

North East Secretariat On Human Rights



NESOHR Charter

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Karadippokku Junction
Kilinochchi,

Tel: 021 2285986
Email : nesohr@hotmail
www.nesohr.org

தமிழ்த் தேசிய ஆவணக் சுவடிகள்

Preamble

Conscious of the human dignity and equality of all persons irrespective of their race, caste, gender, religion or community

Mindful of each person's inalienable human rights

Recognizing the Universal Declaration of Human Rights and other United Nations Human Rights Instruments and the necessity to apply them more effectively to reduce the violence and continuing human rights violations against persons in the Northeast of the Island

Desiring that the rights, principles, and policies specified in this charter shall be respected by and guide the actions of all persons, institutions, organizations, and enterprises in the Northeast

Determined to promote social progress and better standards of life for all

Recognizing the rights and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at national and international levels.

Acknowledging the right of peoples to self-determination and the right of every people to exercise full sovereignty over their wealth, natural resources, sea and the seabed without prejudice to any obligations arising out of international economic co-operation based upon the principles of mutual benefit and International Law.

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms.

Mindful of the objectives of this Institution (hereinafter referred to as NESOHR), which are:

1. To promote recognition and respect for the human rights and the basic freedoms of the people of the Northeast of this Island according to the Universal Declaration of Human Rights and the International Covenants on human rights especially the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, Cultural Rights (ICESCR) as well as the United Nations Declarations on the elimination of all forms of racial discrimination, Convention on the Rights of the Child , Convention on the Elimination of Discrimination against Women, the Convention Against Torture and other International instruments of Human Rights
2. To create awareness in order to respond to the socio, economic, cultural, political needs and realities prevailing in the Northeast whilst complying with the International Human Rights standards and norms.
3. To promote and protect the right to participation in public affairs without discrimination on the basis of opinion, religion, sex, race or colour.
4. To promote and protect the freedom of opinion and expression as well as artistic and literary invention.
5. To promote and protect freedom of belief, thought and religion.
6. To provide legal aid to internally displaced persons of Northeast to return, resettle and reintegrate with the communities in their homes or habitual places of residence.
7. To provide legal aid to secure the release of the persons of Northeast who were arrested in the past by the Sri Lankan State Forces and are languishing in the detention Centres and prisons, under the Prevention Of Terrorism Act (PTA), and other repressive legislations, without recourse to justice.

Part I - Fundamental Rights

Believing that the promotion of human rights is a common aim of the entire Northeast and being determined to spare no peaceful effort in its struggle against human rights violations.

And whilst recognizing that all people are possessed of certain inalienable rights and resolving to defend those rights, this charter is not intended to be an exclusive list of all the rights and NESHOR recognizes that there are other rights that may be included in this charter and that those rights which are not listed here deserve the same protection as those that are included here.

Civil Rights

1. All persons deserve to be treated with dignity and respect by virtue of their humanity. This dignity is secured through the protection of certain rights, including but not limited to:
 - 1.1. The right of all persons to bear and be registered under a name;
 - 1.2. The right to be free from torture and from cruel, degrading or inhuman treatment or punishment, and the right to have one's physical, mental and moral integrity respected;
 - 1.3. The right of prisoners to appropriate treatment, as defined in Part 11, Section 3 of this Charter;
 - 1.4. The right to have one's honour and reputation protected from defamation;
 - 1.5. The right to be free from incitement of discrimination, hatred or violence, to be protected through the prohibition of national, racial or religious discrimination;
 - 1.6. The right to claim nationality and avail oneself of the protection of a person's state of residence;

- 1.7. The right to conscientiously object to perform compulsory military service for reasons of conscience or profound religious, ethical or similar convictions;
- 1.8. The right to perform an alternative service of a civil nature in lieu of compulsory military service;
- 1.9. The right not to be subjected to slavery, involuntary servitude, or forced or compulsory labour, or any form of exploitation or trafficking.

2. Equality

- 2.1. All persons are equal, and entitled to equality before the law.
- 2.2. All persons have the right not to be subjected to discrimination based on race, gender, language, religion, social group, political belief or any other characteristic, belief or practice that is a fundamental part of their character, or impossible, impractical or unreasonable to change.

3. Access to justice

- 3.1. All persons have the right to be recognized as a person before the law.
- 3.2. All persons have the right to petition the court for redress of their claims.
- 3.3. All persons accused of a crime have the right to legal representation of their choice. and to be provided with representation if they cannot afford it and ensure their right to equality.
- 3.4. All persons accused of a crime have the right to be heard and present a defense in person.
- 3.5. All persons have the right to have their conviction and sentence reviewed by a higher tribunal.
- 3.6. All persons accused of a crime have the right to a public trial before a competent impartial and independent judicial authority without undue delay.

4. Administration of justice

- 4.1. All persons have the right to own property alone as well as in association with others and no one shall be arbitrarily deprived of his property.
- 4.2. All persons who are accused of a crime have the right to be informed of the charges against them and are presumed to be innocent until proven guilty.
- 4.3. No one can be compelled to give evidence against himself.
- 4.4. All persons involved in legal proceedings have the right to access relevant information.
- 4.5. All persons involved in legal proceedings have the right to adequate time and facilities to prepare a defense.
- 4.6. All persons involved in legal proceedings have the right to privileged and confidential communication with their Attorney free from interference by the Government or opposing parties.
- 4.7. All persons involved in legal proceedings are entitled to a reasonable opportunity to present their case before the Court under conditions that do not place them at a disadvantage vis-à-vis their opponents.
- 4.8. All persons accused of a crime have the right to confront and cross examine their accusers and the witnesses against them and to challenge the evidence presented against them.
- 4.9. All persons have the right not to be tried more than once for the same offence.
- 4.10. All persons have the right to freedom from torture, cruel and degrading or inhuman treatment or punishment. All victims of such criminal acts shall be entitled to receive compensation.
- 4.11. No one shall be subjected to heavier penalty than the one applicable at the time the offence was committed.
- 4.12. No one shall be subjected to retro-active laws.

- 4.13. No one shall be subjected to Bill of Attainder
- 4.14. All persons have the right not to be deprived of property except according to procedures prescribed by law including notice and an opportunity to be heard and to receive just compensation for property taken for public use.

5. Freedom and Security of persons

- 5.1. All persons have the right to life.
- 5.2. All persons have the right not to be held against their will without just cause or formal charges, and the right to challenge the appropriateness of their detention through the Writ of Habeas Corpus and other legal means.
- 5.3. All persons are entitled to an effective means of redress before the authorities in case of violations of guaranteed rights and freedoms.
- 5.4. All persons are entitled to be free from the violation of their fundamental rights.
- 5.5. All persons are entitled to be protected from abuse of authority.
- 5.6. All persons have the right to be secure in one's person, home, papers, communications and effects against unreasonable searches and seizures, except upon issuance of a warrant which specifically details the nature and limits of the search or seizure.
- 5.7. All persons have the right to travel and move about as they see fit, and to enter and leave the country.
- 5.8. All persons who are lawfully within the territory of a State enjoy, within that territory, the right to move freely and to choose his or her place of residence.
- 5.9. All persons are entitled to obtain compensation in case of a miscarriage of justice.
- 5.10. No one may be subjected to medical or scientific experiments without freely and competently given consent

- 5.11. No one may be imprisoned due to debt.
- 5.12. No one may be arbitrarily exiled.
- 5.13. All persons have the right to receive seek and impart information and the right to publish and publicize information and opinions through writing printing electronic media or any other means.

6. Political Rights

- 6.1. All persons have the right to freely hold opinions, including religious and political beliefs, and to freedom of conscience.
- 6.2. All persons have the right to express their opinions and beliefs freely.
- 6.3. All persons have the right to assemble peacefully, and to associate with others.
- 6.4. All persons have the right to vote in elections subject to age stipulations.
- 6.5. All persons have the right to political participation, including but not limited to campaigning, for and participating in party politics.
- 6.6. All persons are entitled to hold free and periodic elections to choose their government.
- 6.7. All persons have the right to equal access to public service, including the right to be elected to office.
- 6.8. All persons have the right to petition government officials for a redress of grievances.

Economic, Social and Cultural Rights

1. Economic Rights

- 1.1 All persons have the right to be educated.
- 1.2 All persons have the right to own property.

2. Social Rights

- 2.1 All persons have the right to found a family, and to engage in family planning if they choose.
- 2.2 All persons have the right to marry and the right not to enter into marriage without giving free and full consent.
- 2.3 The family has the right to respect and protection as the fundamental unit of society.
- 2.4 All persons have the right to have their morals protected.

3. Cultural Rights

- 3.1 All persons have the right to speak their own language, and to teach and publicly communicate in their own language.
- 3.2 All persons have the right to practice the religion of their choice free from government interference, or to practice no religion.

4. Other Rights

The State shall undertake to take steps individually and through international assistance and co-operation to the maximum of its available resources with a view to achieving progressively the full realization of the rights mentioned below

- 4.1 All persons have the right to work, and the right to choose their employment.
- 4.2 All persons have the right to have their health protected, including the right to prevention and control by the state of epidemic diseases.
- 4.3 All persons have the right to adequate standards of living.
- 4.4 All persons have the right to social security.

- 4.5 All persons have the right to insurance.
- 4.6 All persons have the right to social and medical assistance.
- 4.7 All persons have the right to adequate nutrition.
- 4.8 All persons have the right to enjoyment of scientific advancements.

Part II - Further Rights of Specific Categories of Persons

NESOHR believes that the fundamental rights described in this charter belong to all persons, regardless of race, gender, age, ethnicity, nationality, religion, caste, language or social group.

NESOHR also recognizes that certain groups of persons are more vulnerable than the rest of the population and require further protections.

1. Rights of Women

- 1.1. Women have the right to be treated equally as men.
- 1.2. Women have the right to receive remuneration equal to similarly qualified men employed in a similar or identical position.
- 1.3. Women have the right to equality in marriage.
- 1.4. Women have the right to be protected from all forms of exploitation.
- 1.5. Women have the right to paid leave during a reasonable period before and after childbirth.

2. Rights of Children

- 2.1. Children have the right to a name.
- 2.2. Children born out of wedlock enjoy equal rights as those born in wedlock.
- 2.3. Children have the right to access to education, including free and compulsory elementary education.
- 2.4. Children have the right to free vocational training/apprenticeship
- 2.5. Arrested juveniles have the right to rehabilitation.
- 2.6. Children have the right to protection from neglect, cruelty and exploitation
- 2.7. Children have the right to protection through a minimum age for employment.
- 2.8. Children have the right to opportunity for play and recreation.
- 2.9. Children have the right to social services.
- 2.10. Children have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
- 2.11. Children have the right to protection in accordance with the International Humanitarian Law in times of armed conflict.
- 2.12. Respect the United Nation's Convention on the Rights of Child (CRC) and the two optional protocol to CRC, namely, the Optional Protocol on the involvement of children in armed conflicts and the Optional Protocol on the sale of children, child prostitution and pornography.

3. Rights of Prisoners

- 3.1. Prisoners have the right to be registered as prisoners.
- 3.2. Prisoners have the right to be separated into categories, i.e. men should be separated from women, untried prisoners from convicted prisoners, and young persons from adults.
- 3.3. Prisoners have the right to adequate ventilation, lightning, clothing and bedding, sustenance, medical service, sanitary facilities, physical activity and other necessities for health and hygiene.
- 3.4. Prisoners have the right be free from corporal punishment and all cruel or degrading treatment, Including disciplinary measures, except in accordance with law and regulations.
- 3.5. Prisoners have the right to present or make complaints to authorities
- 3.6. Prisoners have the right to correspond with and receive visits from family and reputable friends.
- 3.7. Prisoners have the right to be regularly informed of news from the outside world.
- 3.8. Prisoners have the right to use of a prison library
- 3.9. Prisoners have the right to practice their religion
- 3.10. Prisoners have the right to retain personal property
- 3.11. Prisoners have the right to protection from public security
- 3.12. Prisoners have the right to be attended by prison officers of same gender as the prisoner
- 3.13. Prisoners who suffer from mental illness have the right to be removed to mental institutions to receive treatment

4. Rights of Aliens

Aliens have the right to seek asylum and the right to protection from deportation to a country where their right to life or personal freedom is endangered because of their race, nationality, religion, social group or political opinion. Aliens have the right to freedom from collective expulsion. Aliens have the right to reunite with their dispersed family.

5. Rights of Working Persons

- 5.1. Workers who do the same or similar work have the right to equal remuneration.
- 5.2. Workers have the right to collective bargaining, and to appropriate bargaining machinery.
- 5.3. Workers have the right to form and join trade unions, and the right to work without being compelled to join a trade union.
- 5.4. Trade unions have the right to federate.
- 5.5. Workers have the right to strike.
- 5.6. Workers have the right to paid leave.
- 5.7. Workers have the right to fair remuneration.
- 5.8. Workers have the right to limited working hours.
- 5.9. Workers have the right to weekly rest periods.
- 5.10. Workers have the right to safe, just and healthy working conditions.
- 5.11. Workers have the right to joint consultation with employers
- 5.12. Workers have the right to progressive reduction of working hours, that is, the limitation of working hours specifically in proportion to increase of productivity.
- 5.13. Workers have the right to sheltered employment.
- 5.14. Workers have the right to vocational guidance.

6. Rights of Differently-abled Persons

- 6.1. Differently-abled persons have the right to preferential employment, and the right not to be discriminated against from employment that they are capable of performing,
- 6.2. Differently-abled persons have the right to occupational rehabilitation.
- 6.3. Differently-abled persons have the right to social settlement.

7. Rights of Aging Persons

- 7.1. Aging persons have the right to social Security.
- 7.2. Aging persons have the right not to be discriminated against from employment that they are capable of performing.

8. Rights of Internally displaced people

- 8.1 Everyone has the right to be protected against being arbitrarily displaced from their habitual residence.
- 8.2 Internally displaced people have the same rights and freedoms as do others in the country.
- 8.3 Internally displaced people have the right to liberty of movement and freedom to choose his or her residence.
- 8.4 Internally displaced people have the right to adequate standard of living.

Part III

NESOHR in its endeavour to promote and protect human rights, shall have the power to:

- a. Send fact-finding missions to, the camps where displaced persons are housed, detention centres, and prisons in order to collect testimonies as well as to ascertain and document information about human rights violations.
- b. Require any official to co-operate with its inquiries.
- c. Issue urgent appeals, press releases, reports and publications on human rights violations in the North East.
- d. Create and foster human rights awareness among individuals and groups in the North East through publications, conferences, seminars, and both local and international study / educational / familiarization tours.
- e. Establish links with NGOs on an Island-wide basis and with Inter-Governmental Organizations and Institutions as well as International NGOs to develop mutually beneficial co-operation to obtain information and to initiate action to respect and enhance Human Rights culture in the Northeast.

Part IV

Establishment of the Executive Committee

1. There shall be established an Executive Committee for the purpose of examining progress made on the realization of the obligations undertaken by this Charter and for monitoring the achievement of its objectives (hereinafter referred to as the “Committee”)
2. The Committee shall consist of not more than 15 members as follows
 - i) Members from amongst persons of standing in the community who have distinguished themselves in the fields of
 - a) Law
 - b) Health
 - c) Economic development
 - d) Religion
 - e) Education / Journalism
 - f) Science and Technology
 - g) Environment
 - h) Archives and Documentation
 - i) Persons who have distinguished themselves in the work of Human Rights Organizations or in the sphere of Human Rights Activities
 - ii) An Executive Director appointed by the Committee having experience in the work related to Human Rights development. The Executive Director shall also be member and a full time official of the Committee. The Chairman shall function as the Executive Director for the first term of office

- iii) The Chairperson of the Committee shall be appointed by the Committee from amongst its members
- iv) There shall be a Vice Chairperson appointed from amongst its members
- v) There shall be a Secretary to the committee
- vi) There shall be a treasurer

3. The Committee shall at the commencement consist of the following 11 persons who are the founder Members of the Secretariat

1. Rev. Fr. M.X. Karunarathnam
2. Mr.K. Sivapalan
3. Mr. K Joseph Pararajasingham
4. Mr. Gajendrakumar Ponnambalam
5. Mr. A Chandranehru
6. Mr.T. Mahasivam
7. Dr. K Sivapalan
8. Ms. Sri Arulanathan
9. Mr.S. Achsuthan
10. Dr. N. Malathy
11. Dr. S Sriskandaraja

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4. 1) The members of the Secretariat shall appoint the remaining members. It shall be the duty of the Secretariat to ensure its continuity by appointing adequate number of members.

2) The Committee may appoint a suitable person to fill any vacancy occurring among the members and any person so appointed shall hold office for the unexpired period or term of office of the member whom she/he succeeds.

5. There shall an Advisory Board consisting of 7 members both from the International and local community appointed by the Committee consisting of persons of eminence in the field of Human Rights and Humanitarian Law

The Activities of the Committee shall be as follows

1. As enumerated in the Character to entertain and scrutinize complaints of human rights violations and discriminations and channel such complaints where appropriate to the relevant administrative authority and concerned persons or bodies for necessary action,
2. To refer complaints of violation of the provisions contained in this Charter to inquiring officers and call for reports
3. Initiate inquiries by a sub-committee nominated by it for that purpose where appropriate and make its finding known
4. To refer it to other organizations or to it's other divisions for redress, legal aid or for mediation.
5. To monitor such action and require annual reports of progress from relevant administrative authorities and make these reports widely available within the territory
6. To evaluate the impact of all legislative and development policies on the rights and responsibilities as contained in this charter
7. To help to realize the objectives of the charter through the encouragement of relevant research and to make recommendation for reforms based on such research.

Procedures of the Committee

1. The quorum for any meeting of the Committee shall be five members.
2. The Committee shall meet as often as maybe necessary and at least once in a month
3. Any member may resign his/her office by a letter addressed to the Chairperson of NESOHR.
4. The committee may act notwithstanding any vacancy among the members thereof.
5. The committee shall have a permanent office and a Secretariat with full-time staff functioning under the Executive Director and the first office shall be at Kilinochchi. The Committee shall from time to time at its discretion establish branch officers at regional level within or outside the Northeast.

Chairperson shall,

1. Preside over all Executive Committee Meetings and the General Meetings.
2. In the absence of the Chairperson, the Vice Chairperson or Pro-tem Chairperson shall perform the functions of the Chairperson.

Secretary shall,

1. Convene all meetings on due dates.
2. Maintain the Minutes of all meetings.
3. Be responsible for keeping all the records and correspondence of NESOHR.

Accounts

1. There shall be a Bank Account/Accounts maintained by 'NESOHR'.
2. The authorized signatories to the accounts shall be the Chairperson, Treasurer and the Secretary.
3. The Chairperson and Treasurer or Secretary and Treasurer shall sign the cheques and other Banking Documents.
4. The Treasurer shall maintain the Books of Accounts and shall be responsible for all the receipts and expenditure of NESOHR.
5. The Treasurer shall submit a monthly Financial Report.
6. The Financial year of NESOHR shall be from 1st of January to 31st of December of each year. However the 1st financial period/ year shall be from 9th July, 2004 to 31st of December 2005.
7. The Treasurer shall prepare accounts of NESOHR and submit same for Auditing on or before 31st of March of each and every following year, the first of such period ending 31st March,2006. He shall publish a Financial Report.

Auditors

- a) The committee shall appoint an Internal Auditor and External Auditors.
- b) The auditors shall submit the audited accounts on or before the end of the month of May of each year, the 1st of such being 31st of May 2006.

Cessation of Membership

A member of the committee shall cease to hold office if she/he is,

- a) Adjudged a bankrupt by a court of competent jurisdiction, or
- b) Declared to be of unsound mind, or
- c) Convicted of an offence of moral turpitude, or
- d) Absent from three consecutive meetings without obtaining leave from the Chairperson, or
- e) Guilty of serious misconduct

Funding

The committee shall decide upon and seek funds from within the country or internationally. However the Committee shall exercise due diligence and care to see that the sources of funding shall not interfere with its independence in the pursuit of its objectives and functions.

CASUS OMISSUS:

The committee shall take its own decision and act accordingly in case of any point of contention or procedure where it is not provided for specifically in this document.

