



Submission No 11

**Inquiry into Slavery, Slavery-like conditions and People
Trafficking**

Organisation: Catholic Justice and Peace Commission of Brisbane

28th September 2012

Joint Standing Committee on Foreign Affairs, Defence and Trade

Human Rights Sub-Committee

Dear Committee Members

SUBMISSION TO THE COMMITTEE TO EXAMINE MODERN SLAVERY

The Sri Lanka Justice Forum Brisbane is a network of community organisations and interested individuals who work for a just and durable peace in post-war Sri Lanka. Representatives of organisations such as the Catholic Justice and Peace Commission of Brisbane and Pax Christi Queensland participate in its meetings and activities.

We welcome the opportunity to provide input to the Inquiry into Slavery, Slavery-Like Conditions and People Trafficking.

Members of our network are actively engaged in support for asylum seekers and refugees in various ways. Various members visit asylum seekers in the Scherger IDC and the Brisbane Immigration Transit Accommodation. We are also involved in asylum seeker support within the community and refugee settlements. The Sri Lanka Justice Forum Brisbane was instrumental in forming an asylum seeker and refugee support network called the Brisbane Refugee and Asylum Seeker Support Network (BRASS). In addition, members of our group were involved in consultations conducted by the Expert Panel which the Government established to make recommendations on Asylum Seeker policy.

Human trafficking is a form of modern-day slavery that touches many communities in Australia. It is a serious abuse of human rights and a crime that creates untold misery and deprivation for very vulnerable people. Human trafficking has become a national issue and a priority for the Government and we are pleased to make this submission which encourages the adoption of an aggressive strategy to fight this invidious crime.

Repressive regimes that violate human rights create fertile breeding grounds for terrorism, war, poverty, and exploitation, including people trafficking. Our Nation, our neighbours and our world will never be free of these scourges and fully secure as long as fundamental human rights are not honoured by such regimes.

The former Secretary General of the United Nations, Kofi Annan, emphasised the challenge we face when he said:

“ The world is now wrestling with a new form of slavery, trafficking in human beings, in which many vulnerable people are virtually abandoned by legal and social systems into a sordid realm of exploitation and abuse”.

Human trafficking represents commerce in human misery. It is estimated that one million people are trafficked across international borders each year, pressed into labor, servitude, or commercial sex by the use of force, fraud and coercion. Some of these men, women and children are trafficked to Australia every year. While Australia has sought to punish traffickers and protect victims in its efforts to eradicate this horrendous crime from our shores, the continuation of the practice of human trafficking demonstrates that further measures are necessary to achieve the goal of ending this practice in Australia.

Our submission proposals about this issue are summarised under two categories:

- Improving anti-trafficking laws and procedures
- Diplomatic intervention by Australia at the source of the human rights problems

Improving anti-trafficking laws and procedures

▪ *Providing adequate protections for human trafficking victims*

Providing greater protection for victims and their families is critical. In the case of SriLankan Tamils, this is important because the on-going actions of the Sri Lankan government, more than three years after the civil war, demonstrates that it remains a threat to human rights, not only to the indigenous Tamil population but now to all citizens, particularly those who oppose or criticise the Government. Among the measures employed by the Sri Lankan Government which abuse human rights are:

- The use of oppressive anti-terrorism legislation
- Lack of witness protection
- Arbitrary arrest and detention
- Enforced disappearances
- Torture and other ill-treatment
- Extrajudicial execution
- Lack of media freedom and control

Many of these human rights abuses are committed by the Sri Lankan security forces. The impunity for these abuses afforded to the security forces compounds the abuse.

It is clear that people who have faced such significant intimidation will be extremely reluctant to come forward as witnesses unless they receive adequate protection.

There are also reports from the media and from other sources that suggest that some Sri Lankan government Ministers and high-ranking officials are deeply involved in the human trafficking trade and are making money from the exploitation of vulnerable people. See <http://groundviews.org/2012/07/19/troubled-waters-corruption-and-human-trafficking-in-post-war-sri-lanka/>

The forms of intimidation noted above make it very unlikely that asylum seekers will provide evidence about human trafficking. Traffickers also make threats against family members which adds to the pressure on witnesses to remain silent about trafficking activity. These reports about high level involvement in trafficking are worth further investigation.

There is also a suspicion that Australian funds provided for the prevention of human trafficking are misused and we believe that the use of these funds should be more carefully monitored.

We urge the adoption of the strongest possible protection measures for victims of trafficking to ensure that they feel safe in providing evidence and will not face adverse consequences.

We further recommend that consideration should be given to prioritising family reunion within our migration program for victims of human trafficking who are willing to cooperate with authorities. Victims will be more willing to give evidence if they can be confident that their family members will be safe if they can be reunited in Australia quickly.

- *Responding to special needs*

There is a need to enhance protection for victims of human trafficking who are unaccompanied children. These are the most vulnerable of the victim population. Unfortunately, all too often, authorities fail to recognise potential trafficking victims and treat children as alleged criminals.

We recommend that whenever authorities encounter a child in an environment that involves forced labor or commercial sex, officials should assume that the child is a victim of trafficking. This needs adequate institutional protection to prevent the child's safety and wellbeing from being compromised.

- *Regional UNHCR Presence*

Tamils do not feel safe in travelling away from their homelands to Colombo to obtain the necessary documentation to seek asylum. We recommend that the establishment of a UNHCR office in north-east Sri Lanka should be encouraged to enable Tamils to obtain the necessary documentation without subjecting themselves to greater threat.

- *Review of ASIO Security Assessment*

As part of Australia's commitment to protecting the national security, Tamils coming to Australia have a unique additional layer of processing compared to other asylum seekers, viz., a security assessment influenced by unreliable information provided by the Sri Lankan Government. We urge the Australian Government to re-assess the reliability of this Sri Lanka Government-sponsored 'propaganda' and to consider removing this assessment. Irrespective of this, for as long as this special security assessment continues to be made, we recommend that those who obtain a negative assessment should have the right of review/appeal given to them.

- *Regional cooperation*

Australian Ministers and Parliamentarians visiting Sri Lanka should be encouraged to spend significant time with Tamil Members of Parliament representing the Tamil homelands in the north-east to ensure that they are adequately informed about the ground realities for Tamils in Sri Lanka. Better information for Australian policy makers will increase the possibility of better and more effective policies leading to a reduction in the numbers of Tamils seeking to flee Sri Lanka by boat.

Australia cooperates closely with the Sri Lankan government to address the issue of people smuggling. However, we urge the Australian government to make certain that they do not undermine legal protections for asylum seekers in their efforts to counter people-smuggling. In April 2012, Phil Lynch of the Australian Human Rights Law Centre stated that:

"rejected asylum seekers returned to Sri Lanka have been subject to arbitrary detention, torture, and other serious human rights abuses. Efforts to counter and prevent people-smuggling should seek to protect asylum seekers, and shouldn't interfere with their right to seek asylum."

Australia must ensure that human rights concerns and safeguards are paramount in any security, intelligence and migration cooperation with Sri Lanka. Australia is prohibited under the Refugee Convention and international human rights law from sending anyone to a country where they face torture and ill-treatment.

The need for Australia to use its diplomatic influence to raise its concerns with the Government of Sri Lanka:

The surge in the number of Sri Lankan, mainly Tamil, asylum seekers reaching Australia in recent weeks emphasises the challenging post-conflict environment for many people in Sri Lanka. The suggestion by the Sri Lankan High Commissioner, Admiral Thisara Samarasinghe, to turn around asylum boats at sea and send them back to Sri Lanka, will not and has not deterred large numbers from attempting to make the journey and, instead, further endangers the lives of those on-board.

Given the circumstances, it is incumbent upon the international community, including Australia, to play a key role to ensure post war accountability, justice and reconciliation on the island. By helping to safeguard the human, democratic, civil and socio-cultural rights of Tamils in the North and East of Sri Lanka especially, as well as for other ethnic communities in the country, a direct consequence will be the reduction in the number of asylum seekers attempting to leave the island for Australia and elsewhere.

The Sri Lankan Government's entire approach to these issues has to be challenged robustly, as egregious human rights violations against civilians are still being perpetrated and serious concerns remain regarding the progress and efficacy of the resettlement, rehabilitation and reconstruction efforts in the former conflict areas of the Tamil majority North and East. When a community faces such a level of human rights abuse, it is inevitable that humanitarian concerns are exacerbated. The provision of housing is a serious concern in the region, as according to the UN only 16,000 of the 100,000 houses destroyed during the war have been rebuilt. Access to land, amenities and NGO assistance has also been restricted by the militarisation of the North and East of Sri Lanka by the state security forces, since the end of the conflict.

In addition, constitutional reform has centralised power in the hands of President Rajapaksa and there has been little attempt to address the origins of the armed conflict, viz., the institutionalised discrimination against Tamils and the need to ensure a comprehensive political settlement.

As a co-sponsor of the recent UN Human Rights Council resolution calling for accountability and reconciliation in Sri Lanka, it is imperative that Australia and its international partners take requisite measures to monitor the Government of Sri Lanka's cooperation with the resolution and the implementation of its recommendations. Also, Australia must use its influential diplomatic voice in other forums, particularly the Commonwealth, to pressure Sri Lanka to create an environment conducive to lasting peace which will discourage people fleeing from Sri Lanka and reduce the potential for human trafficking to Australia.

In particular, Australia must ensure continuing dialogue with the Government of Sri Lanka on the following key areas of accountability and reconciliation:

- Ensure a credible investigation by an independent, international body, into the allegations of war crimes and crimes against humanity committed by both parties to the armed conflict, which can provide justice for all the victims of the war.
- Urge the Sri Lankan government to publish a list of all alleged ex-combatants still in detention, as well as ensure independent monitor access to the camps where they are held.
- Ensure media freedom and freedom of expression for all people on the island.
- Call an end to army occupation of the North and East, the traditional homelands of the Tamils, which has led many Tamils to fear that their language, religion, culture and lands are under existential threat.
- Urge Sri Lanka to revoke the Preventions of Terrorism Act (PTA), which includes the draconian powers of detention without trial.
- Disarm paramilitary groups and end the culture of impunity on the island.

- Ensure structured and well-funded rehabilitation, resettlement and reconstruction programmes in the conflict affected areas, developed in concert with the affected communities in Sri Lanka. Support a credible and genuine political process, in order to achieve a durable political settlement to resolve the long standing and genuine grievances of the Tamil people and all people on the island.
- Emphasise the importance of restoring the Tamil people's democratic rights without any constitutional restrictions.

We believe that all of the above is necessary to lay the foundations for a long lasting reconciliation process that will enable people of all ethnicities in Sri Lanka to live in peace. This will have a definitive and positive impact upon the current trend of Tamils seeking to leave Sri Lanka, in search of safety and security elsewhere and on the accompanying risk of human trafficking.

Yours sincerely

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