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Human rights situations that require the Council's attention

Joint written statement* submitted by the Association Bharathi Centre Culturel Franco-Tamoul, the Alliance Creative Community Project, the ANAJA (L'Eternel a répondu), the Association Burkinabé pour la Survie de l'Enfance, the Association des étudiants tamouls de France, the Association Mauritanienne pour la promotion du droit, the Association pour les Victimes Du Monde, the Association Solidarité Internationale pour l'Afrique (SIA), L'Observatoire Mauritanien des Droits de l'Homme et de la Démocratie, the Society for Development and Community Empowerment, the Tamil Uzhagam, Tourner la page, non-governmental organizations 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.

[15 May 2017]

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

GE.17-09197(E)



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Time to punish an Unpunished Genocide*

The worst genocide of the 21st century was against the Tamils in Sri Lanka culminating in the blood bath in May 2009. Sri Lanka has a great history of impunity, mass graves, disappearances, torture, rape, murder and white van abductions. Sri Lanka has committed some of the most heinous crimes against its own people, be it the Tamils or the Sinhalese in the post II world war period. The climax of it was the massacre of Tamil civilians in May 2009. There are 146,679 people unaccounted, 90,000 war widows, a minimum of 40,000 war orphans, 160,000 houses destroyed according to UN estimates, 7,000 square kilometers of land belonging to the Tamils in a total of 18,000 sq kms inhabited by them under the control of the army.

The Sri Lankan government has time and again stated that it would devise its own mechanism to try the violations its armed forces and politicians committed since 2002. The government has categorically stated that they will not demilitarize the Tamil areas where they have a massive 1:6 armed forces to civilians ratio, making it one of the most militarized PEACE ZONES in the world.

Sri Lanka stands as an accused, it has no moral authority to judge its own gruesome acts of violence perpetrated on the Tamil civilians. The OISL report of September 2015 point out to the “System Crimes”, along with the near total impunity enjoyed by the security forces, police and intelligence services.

The only recourse and solace, the Tamils and its Diaspora found post May 2009 was in the United Nations which had taken up their case after moral pressure asserted on it by many Human Rights groups. The UN was formed to protect the innocent civilians but today the UN hardly intervenes when people are suffering, be it in Sri Lanka or the Syrian Arab Republic. They do not want to interfere with the sovereignty of the member nations!

Do human rights and sufferings of the people inflicted by states come under the purview of state sovereignty? In the name of state security, state sponsored terrorism was operated in Sri Lanka by its armed forces exclusively comprising of 99% Sinhalese against the exclusive Tamil population living in the northern parts of Sri Lanka.

Five resolutions have been passed since 2009. In June 2009, the first resolution in fact complimented Sri Lanka as the first country in the history of the world to *eliminate terrorism from its soil*. The massive presence of the Chinese in the island nation was a cause of concern to both India and the United States of America prompting the USA to press for a government change using the issue of war crimes and crimes against humanity as an excuse to intervene in Sri Lanka.

In 2012 and 2013, the soft resolutions urged Sri Lanka to implement its own Lessons Learnt and Reconciliation Commission report published in 2011. When Sri Lanka failed to comply with it, in 2014 a stronger resolution authorizing the Office of the High Commissioner for Human Rights Investigation in Sri Lanka (OISL) to be set up. The report of the OISL which was supposed to be published in March 2015 was delayed by six months to give space to the new President to bring about reforms. On the ground nothing seems to be changed.

On the 16th of September 2015 the OISL report was published and it acknowledged that they were not permitted to enter Sri Lanka even after the government change. The International Crisis Group which has produced some good ground level reports on Sri Lanka had the following in its statement.

Sri Lanka has seen decades of failed investigations and prosecutions, with fewer than half a dozen successful prosecutions of (low- and mid-level) military personnel for hundreds of serious human rights cases. No senior commander has ever even been charged with a war-related crime, and the military retains significant autonomy from civilian oversight. Witnesses and rights activists in the Tamil areas of the north and east continue to be threatened. Police investigations into a few high-profile cases from the Rajapaksa era reportedly face resistance from military leadership. Legislation parliament approved for a witness- and victim-protection system in February has yet to be implemented and lacks provision for protection units independent of the police and testimony of the many witnesses outside the country¹.

The UN investigation in Sri Lanka was on War Crimes and Crimes against Humanity, Sri Lanka had very seriously violated International Laws and as a state party to many UN International instruments, should be tried in an

International mechanism as domestic laws in Sri Lanka are inadequate to deal with International crimes committed by them.

On the 1st of October 2015, a joint resolution was passed co-sponsored by the USA and Sri Lanka. This cannot be digested by any Human Rights respecting person as the accused (Sri Lanka) agreed to investigate and punish its own crimes. The stiflingly slow pace of progress in terms of releasing the political prisoners, the accounting for those who surrendered and still missing even after eight years of the ending of the civil war is matter of concern to the entire humanity.

The ugly Sinhalisation (on the 10th of May, 2017 the armed forced celebrated the Vesak more pompously in Killinochchi and Jaffna, the Tamil heartland than in the Sinhala dominated South). Such outrageous display of victory over its own people have alienated the armed forces from the Tamils who see them as an occupying forces as the North is fortified with Army, Navy, Airforce and Special Task Force battalions.

The military interference in the daily life of the Tamils be it fishing, farming or hotel industry is unacceptable in any modern democratic society. The primacy given to Buddhism and the Buddhist Sangha makes Sri Lanka a Theocratic state and prevents multi culturalism and pluralism. In this context as a Human Rights lawyer and as a Member of the Malaysian Parliamentary Caucus of Sri Lanka, I would request the UNHRC to force Sri Lanka to accept the following demands of Tamils living in more than 100 countries world over.

1. The UNHRC should without delay refer Sri Lanka to the UN General Assembly and Security Council as they have not implemented any of the five resolutions passed by the UNHRC.
2. The UNHRC should recommend the referral of Sri Lanka to the ICC
3. The UNHRC should also recommend setting up of an Interim ICC to try the Sri Lankan war criminals which include the top brass in the present government, parliamentarians and high ranking military officials
4. Recognize the Right to Self Determination of the Tamils
5. Demilitarize and return civilian land in the Tamil areas of North and East
6. Stop the Sinhalisation and Buddhization of the North and East
7. Stop Sinhala and Muslim resettlement programmes in the North and East
8. Pay adequate compensation to all war victims.

M.Kulasegaran
Member of Parliament, Ipoh Barat, Perak. Malaysia

*Swiss Council of Eelam Tamils (SCET), Association Le Collectif La Paix au Sri Lanka, M.Kulasegaran, Member of Parliament, Ipoh Barat, Perak. Malaysia, NGOs without consultative status, also share the views expressed in this statement.

¹ <http://www.crisisgroup.org/en/publication-type/media-releases/2015/asia/statement-on-the-un-sri-lanka-investigation-report.aspx>, September 18, Brussels