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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Alliance Creative Community Project, 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.

[7 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Human Rights And Self-Determination À La Carte And Democratic And Equitable International Order

As a *jus cogens* of international law self-determination constitutes an integral part of the mandate of the independent expert on the promotion of a democratic and equitable international order which promotes and encourages respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples. Today geopolitical contests and geo-economic rivalry of major powers inevitably affect and exploit the application of international norms and human rights particularly the right to self-determination. Human rights and international norms have been weaponized at the expense of fundamental rights of people for political purposes. International human rights law including self-determination should be applied uniformly and not *à la carte*. In this context we would like to highlight the double standards, geopolitical implications on human rights and continued denial of right to self-determination of the Tamil people of Sri Lanka. We encourage current independent expert Mr. Livingstone Sewanyana visit Sri Lanka to study the denial of self-determination of the Tamil people and their human rights violations which has been exploited for geopolitical interests of major states who are competing to dominate the Indo Pacific region.

In this occasion, we also recommend that the current Independent Expert Mr. Livingstone Sewanyana observe and study the geopolitical impact on human rights and self-determination of the Tamil people in their homeland in Sri Lanka.

Dr. Alfred Dezayas former and first mandate holder on equitable international order in his report A/68/284 to the General Assembly recommends that the "the General Assembly may consider revisiting the reality of self-determination in today's world. It should be noted that among his list of countries he mentioned Sri Lanka where self-determination of people has been denied.[1] Pointing out the double standard application of self-determination Dr. Alfred Dezayas observes that "whether a people can exercise this right in practice also depends on international solidarity, which existed in the case of Kosovo, but was missing in the case of the Tamils of Sri Lanka." [2] Self-determination is a human right that belongs to peoples rather than to the states.

The UN Human Rights Council resolution A/HRC/RES/18/6 adopted on 29 September 2011 on the promotion of a democratic and equitable international order embraces the principle that a democratic and equitable international order means all peoples freely pursue their economic, social and cultural development and have the rights to peace, international solidarity, development and self-determination. A democratic and equitable international order fosters the full realization of all human rights for all, and everyone is entitled to it. The same HRC resolution A/HRC/RES/18/6 in its preamble paragraph, considering the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter emphasize respect for the principle of equal rights and self-determination of peoples.[3]

The continued impunity for crimes committed by Sri Lanka authorities under international law shares a mutually causal relationship with obstruction of the exercise of Eelam Tamils' right of self-determination. In this respect, we recall paragraph 8 of the the interim report to the General Assembly by the Independent Expert which states "For human rights, peace, security and stability to flourish, the relationships between peoples and governmental entities must be based on genuine and continuing consent, on the understanding of a contract social and, if this contract is violated by Government, the people as sovereign have the democratic right to redefine the relationship." [4]

In its 117th session in May 2021 the United States of America congress resolution H.RES.413 points out a resolution adopted by the Northern Provincial Council of Sri Lanka which calls for international investigation into alleged war crimes committed during the armed conflict and for a U.N.-monitored referendum in the north-eastern region of the island to support the development of a permanent political solution.[5] The same United States of America congress resolution also recognizes the northeastern region of the country as the traditional Tamil homeland, which remains heavily militarized with up to one soldier for every two civilians in the most war-affected regions.[6]

Therefore, we invite the current Independent Expert to study and propose a mechanism facilitating Eelam Tamils' free exercise of the inherent right of self-determination, by means of popular consultation, in accordance both with Article 1 of the International Covenant on Civil and Political Rights (ICCPR), and with Paragraph 5 of General Assembly Resolution 68/175.

Former mandate holder of equitable and democratic international order Dr. Alfred Dezayas in his comment on right to self-determination of all peoples highlights the that the application of self-determination should not be subjected to any arbitrary limitations such as colonial domination or only in certain historical moments in time. He observes that

"the right holders of the right of self-determination are "all peoples" without distinction. Although the definition of "people" does not yet exist internationally, in general it is recognized for a group of persons with a common historical tradition, an ethnic or racial identity, cultural homogeneity, linguistic unity, religious or ideological affinity, territorial connection or a common economic life, with the awareness of being a people and the willingness to be recognized as such." [7]

International community should also be mindful of the persistent reality that continued denial of Self-determination of the Tamil people in Sri Lanka in the context of domestic majority ethnic domination and regional geopolitical context has led to the immense physical and psychological suffering of the Tamil people for decades. The 2011 UN Panel of Experts' Report confirms indiscriminate Sri Lankan Army killings of at least 40,000 civilians during the final period of conflict, ending in May, 2009.[8] The victims are predominantly of Eelam Tamil origin. The United Nation's Office of the High Commissioner for Human Rights issued a report in 2015 (the OISL Report) that outlined the occurrence of war crimes and crimes against humanity and violations of international humanitarian law during the war in Sri Lanka.[9]

Tamil people's continuous claim for their right to self-determination since the independence of Sri Lanka in 1948 from the British colonial rule legally and morally a legitimate demand strongly based on political and ground realities. Former UN independent expert Dr. Alfred dezayas speaking on a side event pointed out the denial of self-determination to the Tamil people.[10] The single narrative that Tamil people represents a minority in Sri Lanka a term which has been frequently used even in UN HRC resolutions deeply flawed legally. Tamil people consider themselves as a nation who has a traditional homeland and unique linguistic, cultural heritage since precolonial era.

In June 1799, Sir Hugh Cleghorn, Secretary to the first Governor of British colonial Ceylon (Sri Lanka), wrote to the British government of the day:

"Two different nations, from a very ancient period, have divided between them the possession of the island: the Sinhalese inhabiting the interior in its Southern and Western parts from the river Wallouve to that of Chillow, and the Malabars [another name for Tamils] who possess the Northern and Eastern Districts. These two nations differently in their religions, language and manners[11]." In 1833, Britain unified the disparate Tamil and Sinhala national regions, upon the recommendation of the Colebrooke and Cameron Commission, by introducing a single Legislative Council[12].

In conclusion, pick and choose approach and geopolitical strategic consideration should not implicate the application of human rights and self-determination. Partiality, double standards, and adverse consequences of geopolitical contest in the Indo Pacific region affected the equitable and democratic order in the region. GA report on equitable international order A/67/277, Paragraph 62 insists that right of self-determination of people should be respected regardless of economic power or geopolitical strategic importance. Denial of self-determination of Tamils in Sri Lanka and double standards in dealing with their human rights violations requires urgent attention of the independent expert on equitable and democratic international order.

International Humanitarian Approach, NGO(s) without consultative status, also share the views expressed in this statement.

[1] UN General Assembly (A/68/284) Interim report of the Independent Expert on the promotion of a democratic and equitable international order, Recommendation n, https://www.ohchr.org/Documents/Issues/IntOrder/A-68-284_en.pdf

[2] Self-determination is a Human Right, <https://dezayasalfred.wordpress.com/2017/10/11/self-determination-is-a-human-right/>

[3] UN Human Rights Council A/HRC/RES/18/6, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/18/6.

[4] UN General Assembly (A/69/272) Interim report of the Independent Expert on the promotion of a democratic and equitable international order, para. 8 <https://undocs.org/pdf?symbol=en/A/69/272>

[5] United States of America congress resolution H.RES.413, <https://www.congress.gov/bill/117th-congress/house-resolution/413/text>, May 2021.

[6] Ibid.

[7] Self-determination and Catalonia, <https://dezayasalfred.wordpress.com/2018/06/09/self-determination-and-catalonia/>

[8] Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka para 137, 31 Mar 2011

[9] Report of the OHCHR investigation on Sri Lanka (OISL) <https://digitallibrary.un.org/record/803408?ln=en>

[10] TNA Parliamentarian calls for UN plebiscite on independent Tamil State, 19 March 2018 <https://www.tamilnet.com/art.html?catid=79&artid=39008>,.

[11] Reproduced in Satchi Ponnambalam Sri Lanka: The National Question and the Tamil Liberation Struggle (Zed Books 1983), quoted in Deirdre McConnell 'The Tamil People's Right to Self-Determination' (13 Aug 2008) 21(1) Cambridge Review of International Affairs 5 9-76 (60) Footnote 2

[12] MurugarGunasingamTamilsinSriLanka-A Comprehensive History (C.300BC-C.2000AD) (MVPublication2008) 371-375).