



# General Assembly

Distr.: General  
28 August 2013

English only

---

## Human Rights Council

Twenty-fourth session

Agenda item 3

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

### **Written statement\* submitted by International Educational Development, Inc., a non-governmental organization on the roster**

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

[22 August 2013]

---

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Truth, justice and reparation and guarantee of non-recurrence: A sorely needed initiative\***

International Educational Development and the Association of Humanitarian Lawyers welcome the Council's new initiative on truth, justice and reparation and guarantee of non-recurrence. This is in part because we focus on humanitarian law, and for many years have been frustrated by the failure of the international community adequately to address the aftermath of war or other situations where there have been gross violations of human rights taking place over time. Special Rapporteur de Greiff's first report (A/HRC/21/46) sets out the main elements of his approach and we wholeheartedly endorse them.

Special Rapporteur de Greiff's mandate does not limit him to recent conflicts, and some of the current crises of today have their roots in old situations that were inadequately addressed. For example, the on-going crisis with the Kurdish people in Turkey arises because of the plight of the Kurdish people since World War I.<sup>1</sup> The long Kurdish-Turkey war began in 1984 and ended with a unilateral cease-fire in 2004. The failure of the authorities to engage in a truth and reconciliation process beginning in 2004 has resulted in continued assaults by the Turkish authorities on Kurds and their rights and a resumption of hostilities by Kurdish fighters. These hostilities also affect Kurdish people in the other States that contain the traditional Kurdish territory – especially Iran.

Other situations of long ago also remain fully unresolved, including the failure of the United States to fully acknowledge and remedy the capture of civilians of Japanese ancestry in Latin America during World War II.<sup>2</sup> Still other situations of long standing that have yet to be resolved in a way to guarantee non-recurrence include the Moluccas, Myanmar, and the situation in Indian-controlled Kashmir.

In a number of the situations where reconciliation is sought, the issue of self-determination is involved and must be taken into consideration. This may result, for example, in a type of autonomy for an affected population. The failure to address self-determination claims may seriously impede reconciliation and restoration of the rule of law. In some of the situations needing reconciliation, the right to self-determination may be based on the historical elements of past sovereignty, acknowledged territory, a distinction as to languages and cultural differences, and both the capacity and will for restoration of sovereignty. In others, especially involving an ethnic nationality that has been oppressed for many years, at least autonomy but perhaps even a separate State for the affected peoples may be the only possible solution to restore their human rights.

---

\* The Association of Humanitarian Lawyers, an NGO without consultative status, also shares the views expressed in this statement.

<sup>1</sup> The Treaty of Sevres of 1920, annexed to the Treaty of Versailles, divided the Ottoman Empire, creating an autonomous Kurdistan in what is now Turkey. The Treaty of Lausanne of 1924 nullified the Treaty of Sevres. The parts of Syria, Iraq and Iran inhabited by Kurds were unaffected, but the efforts to reestablish Kurdistan, and on an enlarged basis has been a goal of the Kurdish people ever since.

<sup>2</sup> The United States wanted persons of Japanese ancestry to exchange for American of European ancestry held by the Japanese. Mostly Peruvian citizens, some were actually sent to Japan – speaking only Spanish. Exchanges stopped when the Japanese authorities realized that they were not Japanese, but these citizens of Latin American countries were held by the United States until after the war. Efforts for a full remedy are on-going and the United States has actively resisted full disclosure and meaningful reparations.

The work of the Special Rapporteur is especially urgent in regards to Sri Lanka, where a long ethnic conflict between the Tamil people and the Sinhala authorities ended in May 2009 with a mass slaughter of perhaps 50,000 Tamil civilians and the placement of 250,000 Tamils remaining in the war zone into detention camps. Efforts to date in regards to truth, justice, reparation and guarantee of non-recurrence by the Sri Lankan authorities are minimal at best. The Council's efforts to urge the resolution of this conflict have, to date, not succeeded. The Sri Lankan plan, set out in the Lessons Learnt and Reconciliation Commission's report, is grossly inadequate, and even if fully implemented will not resolve the situation. At present the authorities have barely even begun to implement the plan. The report of the Secretary-General's Panel of Experts, issued in 2011, indicates gross violations of human rights and humanitarian law that, in many other situations, led to immediate and strong international action. The report also indicates the degree to which the international community, with few exceptions, failed to act while the atrocities against Tamil civilians were taking place in the last stages of the war – an issue now under review by the Secretary-General.

The Sri Lankan authorities are a long way from recognizing and acknowledging the long history of oppression of the Tamil people that led to the armed conflict in the first place. They have also not acknowledged the serious violations of humanitarian law in the course of the conflict, including bombing and attacks against the civilian population, severe restrictions on humanitarian aid that resulted in the deaths and illness of many Tamil civilians, the assassination of humanitarian aid workers, torture and rape of both captured combatants and civilians, killing of captured combatants, attacks on hospitals and other civilian properties and other grave breaches of humanitarian law all of which are well-documented. The perpetrators of these crimes control the government, so the likelihood of their establishing and accepting the truth is remote.<sup>3</sup> The major leaders of the Tamil people indicate a near total lack of trust in the Sinhala authorities, so achieving what the Rapporteur identifies as “mediate” goals appear unattainable. The two final goals – reconciliation and strengthening of the rule of law are even more unattainable. The Supreme Court is in chaos after its Chief Justice was ousted by impeachment. Many Western governments and reputable non-government observers such as the International Crisis Group have expressed serious concerns about the independence of the judiciary.<sup>4</sup>

The Council, in its resolutions on Sri Lanka, has encouraged its mandate holders to provide information and recommendations on this situation. Mr. de Greiff's mandate is one of the most relevant to the Council's work on Sri Lanka, and we most strongly encourage him to report to it. We also urge him to request a country visit to Sri Lanka as soon as possible.

We also encourage the Special Rapporteur to elaborate on the role of the right to self-determination in the context of his mandate, and especially where long-term violations are not being reined in by any national or international initiatives and where an affected population continues to suffer.

---

<sup>3</sup> Some of the perpetrators of these crimes, including those who planned them, are in diplomatic missions of the government, presumably so as to enjoy immunity from prosecution. The necessity of them to avoid prosecution is a major cause of the efforts, including by illegal means, to keep the current government in power.

<sup>4</sup> In our view, the situation also raises the issue of self-determination.