



General Assembly

Distr.: General
17 February 2020

English only

Human Rights Council

Forty-third session

24 February–20 March 2020

Agenda item 2

**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 Association Bharathi Centre Culturel Franco-Tamoul, 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.

[03 February 2020]

* Issued as received, in the language(s) of submission only.



The United Nations should break its silence in relation to President Gotabaya Rajapaksa's comments on those Enforced Disappearances

- The press statement released by the Presidential Media Division on 17.01.2020 in relation to President Gotabaya Rajapaksa's meeting with Ms Hanaa Singer, United Nations (UN) Resident Coordinator in Sri Lanka, attributes the following views to President Rajapaksa with regards to the issue of enforced disappearances:
- a) 'missing persons are actually dead'
- b) 'Most of them had been taken by the LTTE or forcefully conscripted'
- c) 'after necessary investigations steps would be taken to issue a death certificate to these missing persons'
- d) 'Afterwards their families would be given the support they need to continue with their lives'.

Missing persons are actually dead

The immediate question that arises from this assertion is how does President Rajapaksa know this? The TCSF demands that President Rajapaksa divulge his sources and evidence that support this sweeping statement. While Prime Minister Ranil Wickremesinghe previously on 26.01.2016 had made a similar irresponsible remark in the course of an interview, given that President Rajapaksa served as the Secretary of the Ministry of Defence during the last phase of the war it is reasonable to assume that President Rajapaksa is speaking from facts that he is familiar with. If what President Rajapaksa says is correct both the incumbent Army Commander Lt. Gen. Shavendra Silva who commanded the 58 Division and the incumbent Secretary to the Ministry of Defence Maj. Gen. Kamal Gooneratne must be able to shed light on what happened to those who surrendered during the last phase of the war.

Most of them had been taken by the LTTE or forcefully conscripted

This could only be partially true but even then the question remains -what justifies their disappearance and (if President Rajapaksa is correct), their extra judicial killing? Is President Rajapaksa unaware that the enforced disappearance and probable killing of surrendeeds would constitute a very serious violation of war crimes and a blatant violation of due process enshrined in the Sri Lankan Constitution?

After necessary investigations steps would be taken to issue a death certificate to these missing persons

If the President has already concluded that the missing are dead, the reasonable question to ask would be as to what these 'necessary investigations' would entail – tracing or accountability? If the conclusion is that they are dead, tracing would be futile. Would the investigations then bring forth to justice those who committed the murder of those who were taken into custody? Given that President Rajapaksa had repeatedly promised during the campaign trail that he will not allow any army soldier to be held accountable, can we expect these investigations to follow due process? There are also reports that the Office of Missing Persons, set up by the previous government to manage Geneva, might be further weakened, a further reflection of the hollowness of the promise of investigations.

Afterwards their families would be given the support they need to continue with their lives

To dichotomise and ask the families of the disappeared to choose between economic support (in other words economic survival) and the yearning to know what happened to their loved ones (in other words accountability) is cruel. President Rajapaksa must recognise that even the economically marginalised must also be respected when they demand the right to know and justice. To deny the economically impoverished of their rights is denying them of their dignity and is most fundamentally anti-democratic.

Why is the UN silent?

It is significant that President Rajapaksa chose his meeting with the UN Resident Coordinator to state his position on enforced disappearances. The question then is what did the UN Resident Coordinator say in response? The UN will be well reminded to re-read the recommendations and conclusions of the Charles Petrie Report commissioned by Secretary General Ban Ki Moon. Writing about his 2012 report in 2014 Charles Petrie concluded that the systemic failure on the part of the UN was defined by 'poor institutional reflexes and timidity'. It seems like nothing has changed in the UN. Even if late, we demand a response from the UN.

To all those who care about justice in Sri Lanka, we call for solidarity with the protesting mothers of the disappeared. The protest of the mothers is at the epicentre of the Tamil demand for accountability. Their struggle must be strengthened.

Fr. V. Yogeswaran and Dr. K. GuruparanCo-Spokespersons, Tamil Civil Society Forum

Tamil Civil Society Forum NGO(s) without consultative status, also share the views expressed in this statement.