



# General Assembly

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## Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

### **Written statement\* submitted by Association Bharathi Centre Culturel Franco-Tamoul, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2021]

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\* Issued as received, in the language(s) of submission only.



## **Appeal from the Tamil People to Refer Sri Lanka to the International Criminal Court (ICC) and to establish an International Independent Investigative Mechanism for Sri Lanka and to conduct a Referendum**

The Tamil Genocide Memorial in partnership with Association Bharathi centre Culturel Franco Tamoul, The Tamil Genocide Memorial <sup>1</sup> is formed in 2016 to preserve the history of Tamil Eelam and building a memorial in remembrance of the victims of the Genocide of Tamils. It's a registered not-for-profit organization in Canada. Tamil Genocide Memorial (TGM) would be a symbolic beacon to remember the Tamil Genocide and the history of Tamil Eelam, would be the powerful resource to carry the historical background of Tamil genocide to future generations.

### **Background:**

According to the March 2011 Report of the UN Secretary General's Panel of Experts on Accountability in Sri Lanka it stated that there were credible allegations that war crimes and crimes against humanity were committed during the final stages of the armed conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam, and there could have been as many as 40,000 Tamil civilian deaths.

According to the November 2012 Report of the UN Secretary-General's Internal Review Panel on UN Action in Sri Lanka, over 70,000 people were unaccounted for during the final phase of the war in 2009. Several were killed when Sri Lankan forces repeatedly bombed and shelled an area designated by the Government as No Fire Zones (Safe zones). Even hospitals and food distribution centers were bombed. Several also died of starvation and bled to death due to lack of medical treatment.

International Truth and Justice Project (ITJP) in February 2017 handed over details to UN of Sri Lankan Military run "Rape Camps", where Tamil women were being held as "sex slaves." According to UK Foreign and Commonwealth Office report in April 2013, there are over 90,000 Tamil war widows in Sri Lanka. Thousands of Tamils disappeared including babies and children. UN Working Group on Enforced Disappearances stated that the second highest number of enforced disappearance cases in the world is from Sri Lanka.

### **Successive Sri Lankan Governments failed to implement UNHRC Resolutions**

Sri Lanka under the previous Government co-sponsored the UNHRC Resolution 30/1 titled "Promoting reconciliation, accountability and Human rights in Sri Lanka" at the UNHRC session in Geneva in September 2015 and again in March 2017 co-sponsored another Resolution 34/1, obtaining a 2 year time extension to implement the Resolution 30/1. Sri Lanka also co-sponsored a Resolution 40/1 and obtained additional two year extension (total four years of extension apart from two years initially given) to implement the Resolution,

Previous Government not only failed to take any meaningful steps to implement the Resolution that it co-sponsored, on the contrary the President, Prime Minister and senior members of the Government have repeatedly and categorically stated that they will not implement the UNHRC Resolution.

The current Government went one step further and officially withdrew from the co-sponsorship of the Resolutions 30/1, 34/1 and 40/1 and walked away from the UNHRC accountability process.

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<sup>1</sup> Tamil Genocide Memorial, a registered non-profit organization in Canada [www.tamilgenocide.com](http://www.tamilgenocide.com)

Furthermore, as a snub to UNHRC, the only Sinhala soldier who was ever punished and sentenced to death for killing civilians including children was pardoned by the current President. Also several senior military officials who were credibly accused of committing war crimes have been given promotions and treated as “war heroes”. Many of them now occupy high governmental civil posts.

The Human Rights Council (HRC) has now been in session for four weeks with discussions on human rights around the world. As we explored in a previous blog post, The report of the High Commissioner for Human Rights offered a strong starting point for discussions on Sri Lanka. Throughout the Council sessions, the government of Sri Lanka has responded to the statements by the High Commissioner and other UN experts on human rights with an extraordinary series of lies and denials.

After efforts to work together with the government of Sri Lanka on a new resolution failed, the Core Group on Sri Lanka brought forward a resolution in late February 2021 which totally denied Justice for Eelam Tamils victims of Genocide;

During the interactive dialogue on Sri Lanka, the Deputy High Commissioner noted that the OHCHR has already accumulated extensive documentation on human rights violations and mass atrocity crimes in Sri Lanka from previous investigations.

Although the weak 46/1 resolution does not meet the demands of many in the Eelam Tamils victims of Genocide and for Sri Lanka to be referred to the International Criminal Court, it represents a genuine step forward. We urge member states at the HRC to support a new strong Resolution during next Human Rights Sessions.

## **Conclusion:**

Since successive Governments have not only failed to implement UNHRC Resolutions and the current Government has completely withdrawn from UNHRC process for Accountability, giving any more additional time to the Sri Lankan Government will not only entrench impunity, it will also embolden Sri Lankan Government to intensify its crackdown against Tamil people with its huge military presence in Tamil areas and its draconian laws.

## **Request:**

a) Refer Sri Lanka to the International Criminal Court (ICC) or to a specially created International Criminal Tribunal for Sri Lanka including a specific request to determine the crime of genocide against the Tamil people in their traditional homeland in the North and East of Sri Lanka and prosecute those responsible for the genocidal crimes in addition to those found responsible in the already established findings of war crimes and crimes against humanity in the 2011 Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, the 2012 Report of the UN Secretary-General’s Internal Review Panel on UN Action in Sri Lanka and the 2015 Report of the OHCHR Investigation on Sri Lanka (OISL).

b) Establish an International Independent Investigative Mechanism (IIIM) for Sri Lanka with a specific mandate and Terms of Reference (ToR) to determine genocide, the crime of all crimes, being committed in Sri Lanka. The ToR should also request the investigators to assess the status of the Tamil people as a protected group and to determine whether the Sri Lankan state apparatus possessed the requisite intent for the protracted genocide being committed throughout the last seven decades, covering the periods before, during and after the armed conflict. The ToR should also include the crimes against humanity and war crimes that have been already established in the various UN findings. The IIIM should be able to assert, consolidate, preserve and analyse all the crimes mentioned above, and prepare files to facilitate and expedite fair and independent criminal proceedings according to the international law standards in international courts or tribunals that have or may in the future have jurisdiction over these crimes. Upgrading the UNHRC process, preferably under the Agenda Item 4, since the co-sponsored process under Agenda

Item 2 has not expressly included the crime of genocide and the co-sponsored process has failed to deliver on the commitments made with regard to already established UN findings. We have no faith in any internal mechanism through the Sri Lankan justice system. We reject such a mechanism again outright on this occasion.

c) Conduct an Internationally organised and monitored Referendum in the North and East of Sri Lanka to find a permanent political solution to the longstanding Tamil national question, which contributed to the repeated cycle of violence against the Tamil people since 1958 amounting to protracted genocide including the crimes against humanity and war crimes. We are convinced that only a solution incorporating the democratic mandate of the people's aspirations would positively attain sustainable peace in the island and establish stability in the region.

Thank you,

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The Tamil Genocide Memorial (Canada), NGO(s) without consultative status, also share the views expressed in this statement.