

# ***THE NALLAYAN DECLARATION***

## MEMORANDUM OF CONCERN

### **The return of Ceylon Tamil refugees in South India and the current peace process in Ceylon (Sri Lanka)**

26 February 2003

#### **Preamble**

- 1) Representatives of over 80,000 Ceylon Tamil refugees in camps in South India met at the Nallayan Research Centre for Sustainable Development, Kancheepuram District, on 22 and 23 February 2003, on the first anniversary of the signing of a Memorandum of Understanding between the Government of Sri Lanka (GOSL) and the Liberation Tigers of Tamil Eelam (LTTE) which has resulted in continuing peace negotiations between the two parties.
- 2) Drawing on the concerns expressed by refugees, the convening body, the Organisation for Eelam Refugees Rehabilitation (OfERR) and Ceylon Tamil refugees have drafted this memorandum in the light of the prevailing circumstances, namely:
  - in the last twelve months, five rounds of discussions have been held between GOSL and LTTE facilitated by the Government of Norway without the involvement or input of other key stakeholders. The results of these discussions remain veiled in secrecy.
  - Associated discussions have taken place between the two parties and concerned refugee agencies such as the office of the United Nations High Commissioner for Refugees (UNHCR) on the resettlement and return of refugees, most recently in Kilinochchi in January 2003. These consultations followed an International

Donors Conference in Oslo in December 2002, where considerable funds were pledged for the immediate reconstruction of North-East Ceylon.

- The return of refugees is generally seen by the international community as a signal of returning normalcy and stability.
- Conditions in Northern Ceylon remain deeply uncertain. There are persistent reports of child conscription and coercive taxation of civilians. There are also reports of food and medical shortages in some areas. Tens of thousands of internally displaced persons (IDPs) have been unable to return home to “high security zones” because government military forces will not withdraw until the LTTE disarms. The Sri Lankan Monitoring Mission (SLMM) set up by the Norwegian government registered 502 violations of the ceasefire by the LTTE and 54 violations by GOSL forces, up to 31 December 2002. Almost all of these have been directed at civilians.

### **Principles of return**

- 3) Since its inception in 1984, OfERR’s priority objective has been to prepare the Ceylon Tamil refugee community in South India to return home. We who have lost our homes and families during 20 years of bloody conflict that have cost 60,000 lives are deeply concerned that our return to our country should be safe, orderly and as a consequence of a peace process that is transparent, democratic and inclusive with a visible commitment to protecting the rights of all Ceylon’s citizens and the restoration of their social and material well-being.
- 4) We hereby affirm and uphold the following key principles that we believe must inform our return to our country. In doing so we also express our concern for and our identity with, all our fellow citizens from every background, who have suffered during this tragic conflict.
- 5) We believe that a lasting peace is a prerequisite for such returns. There must be unambiguous agreement between the two parties on resolving the ethnic question,

the eschewing of violence and the restoration of democracy and the rule of law, in North-East Ceylon before any such returns take place.

- 6) The process of reaching such an agreement must be democratized. It remains self-evident that other key stakeholders in Ceylon society must be admitted to a process set up to decide their future. Ceylon Tamil refugees believe that representation in the peace talks must be broadened, deepened and made more transparent, so that all Ceylon's citizens may genuinely participate in their own political destiny.
- 7) The agreement reached between the two parties must guarantee the right of all Ceylonese, persons of recent Indian origin domiciled in Ceylon, to enjoy the full panoply of human rights including the right to life, citizenship, property, universal suffrage etc, as well as self determination, as described by the Universal Declaration of Human Rights and upheld by international law and practice. The right to self-determination will remain of little use to us if other inalienable rights are denied.
- 8) The agreement must make specific provision for the return of refugees through the inclusion of written accords that guarantee the rights, safety and security of those returning and their social and material well being.
- 9) As a consequence, refugees themselves should be involved in the negotiation of such accords and in validating the social and material conditions that will make possible their return. Refugees must play an active and informed part in the return process itself.
- 10) Such returns can only take place on a voluntary basis, upholding international standards of safety and dignity, and underwritten by a bilateral agreement between the Governments of India and Sri Lanka.
- 11) Such returns should only take place when refugees can return to their homes or home areas. Transferring refugees from camps in India to camps in Ceylon will impede peace rather than promote it.

- 12) Internally Displaced Persons (IDPs) should be resettled, prior to the return of refugees to make available the homes of refugees, currently occupied, and as a demonstrable indicator of an effective rehabilitation process.
- 13) Risks to the safety and security of refugees, such as landmines and explosive remnants of war (ERW) must be fully cleared and removed, before refugees can return home.
- 14) The agreement must contain a commitment to the speedy reintegration of refugees through the recognition of identity documents, acquired in exile, such as refugee identity certificates and those documents certifying births, marriages and deaths as well as educational and professional qualifications acquired outside Ceylon.
- 15) The agreement must contain a clear commitment to restorative justice at both the material and social levels. Refugees and other Ceylonese who have lost property, relatives and livelihoods must be adequately compensated. Provision should also be made for a Truth and Reconciliation Commission (TRC) that promotes a meaningful healing process in all segments of Ceylonese society.

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