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**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 the 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.

[13 February 2017]

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

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The current situation in Sri Lanka on Transitional Justice*

Background

The word of transitional Justice (TJ) has flowed into Sri Lanka after the resolution which was passed on September 2015. The government of Sri Lanka has obliged many duties which could be performed in the context of TJ to ensure the justice to the victims. In order to that, the government has created Secretariat for Coordinating Reconciliation Mechanism (SCRM) was established on 18.12.2015 under the Prime Minister's Office which was tasked to design and implementation of Sri Lanka's Reconciliation Mechanisms. ¹ The SCRM has started to conduct the consultations with the affected community to establish OMP, Truth Commission, Non – Recurrence and Reparation mechanisms. The layers for consultation was handled through the consultation Task Force and Zonal Task Force. The CTF has completed the report after the consultations and handed over to the former President Ms. Chandrika Bandaranayake Kumaratunga on 3rd of January 2017. The report contains with final report and executive summary. ²

The progress of TJ has to be centered towards the victims. The process has not actual focus on victims and the decisions are always coming from the state sponsored personnel who were part of SCRM, CTF or ZTF. The affected community was not part of it or consulted with before handing over the final report of CTF. Also there is lack of transparency in the process of TJ activities. No activities were openly informed to the victims. The Community members of post-conflict is now confused about the move of government and have loss hope on the progress.

Arrest and Detention

The issue about the political detainees are not taken serious by the government of Sri Lanka. There are 167 detainees are having their ongoing cases which are pending in different courts. Arrest under PTA³ is still continuing and the information is not publicly coming out. Day by day cases are coming up in Magistrate's court of Colombo and other suburb courts.

The detainees who are in incarceration have hold many hunger strike to draw attention of state authorities to expedite their cases and process of their release. Still there is no positive signal to put an end to those cases.

The promise which is was given under the resolution is to repeal or review of PTA. The original act of PTA was not taken for repeal or review and the Government of Sri Lanka is trying to bring a new draconian law in the name of CTA⁴ which has more rigid provisions in it. No organizations or individuals were consulted in relation to that process of development of CTA. Furthermore that draft document was not publicly available for ordinary persons. This shows the lack of commitment of the Sri Lankan government and increased fear among the affected community.

All the cases are pending in different courts and trials are taken up very lowly. The issue on interpretation/translation is very high in relation to cases related to PTA. In this circumstances, many older detainees are suffering with physical and mental illness. The families of detainees are facing enormous problems to deal with their day to day life without their main bread winners. The TJ process has not focus at all about the political detainees issues.

Disappearances

The issue of disappearance is very huge and it is more related to accountability process. The families of disappeared are expecting an answer from the government. More than the answer, the families want an acceptance about the enforced disappearances which has been carried out by the Sri Lankan military forces. The Disappearance is including surrendees, kidnapped, or abducted. There are many family members have handful of evidence about the perpetrators

¹ Secretariat of Coordinating Reconciliation Mechanism : <http://www.scrm.gov.lk/about>

² Media release of SCRM regarding report handing over
http://media.wix.com/ugd/bd81c0_8f4d123156ff44be973a5ffa30c81dd4.pdf

³ Prevention of Terrorism Act No 48 of 1979

⁴ Counter Terrorism Act (CTA)

and have fear to share those information with local institutions. They are tired of being providing information with the state organizations.

After the resolution in September 2015, the government of Sri Lanka has started to work on disappearance issue. The Office of Missing Persons⁵ act was passed through the parliament without any transparent discussion with families of disappeared or the organizations/activists who are working on the issue in ground level. The bill was brought prior to the consultation of Zonal Tasks Force. And it does not included the concerns of victims.

There were many allegations leveled against the act. The act was passed through parliament of Sri Lanka and it was not signed by the President for implementation. The movement was carried out and ended up like Tsunami. There is no other talk about the act the implementation strategy of OMP.

In the meantime, the President and Prime minister have made various statement on disappearance issues in which they are trying to say that, those who have disappeared are no more. They have also mentioned that, initiations on finding the truth of disappearances are not going after the military forces. By saying these two are trying to safe guard the acts of state military by saying that, the state military has no blood in their hands during the war in three decades.

The few family members have hold the hunger strike for 05 days from 31.01.2017 and the secretary of Ministry of Defence have visited them to give up the strike and allocated a date to meet the members. The meeting was held with Law and Order Minister Sagala Ratnayake, with Justice Minister Wijeyadasa Rajapakshe, Resettlement Minister D.M. Swaminathan, State Minister for Defence Ruwan Wijewardene and IGP Pujith Jayasundera⁶ and have no success result out of the meeting.

The family members have been left over clue less and have no faith on the TJ process. They even lost their hope with UN bodies and international governments. The issues of Sri Lanka has not been taken as serious and the allies have turned to support the existing government. Still the white van abductions are happening and people are taken to Joosap camp and other military camps and tortured and released after the mediation of para-military groups after paying some amount of ransom.

There is lack of monitoring on state military authorities and even the executive bodies are more supportive to the military sectors. The families are waiting for the response from UN and international bodies to get know about their loved ones status. The families are struggling with many day to day issues without their sole bread winners. They need economical and psychological support as immediate.

Militarization and land

Demilitarization and release of lands which are occupied by military also one clause in the resolution. The government of Sri Lanka and state military are reluctant to release of fertile lands of civil community in north and east.

The militarization is also a major threat for war affected community. Even though the government has been changed, the local military structure has not been changed. Specially the presence of military creates problems among the ex-carders, female headed households and released political detainees. The surveillance is still there and these target groups are being called over to the local police stations and military camps for inquiry. During these call overs, many of them have experienced the sexual harassments from state apparatus.

Land occupation by the military also created economical vulnerability among the war affected community. The fertile lands are being occupied and cultivated by the military officers. Specially in Jaffna, Killinochchi, Mullaitheivu and Batticaloa areas cultivation lands are being occupied by the military. Very large military bases were established in those

⁵ Office of Missing Persons Act (OMP) : <http://www.adaderana.lk/news/36626/speaker-signs-office-of-missing-persons-act>

⁶ Senior Ministers meet families of the disappeared after Vavuniya hunger strike:
<http://www.ft.lk/article/597060/Senior-ministers-meet-families-of-the-disappeared-after-Vavuniya-hunger-strike>

lands. Military also marketing the farming items in very low prices where they have no investment as their own. This affects the local farmers whom have put their own investments. These acts increases the vulnerability of the local farmers.

Land occupation created war affected community as refugees in their own areas. Their lands are not been released by the military officials. The recent protest on land occupation of military is Keppapulavu land in Mullaitheivu.⁷ The land is occupied by Sri Lankan Air Force and it was announced to the people that, their lands will be released on 31.01.2017 after the ceremony which is going to be attended by the President Sirisena. The Air force also warned people not to protest during the visit of the President. The families of Keppapulavu are still protesting to release their original lands. There is no answer from the government of Sri Lanka.

Conclusion

In the light of above context there is a huge need of international monitoring is needed in the TJ process. The UN has to sign an agreement with the SL government for implementation of TJ in order to incorporate the concerns of victims. The point of accountability is not openly discussed in the forum of TJ which is the major thirst of conflict affected community. The gaps and ignorance in the TJ process has to be immediately addressed and the extension of timing also will not giving good result for the expectation of the affected community. People have lost their hope on the process of Sri Lankan government on various issues. Specially about the accountability⁸. Un and international community has to be rethink about the system and process which are currently on going within the country of Sri Lanka and intervene in to that to ensure that, the justice will be done to the affected community.

*Centre for Human Rights and Development (CHRD), NGO without consultative status, also shares the views expressed in this statement.

⁷ On Keppapulavu : <http://groundviews.org/2017/02/09/on-keppapulavu/>

⁸ Judgement of Kumarapuram Massacare case and Extra Judicial Killing of Member of Parliament Raviraj