369).

According to PEARL, the PTA "facilitates abuses in custody, like torture and sexual violence" (PEARL 27 Apr. 2016). In its report, the UN CERD stated its concern "that the Act allows for prolonged detentions without due process" (UN 6 Oct. 2016, para. 14).

According to the same source, the PTA "has a disproportionate impact on ethnic and ethno-religious minorities, such as Tamils" (UN 6 Oct. 2016, para. 14). The 2017 report by the UN Special Rapporteur on minority issues states that "[r]einforcing the stigmatization of the Tamil identity is the continued application of the [PTA], which affects the Tamil population disproportionately" (UN 31 Jan. 2017, para. 52).

Sources indicate that the government had promised the UN to repeal the PTA (Keenan 26 May 2016) or "pledged to revoke" the PTA to the UN Human Rights Council (Human Rights Watch 13 June 2016). Similarly, according to sources, the government "pledged" to "repeal" the PTA (PEARL 27 Apr. 2016; AI 22 Feb 2017). According to AI, the government had "not implemented this commitment by the end of 2016" (AI 22 Feb 2017). The 2017 report by the UN Special Rapporteur on minority issues states that

[d]espite the heavy criticism it has received nationally and internationally for allowing prolonged detention without due process, the Government has reportedly continued to rely on the Act to make new arrests, including exiled Tamils returning to Sri Lanka. (UN 31 Jan. 2017, para. 52)

Alan Keenan indicates that "[m]any Tamils and rights activists are growing increasingly discouraged by what they see as slow progress" (Keenan 26 May 2016).

2.6 "Sinhalization"

According to the 2015 Oakland Institute report,

[o]ver the past six years, the process of Sinhalization has intensified with an aggressive government-led effort that systematically replaces Tamil culture and history with victory monuments dedicated to Sinhalese hegemony and Buddhist religion on the ruins of the Tamil homeland. The Sinhalization of the Northern and Eastern Provinces involves the establishment of Sinhala signboards, streets newly renamed in Sinhala, multiple monuments to Sinhala war heroes, war museums, and the construction of Buddhist temples - even in areas where no Buddhists live. (The Oakland Institute 2015, 3)

The same report also indicates that the army "is engaged in large-scale property development, construction projects, and business ventures such as travel agencies, farming, holiday resorts, restaurants and ...cafes that dot the highways in the Northern and Eastern Provinces" (The Oakland Institute 2015, 3). The *Guardian* cites the Sri Lanka High Commission in London as saying, in response to the 2015 Oakland Institute report, that

[t]he reference to the army being engaged in "large scale" property development, construction projects and business ventures is an exaggeration. However, it may be noted that the new government has pledged to ensure that the military does not engage in civilian areas such as commercial activities - which was permitted by the previous government - and steps are being taken in this regard. (*The Guardian* 28 May 2015)

The 2017 report by the UN Special Rapporteur on minority issues states in meetings with "minority representatives in the North and East... [m]any"

alleged systematic, government-sponsored movements of Sinhalese settlers to the Tamil-speaking areas that are intended to change the demographics of the region, to the political disadvantage of the minorities. They spoke of the military-assisted construction of Buddhist statues and temples in areas that have no Buddhist population; new Sinhalese settlements with facilities appearing suddenly; and State confiscation from Tamil owners of land for development or conservation. (UN 31 Jan. 2017, para. 39)

The Executive Director of The Oakland Institute indicated that "Sinhalization" is still taking place (The Oakland Institute 2 Mar. 2017). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.7 Civil and Political Rights

The US *Country Reports 2015* indicates that in November 2015, "the government removed the ban on eight Tamil diaspora organizations and 267 individuals on the previous government's watch list" (US 13 Apr. 2016, 1). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to Freedom House, "members of various Tamil political parties [in the north and east], who have faced frequent threats in the past, ... faced less intimidation in [the lead-up to the January 2015 election]" (Freedom House 2016). The same source adds that

Tamil civilians faced fewer hindrances in voting during both [the April 2015 presidential and the August 2015 parliamentary] polls, in contrast to the 2010 elections. In what was described as an amicable gesture to the Tamil community by [President] Sirisena, in early 2015 the newly elected president appointed a civilian governor in Northern Province, where Tamils comprise a majority; the new governor replaced a retired army commander. (Freedom House 2016)

According to Keenan, there are government "moves to improve relations between the majority Sinhalese community and Tamils" (Keenan 26 May 2016). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. The Eelam People's Democratic Party (EPDP)

Political Handbook of the World 2015 (PHW) states that Eelam People's Democratic Party (EPDP) is a "Tamil-based" party (*PHW* 2015, 1373). The same source indicates it is a government party and that it "was formed in the late 1980s by Douglas Devananda" (*PHW* 2015, 1377). Similarly, a 2016 report by ITJP describes the EPDP as a "pro-government Tamil party" (ITJP Jan. 2016, 41). Sources report that Douglas Devananda is the leader of the EPDP (UN 16 Sept. 2015, para. 148; *PHW* 2015, 1377) and the General Secretary of the EPDP (*PHW* 2015, 1377). According to a 2015 article by The Asia Foundation [6], the EPDP is a "Tamil party led by ex-militant group leader Douglas Devananda that has been associated with the Rajapaksa regime" (The Asia Foundation 26 Aug. 2015). According to sources, Douglas Devananda is the Minister of Traditional Industries and Small Enterprise Development (*PHW* 2015, 1377; US 25 June 2015, 5). According to the OISL report, Devananda "held Ministerial positions on a number of occasions under Presidents Kumaratunga and Rajapaksa" (UN 16 Sept. 2015, para. 148).

According to the final report of the European Union (EU) Election Observation Mission (EOM) to Sri Lanka for the 17 August 2015 parliamentary elections, the EPDP received 33,481 votes, or 0.30 per cent, of the votes (EU 2015, 45). According to sources, the EPDP has one seat in parliament (*The Economist* 6 Feb. 2017; The Asia Foundation 26 Aug. 2015).

In 2016, *The Hindu*, an Indian newspaper, reported that ten Tamil parties and groups in Sri Lanka, including the EPDP, the Tamil United Liberation Front, and the Democratic People's Congress, "have come together to form a coalition — Democratic Tamil National Front" (*The Hindu* 6 May 2016). In a 2016 report, International Crisis Group describes the EPDP as a "former Tamil militant group" that is part of the United People's Freedom Alliance, a "diverse coalition of parties" (International Crisis Group 18 May 2016, 35). Further and corroborating information on the EPDP's political alliances could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.1 Relationship with the Military

According to a 2013 Jane's Intelligence Review article by Joshua Smith, "a Sri Lanka-based political and security analyst specializing in South Asia,"

[t]he EPDP was originally formed to fight alongside the LTTE, and was involved in the declaration of Eelam in 1990 before the entire provincial council was dissolved. However, it later allied itself with the government and operated as a paramilitary outfit supporting Sri Lankan military forces against the LTTE; it continued as an ally

of the [Sri Lanka Freedom Party] after the end of the war, but with dubious credibility in the North. Indeed, many humanitarian groups refer to the EPDP as the one of the most viable paramilitary groups operating with impunity in the country. (Jane's Intelligence Review 12 Aug. 2013)

The US *Country Reports 2014* states that

[t]here were persistent reports of close ties between progovernment paramilitary groups such as the [EPDP] and government security forces. Whereas during the war these groups served more of a military function, often working in coordination with security forces, in the postwar environment they increasingly took on the characteristics of criminal gangs as they sought to solidify their territory and revenue sources. (US 25 June 2015, 5)

3.2 Relationship with the Tamil Population

According to the *Country Reports 2014*,

[t]here were persistent reports that the EPDP ... engaged in intimidation, extortion, corruption, and violence against civilians in the Tamil-dominated northern district of Jaffna. Reports throughout the year especially focused on the role of EPDP members in issuing threats to opposition Tamil politicians or community members engaged in human rights cases that could bring disrepute on the government. (US 25 June 2015, 5-6)

The same source further states that

[m]embers of the EPDP were reportedly involved in harassment and intimidation of journalists in Jaffna. The EPDP increasingly used public protests outside of opposition news outlets as an intimidation tactic to promote self-censorship. Throughout the year EPDP protests in Jaffna focused on the Jaffna *Thinakkural* newspaper for its strong anti-EPDP stance. (US 25 June 2015, 34, italics in original)

According to the 2016 report by the ITJP,

[t]he [EPDP], which plays a key role in brokering releases of the victims, is still operating with impunity. The modus operandi for abduction, detention, interrogation, torture, sexual violence and release in exchange for large payments to the security forces and human smugglers remains unchanged. (ITJP Jan. 2016, 10)

According to the same source, in half of the 20 "'white van' abduction" documented by ITJP cases that occurred after the January 2015 Presidential elections, the EPDP "was known to have brokered the ransom for the release deal" (ITJP Jan. 2016, 22). An overview listing the ransom deals and involvement of the EPDP per case as reported to the ITJP is attached to this Response.

In correspondence with the Research Directorate, a representative of the ITJP stated that

[a] large number of victims whose abduction, torture and/or sexual violence at the hands of the security forces (police and military) ITJP has documented post war (including the specified period 2014-2016) say that EPDP was involved in brokering their release for money. In some cases the victims report that a man from EPDP is actually present at the hand over point and sometimes even hands over a bag containing cash to their captors. ... In many cases victims say the EPDP man at their release is known to the security officials releasing them and this is why their relatives [are] approached in the first place. The victims' understanding is that when they disappear, their families search for them everywhere and in desperation go to EPDP because they speak Tamil and are known to have close ties to the security forces. It is unclear if EPDP keeps some of the ransom money or how they are remunerated for their role. According to victim testimony, EPDP also seems to be involved in organising the smuggling out of the country of victims - handing over the individuals to human smugglers. (ITJP 28 Feb. 2017)

Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. For more information about the EPDP, please see Response to Information Requests LKA105105 of April 2015 and LKA103961 of February 2012.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Oakland Institute is an "independent policy think tank," based in Oakland, California, that focuses on "social, economic, and environmental issues" (Oakland Institute n.d.).

[2] PEARL is a "non-profit organization led by human rights activists concerned about the situation in Sri Lanka" whose mission is to "end the systemic human rights abuses against the Tamil population in Sri Lanka,

and promote equality, rights and justice on the island" and who advocate with US policymakers, the UN, the EU, and "other governmental and non-governmental organizations" (PEARL n.d.).

[3] The ITJP is "administered by the Foundation for Human Rights in South Africa under the guidance of transitional justice expert Yasmin Sooka. ITJP both collects and stores evidence for any future credible justice process but also intervenes where [they] can to assist victim communities in Sri Lanka in seeking accountability" (ITJP n.d.).

[4] Inside Story is an Australian website on "politics, society and culture in Australia and internationally... published by the Swinburne Institute for Social Research in the Faculty of Health, Arts and Design at Swinburne University of Technology" (Inside Story n.d.).

[5] According to Human Rights Watch, following the "defeat of the LTTE" under the former President Rajapaksa, Tamils spoke of "the ubiquitous white vans, civilian vehicles used by security forces to abduct suspected LTTE supporters, who were then brutally tortured in custody" (Human Rights Watch 19 Feb. 2016).

[6] The Asia Foundation is a San Francisco based "nonprofit international development organization committed to improving lives across a dynamic and developing Asia" (The Asia Foundation n.d.).

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Internet sites, including: ACCORD; Al Jazeera; BBC; Centre for Human Rights Research Sri Lanka; Colombo Telegraph; Factiva; Minority Rights Group International; *The New York Times*; Sri Lanka Brief; Sri Lanka Guardian; Tamil Net; UN – Refworld; UPR Info.

Attachment

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