

# Activists beyond Borders

## The story of the international campaign for human rights in Sri Lanka

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In 2005-2006, I was working at the FORUM-ASIA Secretariat based in Bangkok. As the conflict escalated in 2006, I decided to go home to Sri Lanka. When I eventually returned to Sri Lanka in early 2007, the experience and skills I had gained during my time in Bangkok, especially personal and professional contacts with human rights defenders (HRDs) in Asia and with regional and international organisations, proved to be crucial and lifesaving.

### Going back to chaos

I left Sri Lanka in late 2004, a time of relative calm provided by a ceasefire. Still human rights abuses took place regularly, including killings, child soldier recruitment, and regular violations of the ceasefire by both the Liberation Tiger of Tamil Eelam (LTTE) and the Sri Lankan Government.

But I came back to chaos. There was large scale enforced disappearances, extra-judicial executions, mass displacement, forcible recruitment including of children, and severe restrictions on traveling and communication. It was also a time where HRDs, including non-governmental organisation (NGO) workers,

humanitarian workers, independent journalists, clergy, and opposition politicians with critical views of the Government, were killed, disappeared, detained or threatened. Domestic human rights protection mechanisms, such as the Judiciary, National Human Rights Commission and the Ad Hoc Commissions of Inquiries, had become completely ineffective.

It is in this context that we, Sri Lankan HRDs, had to turn to international solidarity. In time, it became a crucial element of our struggle for human rights. The primary focus of our international advocacy was targeting the United Nations (UN), and a secondary strategy of engagement was towards the Commonwealth.

### Advocating at the United Nations

With the breakdown of domestic human rights protection mechanisms, we were compelled to seek the assistance of the UN. The newly established UN Human Rights Council (UNHRC) became a central place for our advocacy.

During the last phase of the war, particularly in 2007-2008, we campaigned for field presence of the Office of the High Commissioner for Human Rights (OHCHR). We managed to obtain support of successive UN

High Commissioners for Human Rights, Special Procedures of the Human Rights Council and some Western Governments, but there was no support from Asian, African or Latin American Governments. Thus, we failed. I still believe the level of atrocities we saw in the last phase of the war, particularly in 2009, could have been less if an OHCHR field presence had been established.

In September 2008, when the Government ordered all UN agencies to leave the war zone, the people in the war zone appealed not to be abandoned. They did not ask much, they only asked for an international presence. In the Capital, Colombo, a small group of us appealed to the UN Resident Coordinator and to UN Headquarters in New York to negotiate with the Government and not abandon the people in the war zone at a time when their presence was most needed. But we failed to persuade the UN to stay and inevitably, as we all feared, the stage was set for mass atrocities and civilian casualties, without the restraining international presence.

In early 2009, as the war reached its peak and civilian casualties escalated dramatically, we as HRDs sought a special session with the UNHRC. Again we failed. There was a Special Session of the UNHRC though, after the war ended in a blood bath in May 2009. However, this session was counterproductive as the Sri Lankan Government drafted its own resolution, praising its own conduct, and managed to gain the support of 29 of the 47 members of the UNHRC.

Prior to this, the UN Secretary General (UNSG), Ban Ki-moon, visited Sri Lanka and in a joint statement with the Sri Lankan Government, the UNSG stressed the importance of accountability for violations of humanitarian and human rights law.<sup>50</sup> This led the UNSG to appoint a Panel of Experts to advise him on accountability in Sri Lanka in 2010. The Panel's appointment and report was rejected by the Sri Lankan Government, who refused appeals to cooperate with the Panel.

However, many survivors and their families, including those in Sri Lanka and those who had fled the country, as well as Sri Lankan and non Sri Lankan HRDs, welcomed the Panel and presented detailed submissions. The Panel's report in 2011 documented credible allegations of violations of international human rights and humanitarian law by Government forces as well as by the LTTE.<sup>51</sup> It recommended an independent international investigation into these allegations, and also suggested a review of the UN's own conduct and failures in relation to Sri Lanka. The internal UN review that followed recognised that '*events in Sri Lanka marked a grave failure of the UN*' and that '*many senior UN staff did not perceive the prevention of killing of civilians as their responsibility*'.<sup>52</sup>

<sup>50</sup> Joint Statement by United Nations Secretary-General, Government of Sri Lanka (26 May 2009), SG/2151 <http://www.un.org/press/en/2009/sg2151.doc.htm>.

<sup>51</sup> Report of the United Nations Secretary-General's Panel of Experts on Accountability in Sri Lanka (31 March 2011), [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf).

Even after the debacle of the Special Session of the UNHRC in May 2009, we, Sri Lankan survivors, victim's families and HRDs, continued to engage with the UNHRC. In March 2012 and March 2013, the tide started to turn. The UNHRC passed resolutions that mildly expressed concern about ongoing human rights violations after the war and the lack of accountability in relation to the allegations of serious war time abuses. Both resolutions asked the OHCHR to report back to the Council about progress made with the resolution's calls for accountability.<sup>53 54</sup>

As part of this process the then UN High Commissioner for Human Rights, Ms. Navaneethan Pillay, visited Sri Lanka in August 2013. Her comments about authoritarianism in Sri Lanka received widespread international coverage.<sup>55</sup> Despite being subjected to false accusations and derogatory remarks by Government Ministers and state media, her visit served as a source of strength to the conflict affected communities, including HRDs, families of disappeared persons, people whose lands were occupied by Military, and other survivors and victim's families that were struggling for survival, dignity, rights and justice. The memory I recall most was Ms. Pillay sitting on a podium with eight women whose family members had disappeared and warmly embracing the crying women.

In March 2014, the UNHRC passed another resolution on Sri Lanka. Finally, the resolution asked the OHCHR to conduct an investigation into serious violations of human rights and related

crimes in Sri Lanka.<sup>56</sup> Though late and limited, this was a victory for survivors, victim's families and some of us who had long campaigned for this, even when it seemed to be against all odds. It was a dramatic turnaround of the UNHRC, with the Sri Lankan Government's support declining from 29 States in 2009 to 12 States in 2014 among the 47 States represented in the UNHRC. The number of States which voted against the Sri Lankan Government moved up from 12 in 2009 to 23 by 2014.

In September 2015, the OHCHR released the report of its investigations.<sup>57</sup> It detailed horrific narratives of unlawful killings, enforced disappearances, forcible recruitment of children, obstructions of movement to safe areas, sexual and gender based violence, torture, and arbitrary detention on a mass scale and in a systematic manner. The High Commissioner recommended the establishment of a Special Hybrid Court with international judges,

<sup>52</sup> Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka (November 2012), [http://www.un.org/News/dh/infocus/Sri\\_Lanka/The\\_Internal\\_Review\\_Panel\\_report\\_on\\_Sri\\_Lanka.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf).

<sup>53</sup> UNHRC (8 March 2012), A/HRC/19/L.2.

<sup>54</sup> UNHRC (19 March 2013), A/HRC/22/L.1.

<sup>55</sup> Opening Remarks by the UN High Commissioner for Human Rights (31 August 2013), <http://un.lk/news/opening-remarks-by-un-high-commissioner-for-human-rights-navi-pillay/>.

<sup>56</sup> UNHRC (26 March 2014), A/HRC/25/L/1.

<sup>57</sup> UNGA, 'Comprehensive Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka' (28 September 2015), A/HRC/30/61.

prosecutors, lawyers and investigators to ensure accountability for the reported violations, along with other international action such as universal jurisdiction and vetting.

A minor victory, which paled into insignificance during a time of bloodshed, was the Sri Lankan Government losing its candidature in elections for the UNHRC in 2008, after an intense campaign by some of us in Sri Lanka together with regional and international NGOs.

## Commonwealth Heads of Government Meeting

When we realised that the 2013 Commonwealth Heads of Government Meeting (CHOGM) was going to be held in Sri Lanka, there were several local and national discussions on what to do. A small group of HRDs in Sri Lanka, together with our regional and international support groups, decided to oppose the meeting being held in Sri Lanka, as we felt that this would legitimise the terrible human rights situation in the country. We appealed to the Commonwealth Ministerial Action Group (CMAG) and others, but the CHOGM went ahead anyway.

However, due to strong advocacy efforts, the Heads of States of Canada and Mauritius decided not to attend citing human rights issues.<sup>58 59</sup> The Indian Prime Minister also did not attend.<sup>60</sup> Although he did not explicitly relate his absence to human rights issues, it was widely believed to be the reason.

It turned out to be the CHOGM with the fewest Heads of States attending in recent history. An exception was the British Prime Minister who came despite protests in the United Kingdom (UK). He did make strong pronouncements during his stay though, including during a historic visit to the Tamil dominated and war ravaged Northern town of Jaffna. There, the Prime Minister visited a media institution which had been subjected to repeated attacks, and people who had been displaced due to the military occupation of their lands.<sup>61</sup>

There was a huge convergence of international media to Sri Lanka in the lead up and during the CHOGM. It appeared that the news about the human rights situation in Sri Lanka almost overshadowed the news of the actual CHOGM itself. Survivors, victim's families, HRDs and opposition parties all took the opportunity to highlight human rights issues, despite the crackdown by the Government in the days before and during the CHOGM.<sup>62</sup>

<sup>58</sup> Government of Canada Press Release, 'Canada Welcomes Decision of Indian and Mauritian Prime Ministers Not to Participate in Commonwealth Meeting in Sri Lanka', 13 November 2013.

<sup>59</sup> Government of Mauritius Press Release 'PM Not to Attend CHOGM Meeting in Sri Lanka', 12 November 2013.

<sup>60</sup> Sandeep, Dikshit, 'Manmohan to call up Rajapaksa', The Hindu, 11 November 2013.

<sup>61</sup> Mason, Rowena, 'Tamils hail David Cameron as 'god' but Sri Lankan president is not a believer', the Guardian, 15 November 2013.

<sup>62</sup> Fernando, Ruki, 'Commonwealth & human rights principles in Sri Lanka, in the week before CHOGM', Groundviews, 14 November 2013.

## **Those who made a difference**

The focus of Sri Lankan HRDs internationally was on intergovernmental bodies, such as the UN, the Commonwealth and individual Governments. But these would only change course if others, smaller in size, but perhaps bigger in passion, determination and commitment, pushed them relentlessly.

I will share with you my experiences of working with some of those people, who I believe were the movers and shakers of the UN and the Commonwealth.

## **Involvement of victims and their families**

While I will focus on the role of people outside of the country, before doing so, there is one group from within the country that deserves special mention. They made, I believe, a huge difference to international advocacy. This was the strong involvement of survivors and the families of victims. Despite consistent threats, intimidations and discrediting they continued relentlessly. Mothers, fathers, and wives came forward courageously to give testimony to high profile representatives from foreign Governments and the UN, in Sri Lanka itself or in Geneva, where the UNHRC is based.

Amongst those regular visitors and strong advocates was the wife of disappeared Sinhalese journalist, Mrs. Sandya Ekneligoda and Dr. Manoharan, father of a teenage Tamil boy killed on the beach in 2006. Activists from war

affected regions of the North and East also braved threats and intimidations to organise mobilisations and make oral and written submissions to key international figures and bodies. This took them from the Capital of Colombo, to the war affected regions, such as Jaffna, to corridors of power, such as Geneva, New York, Washington DC, London and Delhi.

## **Collaborating with journalists, writers and film makers**

Despite the Government clampdown on local media, some international media continued to give coverage to stories of survivors of human rights violations and families of victims, in particular their struggles for truth and justice. Though their interest was not consistent and tended to focus on specific events, such as the visit of the Pope, the UN High Commissioner for Human Rights, the CHOGM and the sessions of the UNHRC, such coverage was essential since it was an opportunity to share an alternative narrative with the world.

Several writers spent significant amounts of time with war affected persons in the North and wrote books highlighting their stories, while others made films using materials from the last phases of the war and afterwards. They too had to face intimidations, defamation, severe restrictions on travel to the North, and surveillance and obstacles once they got there.

Some were arrested, detained and deported. But these stories<sup>63</sup>, through articles, video clips, films, photography

and books, went a long way in keeping alive the dwindling world attention on Sri Lanka.

## **Partnering with HRDs in Asia and beyond**

The friendships and professional relationships built during my time with FORUM-ASIA in Thailand in 2005-2006, as well as other experiences, became very useful after my return to Sri Lanka. This was particularly so when many HRDs, including me, had to leave Sri Lanka due to imminent threats to our lives. Some of us, like me, went for a few months and returned when we thought the heat was down. Others opted for permanent relocation. Many of those who opted for short term relocation went to countries such as India, Nepal, Malaysia, the Philippines, Thailand and Singapore. HRDs in these countries, as well as other countries, provided invaluable care, assistance for visas, and moral, financial and other forms of support to us during these most difficult times.

Sometimes all I had to do was send an SMS asking to welcome another colleague. HRDs in many of the previously mentioned countries, as well as places like Indonesia, South Korea and Japan, also organised campaigns against the human rights violations and impunity in Sri Lanka. They facilitated meetings for me and other Sri Lankan HRDs with media, government officials and broader civil society in their countries.

Their work contributed immensely to prevent countries, like India, Japan, Malaysia, Indonesia and the Philippines, from supporting the dictatorial Sri Lankan Government during crucial votes on resolutions at the UNHRC in 2012, 2013 and 2014. On a few occasions, India and South Korea even voted against the Sri Lankan Government.

A Malaysian friend and activist was detained and still faces charges in court for screening a controversial film about allegations of war crimes in Sri Lanka.

After the democratic transition in January 2015, there was an Asian Solidarity conference on Sri Lanka, which was attended by colleagues and friends from many Asian countries. Even HRDs in countries beyond Asia, such as the United States of America (USA), the UK, France, Germany, the Netherlands and Norway, were very supportive of our human rights work. Individuals, ranging from students, retired persons, politicians, lawyers, clergy and many others, were part of human rights campaigns for Sri Lanka.

<sup>63</sup> For example, books like 'Seasons of Trouble' by Rohini Mohan, 'This Divided Island' by Samantha Subramaniam, 'Still Counting the Dead' by Frances Harrison; and films like 'No Fire Zone' and 'Sri Lanka's Killing Fields' by Callum Mcare.

## **Working with regional and international NGOs**

Along with individuals and groups working at the national level, regional and international NGOs also played a crucial role in supporting Sri Lankan human rights activism. Several supported the protection and relocation of HRDs at risk at the most difficult times, in a variety of ways. They also played an important role in research and advocacy, and lobbying individual Governments and inter-governmental bodies.

FORUM-ASIA was one of the most important regional partners, and particularly its Geneva office played an important role in facilitating and supporting advocacy related to the UN there.

The campaigns around individual cases by some international organisations helped a lot to keep such issues alive. I myself was a direct beneficiary of such a campaign, and am certain that the immediate and intense campaigning around the world was a crucial element that brought about my release in couple of days after being detained under the anti-terror laws in March 2014.<sup>64</sup>

## **Support of volunteers, students and interns**

During and after the war, I had the chance to work with many foreign volunteers, interns and students who came to Sri Lanka to support human rights work. Some came during dangerous times. Most came on their

own, during their holidays, spending their own money, while others came as part of formal study tours or to do academic research.

I was also inspired by the student campaigns and events I participated in other countries, such as in the USA, the UK and the Philippines. These included writing urgent appeals to the Sri Lankan Government and their own Governments, writing solidarity letters to the wife of a disappeared journalist, writing articles for student newspapers, organising exhibitions and talks, and much more.

## **Engaging with diaspora groups**

Probably the most controversial group was the Sri Lankan diaspora. I also had chances to meet and speak at events organised by diaspora groups, some exclusively Tamil and some mixed with Muslim, Sinhalese and Tamil.

Some diaspora groups clearly supported and justified the war and tried to cover up violence and abuses by the LTTE and the Sri Lankan Government. But many I engaged with appeared to be fuelled by concern and care about what was happening in Sri Lanka, about the survivors and families of victims of human rights violations. Some groups became very influential in lobbying foreign Governments and UN officials, and there is no doubt that they contributed to the developments in the UN in relation to Sri Lanka.

<sup>64</sup> FORUM-ASIA, 'Stories from the field – Sri Lanka: Ruki Fernando', 4 September 2014.

## Being part of the international human rights system

The international solidarity was partly driven by Sri Lanka being part of the international human rights system. This system is based on ratified treaties, which are essentially agreements amongst Governments on how they should treat us, citizens and non-citizens. Alongside these agreements, Governments have also put in force monitoring and reporting mechanisms to encourage enforcement and to respond in emergencies and special circumstances.

The UNHRC is such an institution. As the members of the UNHRC are Governments, which are political entities, their decision making processes are often based on political considerations. This has in particular led to 'double standards', by the UNHRC and by powerful countries such as the USA, China, India, as well as blocks like the European Union (EU) and Organisation of Islamic Cooperation (OIC).

It also needs to be kept in mind that membership of the UNHRC is dominated by African and Asian Governments who have 26 of the 47 seats. Latin American countries have eight seats, Western countries seven and Eastern European countries six seats.

## The importance of solidarity

However, probably the most important drive behind international solidarity is the spirit that all human beings should care about each other, irrespective of what country we live in. This may sound idealistic and such spirit is often overridden and influenced by other factors, such as the economy and media coverage. But I have learnt not to undervalue the passion to care for strangers.

That is what I saw in September 2015 in relation to the refugee crisis that hit Europe. That is why I admire the care friends showed to my colleagues who went into exile wounded and in fear. That is why I was so moved and touched by all the friends and strangers who sent Facebook messages, emails, made calls, in the middle of a Sunday night when they heard about my arrest.

That is why we tried to welcome refugees who came to Sri Lanka from Pakistan and other countries. That is why we filed court cases, made public statements, provided humanitarian relief, visited detention centres, and raised money on their behalf. That is why we warmly welcome journalists and bloggers who are looking at Sri Lanka as a safe haven, even if only temporarily.

Sadly, I feel the international solidarity that I and fellow Sri Lankans extended to others was much less than the support we got. I hope we can put it right.

Undoubtedly, the primary struggle for human rights has to be waged at home. That is what we did even at the most difficult and dangerous times. That is what we continue to do. But there are times, when international support is crucial. For us, 2006-2014 was such a time. A time of desperation and emergency. There is slightly more space now for us to work inside Sri Lanka, but it would be a mistake for our international friends to leave us now, especially after the long journey they have undertaken with us. As I give thanks, I look forward to a continuing journey.

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He has been working with leading Sri Lankan human rights organisations such as the Law & Society Trust and INFORM Human Rights Documentation Centre. Ruki has also worked two years, from 2005 to 2006, as coordinator of FORUM-ASIA Human Rights Defenders Department.