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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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.


[15 May 2017]

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

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Tamil Nation Human Rights situation under occupation*

Tamils in the island of Sri Lanka faced repeated mass killings in 1958, 1977, and 1983 and the mass killings in 2009 prompted UN Secretary General Ban Ki-moon to appoint a Panel of Experts to report on the scale of the killings.

According to UN internal review report on Sri Lanka, over 70,000 Tamils were killed in six months in early 2009 and Tamil women were sexually assaulted and raped by the Sri Lankan Security forces. There are over 90,000 Tamil war widows and thousands of Tamils disappeared due the conflict.

According to this UN report, the killings and other abuses that took place amount to war crimes and crimes against humanity. Independent experts believe that there are elements of these abuses that constitute an act of genocide.

Members of the Sri Lankan security forces are almost exclusively from the Sinhalese community and the victims are all from the Tamil community. A Buddhist Monk shot and killed a Sri Lankan Prime Minister 1959 for having talks with Tamil political leaders.

Tamils overwhelmingly voted in a Parliamentary election in 1977 to establish an independent and sovereign country called Tamil Eelam. This Parliamentary election was conducted by the Sri Lankan Government.

1) Justice for victims of War Crimes and Crimes Against Humanity is unduly delayed

Getting Justice for victims of war crimes and crimes against humanity received a setback due to Sri Lankan Government's unwillingness to prosecute civilian and security forces for have committed mass killings of Tamils and rape. According to UN Internal Review Report on Sri Lankan up to 70 thousand Tamils were killed in six months in 2009 and scores of Tamil women were sexually assaulted and raped by Sri Lankan Security forces.

UN Human Rights Council got involved to bring justice to these abuses and Resolution (30/1) was cosponsored by Sri Lanka in the September 2015 Session of the UNHRC and Sri Lanka committed to bring perpetrators to face justice by March 2017, in a hybrid court consisting of foreign judges, prosecutors and investigators. But Sri Lanka reneged in its commitment and came to UNHRC in March 2017 to seek extension of two years, which was granted. But the Sri Lankan President and Prime Minister have already rejected one of the main conditions of the UNHRC Resolution of establishing a Hybrid Court with foreign judges, prosecutors and investigators.

Due to Sri Lankan Government unwillingness to bring perpetrators to face justice, Tamil victim's quest for justice is unduly delayed.

2) Rape Camps:

A recent report by the International Truth and Justice Project (ITJP) (<http://www.itjpsl.com/reports/submission-to-cedaw>) published details of Sri Lankan Military run "Rape Camps", where Tamil women are being held as sex slaves.

The report states the following:

"A senior officer came into the room and was asked to take his pick, like we were meat in a meat market. He looked around and chose me. He took me to another room and raped me"

"Two of the women describe being detained in a group in one room, available for any soldier to come and choose from and take to an adjacent room or tent to be raped,"

48 of the victims had been detained under the Government of former President Mahinda Rajapaksa and seven of them under the new Government of President Maithripala Sirisena.

ITJP has also provided details of six military men including a major and a lieutenant colonel who are alleged perpetrators of rape and torture in the military.

Details: <http://www.jdslanka.org/index.php/news-features/human-rights/669-un-told-of-sri-lanka-military-operating-grape-campsq>

3) Very large Military presence and abuses faced by Tamils:

According to several independent sources, Tamil areas have a ratio of one soldier for every five civilians, the highest number of soldiers to civilian ratio in the world.

Seven years have passed since the war came to an end but not a single soldier was brought to justice and the Government is trying to shield the soldiers even from the UN mandated inquiry.

The current President who was Acting Defense Minister during the war when large number of Tamil women were sexually assaulted and raped has firmly reject any UN investigation and publicly committed to protect the Security forces from any punishment.

According to the UN, Sri Lankan security forces have committed mass killings and large scale rape of Tamil women. The same security forces that committed these abuses are still stationed in very large numbers in Tamil areas; among the same women they committed sexual violence. Tamil women have to undergo fear and humiliation to live among the soldiers and to see them walking free and enjoying full protection and support of the Government.

The suffering of 90,000 Tamil war widows is continuing, having to live with pain of losing their husbands and to take care of the children with great difficulty and facing threats, intimidation and abuse from the same soldiers who killed their husbands.

4) Tamil's safety in danger:

Since UN Human Rights Council's decision to give extension of time to Sri Lanka for the Resolution 30/1, Tamil's fear for their safety since it embolden and encourage Sri Lankan security forces to commit human rights abuses against Tamils without any fear and Tamils safety will be in danger. Tens of thousands Sri Lankan Security forces who committed mass killings and sexual violence are still stationed in Tamil areas and live among the victims. There are numerous reports of current abuses against Tamils, including a recent report by UN Special Reporter on torture, cruel, inhuman or degrading treatment or punishment Mr. Juan Mendez.

Here is the link for details:

http://world.einnews.com/pr_news/369076202/sri-lanka-war-crimes-tamil-leaders-and-victims-jointly-urge-un-not-to-give-extention-and-refer-to-un-general-assembly

5) Plight of the "Disappeared"

Large number of Tamils disappeared and the Sri Lankan Prime Minister Ranil Wikramasinghe made a statement that thousands of Tamils who surrendered to the Sri Lankan Security forces are no longer alive. The Sri Lankan Prime Minister made this statement on January 15th in Jaffna, when he spoke at a celebration of Thai Pongal, a Hindu festival. Despite repeated requests by family members of the "disappeared" the Prime Minister refuses to give details about how these "disappeared" were killed and where their remains are.

The relatives have a right to know what had happened to the victims, the relatives are also victims. The denial of the right to know is a violation of article 7, 9, and 10(1) of the covenant. E.Quinteros and M.C. Almeida de Quintero v Uruguay Doc A/38/40

6) Tamil Prisoners of War (POW):

Unknown number of Tamil prisoners are in custody, some in detention for over 15 years. They are held primarily under Prevention of Terrorism Act (PTA), which Sri Lankan Government promised to repeal to UN Human Rights Council, but still using to arbitrarily arrest Tamils.

7) Military occupation of Tamil Lands:

Large number of private lands are forcibly occupied by the Sri Lankan Security forces. Using them to commercial projects like farming, luxury hotels, shops, fishing etc., depriving Tamil's livelihood.

The above is a deprivation of property without due process. Taking lands belonging to the Tamils on account of their nationality also constitutes a violation of article 2 of the covenant.

8) Restriction on Freedom of Expression:

The 6th Amendment to Sri Lanka's Constitution, criminalizes freedom of speech and conscience, guaranteed in Articles 18 and 19 of the International Covenant on Civil and Political Rights.

This Amendment prohibits peaceful exercise of Tamil's right to self-determination in the form of an independent state in accordance with UN General Assembly Resolution 2625 (1970) which is considered as customary law. It denies Tamil's right to articulate their political aspirations freely and peacefully resulting in Tamils democratic rights curtailed. Cases in point:

8) The European Court of Human Rights in the cases of *Okçuoğlu v. Turkey*, and *Arslan v. Turkey* 8 July 1999 held that convictions for disseminating separatist propaganda violated the guarantee of freedom of expression in the European Convention of Human Rights.

2) In the case of *Erdoğdu and Ince v. Turkey* also July 8, 1999, the Court held that convictions for disseminating propaganda against the indivisibility of the state violated the guarantee of freedom of expression in the Convention.

3) The Court, in the case of *Association Ekin v. France* held on July 17, 2001 that the banning of a book advocating Basque separatism violated the guarantee of freedom of expression in the Convention.

4) In the case of *IsakTepe v. Turkey* the Court on October 21, 2008 held that a charge without a conviction for disseminating separatist propaganda violated the guarantee of freedom of expression in the Convention.

Recommendations:

- 1) Take steps to ensure that Tamil victims of War Crimes and Crimes Against Humanity receive justice without any undue delay.
- 2) Repeal Constitution's Sixth Amendment, so that Tamil's freedom of expression is restored and Tamils can express their political choice through a Referendum.
- 3) Close the Rape Camps and charge those military officers.
- 4) Repeal Prevention of Terrorism Act (PTA) and release Tamil prisoners.
- 5) Return the Tamil Lands to Tamils.
- 6) Ensure Tamil's safety by deploying UN Human Rights Monitors.

ABOUT TRANSNATIONAL GOVERNMENT OF TAMIL EELAM (TGTE):

Transnational Government of Tamil Eelam (TGTE) is a democratically elected Government of a million strong Tamils (from the island of Sri Lanka) living in several countries around the world. TGTE was formed after the mass killing of Tamils by the Sri Lankan Government in 2009.

TGTE twice held internationally supervised elections among Tamils around the world to elect 132 Members of Parliament. It has two chambers of Parliament House of Representatives and Senate and a Cabinet. It held its Parliamentary sittings among other places in the British and French Parliaments.

TGTE is leading a campaign to realize Tamils' political aspirations through peaceful, democratic and diplomatic means. The Constitution of the TGTE mandates that it should realize its political objective only through peaceful means.

*Swiss Council of Eelam Tamils (SCET), Association Le Collectif La Paix au Sri Lanka, Transnational Government of Tamil Eela, NGOs without consultative status, also share the views expressed in this statement.