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Human rights situations that require the Council's attention

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.

[14 February 2011]

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

Comparing the situation of the Tamil people in Sri Lanka with that of the people in Sudan**

International Educational Development and the Association of Humanitarian Lawyers draw to the attention of the Council the vastly different responses to the situation of the Tamil people in Sri Lanka and the people in Sudan.

A long war between the Tamil people and the Sri Lankan government came to a catastrophic conclusion in May 2009. In the last few months of the conflict, as many as 50,000 Tamil civilians were killed, most as a result of grave breaches of the Geneva Conventions and the laws and customs of war. In the course of the long war, a conservative 100,000 Tamil civilians lost their lives and nearly one third of the Tamil people on the island sought and received asylum in other countries.

At time of writing, it has been approximately 18 months since the release of a credible video revealing the summary executions of Tamil persons. On December 1, 2010, an extended version of this video revealed greater evidence of war crimes against the Tamil persons during the final days, such as views showing Tamil women executed and commentators remarking on the side making it evident the women were sexually assaulted before execution.¹ In spite of statements by Special Rapporteur Philip Alston and other United Nations officials following the original video, there has been no response by the Sri Lankan authorities except to claim the videos are fake.

Continued enforcement of High Security Zones (HSZ) and openly engaging in the colonization of Sinhala people to Tamil lands in the HSZ and other Tamil areas has left even greater numbers of displaced Tamils. We view this as ethnic cleansing, and it is part of a continuing pattern of ethnic cleansing of the Tamil people from their historic territory that has occurred for decades. It also appears that under the current land-grab of Tamil properties, Tamils are not compensated when the authorities “sell” their property. We urge the mandate holders on internally displaced and the right to housing to look into this on an urgency basis.

Problems in carrying out proper and unbiased investigation by the international community to review these incidents and others throughout the long conflict, in light of repeated and credible allegation of serious war crimes, has weakened humanitarian law so that its most basic provisions were blatantly violated with impunity by Sri Lankan authorities. Arguing that the Liberation Tiger of Tamil Eelam (LTTE) committed violations as well does not relieve Sri Lanka’s authorities of their liability. While Secretary-General Ban has appointed a panel to advise him on next steps, the panel was not given permission by Sri Lankan authorities to visit on-site. We fully support the comment the Secretary-General made at Oxford University on 2 February 2011 in response to a question that since the United Nations has failed to prevent mass atrocities and the killing of over 40,000 Tamil civilians in the last few days of the conflict what will he do to ensure that those responsible are brought to justice: he replied that those committing these crimes “should be held accountable ... as a basic principle of justice.”²

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

¹ Channel 4 News, 1 December 2010, <http://www.channel4.com/news/un-sri-lanka-war-crimes-video-needs-investigation>.

² From the audio tape UN Sec Gen Q&A in Oxford –Sri Lanka question.mp3. We share the views of numerous other NGO’s that the government’s own “investigative” group, the Lessons Learnt and

We have also been disturbed by the fact that many in the international community still do not even name the victims by their ethnicity – Tamil. While persons of other ethnicities also suffered violations of humanitarian law in the course of the conflict, the vast majority have been Tamils -- and precisely because they are Tamils. The war was against the Tamil people and Tamil military forces. The war was from its inception an ethnic conflict whose aim was to free the Tamil people from the continuing pattern of human rights violations committed against them since Britain ended its colonial rule. Removing the terms “ethnic” and “Tamil” does not change the character of the war, nor dismiss war crimes and mass atrocities committed against the Tamil people.

In contrast to the failure of the international community to protect the Tamil people, similar violations in Sudan have been treated far differently by the international community. This has occurred with strong action and strong words by the United Nations and by States. In the Darfur situation we especially note that the terms “ethnic conflict,” “ethnic cleansing” and “genocide” have been used repeatedly, leading to Security Council send the issue to International Criminal Court, which has issued a warrant for President el-Bashir for war crimes and genocide. The Comprehensive Peace Agreement, Interim National Constitution, Interim Constitution of Southern Sudan, and the Darfur Peace Agreement all evince strong engagement by the international community in Sudan. We are especially heartened by the move for a referendum as a result of the 2005 peace agreement between the Sudan People’s Liberation Army (SPLA), the Sudan People’s Liberation Movement and the government of President el-Bashir government. As in Sri Lanka, the southern Sudan conflict was also an ethnic conflict between two very diverse groups, each having different languages, religions and culture. The referendum resulted in the vote of over 95% of the South Sudanese for complete independence, to take effect on 9 July 2011. We applaud the strong role of the international community in this process and look forward to an independent South Sudan.³

In our view, the international community should have responded in a similar fashion to the dire situation of the Tamil people. While a number of mandate holders made it very clear that serious and large scale humanitarian law violations were occurring, the last United Nations resolution until the outcome resolution of the Special Session in 2009 was resolution 1987/61 of the Commission on Human Rights. Military operations that are legal under the laws and customs of war were called “terrorist” by some international actors. Some States formally classified the LTTE as terrorist, which, in our view, played a major role in holding the international community at bay. In particular, the International Monitoring Mission formed by Norway and the Nordic States following the 2002 ceasefire became much weakened when the EU listed the LTTE and only non-EU States could continue on it. Some non-governmental organizations were hesitant to correctly apply the law due to the chilling effect of such labels.

It is a sobering to note that these parallel situations received vastly different treatment due to the interests of third party States. Even so, remaining displaced and at risk, Tamils continue in desperate need of international attention to prevent of any further violations of their rights and they continue to seek refuge outside of Sri Lanka as their only solution. We expect the Council and the international community as a whole to stand by the Tamil people as they have the people in Sudan.

In conclusion, our organizations expect the international community to address similar situations in a similar fashion, especially when events indicate ethnic conflicts. There must

Reconciliation Commission will not properly investigate any of the allegations. We also note the hostility of the Sri Lankan authorities towards Secretary-General Ban’s advisory group.

³ We are aware that at time of writing there are some conflicts between rivals in the South that we hope can be addressed with meaningful negotiations and accommodation.

be a bolder response to all situations of mass atrocities, ethnic cleansing, and serious human rights violations in order to prevent genocidal situations. If these violations occur, there must be bold international action to investigate them. States should not be given the right to pick and choose on which situations they will act: contradiction in similar matters is what enables the recurrence of these serious crimes.
