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**Hybrid mechanism works ONLY when there is domestic political will**

The Report of the OHCHR Investigation on Sri Lanka (OISL) released on September 16 is neither a surprise nor is a cause for celebration for Eelam Tamils who have come to see through the conduct of the United Nations influenced by the Western States, specifically the USA. The worst aspect of this report is also its most important aspect. That is the recommendation on setting up the court to hear the charges laid down in the report. The report recommends a hybrid court with domestic and international legal input.

There have been many such legal hybrid tribunals established for hearing international crimes committed around the world since the 1990's. Kosovo, East Timor and Sierra Leone are some examples where such hybrid tribunals have been established. Much of the scholarship on the workings of these hybrid tribunals has mainly been positive about it. But all of them emphasise one common requirement for the success of the hybrid mechanism – *political will at the domestic end*<sup>1,2</sup>.

In the case of Sri Lanka, the problem for the West acting through UN is how to be seen to be acting without jeopardising their interests in Sri Lanka. They couldn't recommend a domestic mechanism and then, as they have done many times in the past, commend the Sri Lankan government for setting up one. Unfortunately that tactic has become worthless once the decades long history of investigations has been called "make believe investigations" even by international players. Ordering an independent international investigation would throw the Sinhala state yet again into a position against the West. The UN thus recommends the next best, a hybrid mechanism, because of the compulsion to keep the Sri Lankan State on their side. Justice for the heinous crimes on Eelam Tamils is of lesser concern.

Eelam Tamils know and should know that the UN and through the UN the USA has done the minimum to appear neutral in face of mountain of evidence. This is the knowledge that should prevent Eelam Tamils from being fooled by the hybrid mechanism. A mechanism that can never work without the "domestic political will" which is absent even in the current Sri Lankan government.

NESoHR

Team

<sup>1</sup> "Hybrid Tribunals are the Most Effective Structure for Adjudicating International Crimes Occurring Within a Domestic State", [http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1090&context=student\\_scholarship](http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1090&context=student_scholarship)

<sup>2</sup> "Hybrid Tribunals as a Valid Alternative to International Tribunals for the Prosecution of International Crimes", <http://www.victoria.ac.nz/law/centres/nzcpl/publications/human-rights-research-journal/publications/vol-3/Costi.pdf>