



British Tamils Forum
பிரித்தானிய தமிழர் பேரவை



UN Human Rights Chief puts out scathing report on Sri Lanka

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United Nations High Commissioner for Human Rights Volker Türk published a [report](#) on September 6, 2023 on the human rights situation in Sri Lanka highlighting the prevailing accountability deficit and lack of enabling environment for reconciliation measures. The report provides an update on the work of the Sri Lanka Accountability Project established by his Office (OHCHR) pursuant to UNHRC resolutions [46/1](#) and [51/1](#).

The Australian Tamil Congress, (ATC), British Tamils Forum (BTF), Irish Tamils Forum, Solidarity Group for Peace & Justice, South Africa (SGPG), Swiss Tamil Action Group (STAG) and the United States Tamil Action Group (USTAG) welcome the thorough report by OHCHR and thank the team constituting the Sri Lanka Accountability Project for their meticulous work. While highlighting key aspects of the report we also intend to point out a few deficiencies to be addressed.

We strongly support the assertion that “**Lack of accountability at all levels remains the fundamental human rights problem**” in Sri Lanka, while we believe that Sinhalese Buddhist nationalism which results in extreme centralization of power is the fundamental political issue.

We greatly appreciate the suggestion by the High Commissioner that bilateral and multilateral efforts to assist Sri Lanka in the current economic crisis must consider “**economic, social and cultural rights and pay special attention to issues of accountability, governance and diversity when negotiating or implementing support programs.**”

The report calls on the Government of Sri Lanka to develop a coherent time-bound plan for post-war transitional justice that connects the elements of truth, accountability, redress, and non-recurrence. We appreciate the calls throughout the report for victim participation and for consideration of the needs of victims. The report, however, fails to explicitly call for a political solution to the national question guaranteeing non-recurrence perhaps through the good offices of countries like India and the United States which helped Sri Lanka to emerge from the recent economic crisis.

The failure to repeal or issue a moratorium on use of the Prevention of Terrorism Act is highlighted. The deficiencies in the proposed replacement Anti-Terrorism Bill were pointed out by a joint communique issued by ten UN Special Rapporteurs. Some Appeal Court and High Courts continue to sentence PTA

detainees to disproportionately long jail terms, ignoring even the 15 years of pretrial detentions suffered by some detainees.

Land disputes between the State and citizens from local communities continue to be reported, with 26 such disputes recorded between October 2022 and June 2023, mostly in the Tamil-majority Northern and Eastern provinces. Over the reporting period, the main state actors involved were the Army (10 cases), the Department of Archaeology (six cases) and the Mahaweli Authority (five cases). However, the report fails to document the frequent occurrences of Buddhisation in Tamil areas including building of Buddhist temples, destroying Hindu deities, and preventing Hindu religious rites. These illegal acts – supported implicitly or explicitly by state forces - have serious potential to deteriorate into communal violence. Land disputes with the direct or indirect involvement of the state have been a feature of the national question for decades and were a direct cause of the war as Tamils interpret such disputes as efforts to change the demography of the North and East to dilute Tamil political representation and shrink the ‘areas of historical habitation of Sri Lankan Tamil speaking peoples.’¹

We welcome the importance given in the report to security sector reform. The Sri Lanka government gave commitments to OHCHR to reduce the troop strength of the Army from 208,000 to 135,000 by 2024 and to 100,000 by 2030. The report further urged that **“These measures should be accompanied by deeper security sector reform, including a comprehensive and transparent vetting process that removes individuals and disbands units that have been implicated in serious human rights or international humanitarian law violations. It should also comprise the phasing out of military presence from former conflict areas, where current deployments seem disproportionate to current security requirements.”** On the ground, however, we have not seen any signs of troop demobilization and the people in the NorthEast continue to live under a suffocating military presence dominating their lives and livelihoods.

The report details Sri Lanka government attempts to set up a truth-seeking mechanism. It points out that without proper consultations with victims and stakeholders and without an enabling environment such a mechanism cannot achieve its goals. **“Truth-seeking alone will not suffice. It must also be accompanied by a clear commitment to accountability and the political will to implement far-reaching change,”** Türk said, in a press release accompanying the report. Nine leading Human rights organizations including the ICJ, HRW and Amnesty released a [statement](#) denouncing the flawed truth-seeking body as currently constituted. Our organizations and the victim community in Sri Lanka reject the so-called truth-seeking mechanism and express great reservation that it is an attempt by the Sri Lanka government to delay and distract the OHCHR’s Accountability Project.

The OHCHR report gives visibility to the mandated work of the Sri Lanka Accountability Project in *Collecting, consolidating, analysing and preserving information and evidence, Advocating for Victims and Survivors, Supporting relevant judicial and other proceedings, including in Member States, with competent jurisdiction, and Developing possible strategies for future accountability processes.* The team had consultations with over 120 civil society organizations and women groups in and outside of Sri Lanka. We are heartened to hear that the Project briefed representatives from 29 States drawn from national prosecutorial authorities and/or law enforcement agencies on the mandate and work of the

¹ [1987 Indo-Lanka Accord](#)

project, and to explore potential collaboration. We urge swift action towards strong legal action against perpetrators of serious international crimes in all potential justice mechanisms.

We learn from the report that four priority areas were selected for investigation: (1) unlawful killings, (2) sexual and gender-based violence and torture in detention settings, (3) enforced disappearances and (4) violations against and affecting children, including the recruitment and use of children in hostilities. While this is a good list, it leaves out one important category of violations. We urge OHCHR and the Project team to investigate incidents of large-scale civilian killings spanning decades, including aerial bombing of schools, churches and temples, the Kumuthini boat massacre (1985), the many massacres in the East including Sathurukondan (1990), Kumarapuram (1996), the 1983 Black July pogrom, the use of cluster munitions, etc. It is critical to analyze the systemic nature of the war crimes, crimes against humanity and genocide committed against the Tamils before, during and after the war in order to develop strategies for accountability, along with processes and avenues to ensure non-recurrence.

While the report provides a window into the work done by the Sri Lanka Accountability Project, we are disappointed not learning about concrete suggestions or referrals for prosecution based on the two and a half years of their work. The victims should not be left waiting till next September to see some interim results on accountability.

We appreciate the High Commissioner reiterating the recommendations made in reports to the Human Rights Council and Member States in 2021 and 2022. We recall that one such recommendation by former High Commissioner Michele Bachelet on January 12, 2021 stated: “Member States have a number of options to advance criminal accountability... In addition to taking steps towards the referral of the situation in Sri Lanka to the International Criminal Court, Member States can actively pursue investigation and prosecution of international crimes before their own national courts, including under the principles of extraterritorial or universal jurisdiction.”

The recent calls by many in the Sinhala polity, including the Leader of the Opposition in Parliament, for an international investigation following allegations by the UK’s [Channel 4](#) on the ‘Easter Bombings’ with respect to the complicity of the same cast of perpetrators involved in serious international crimes against the Tamil people during and after the war - namely the highest echelons of the Sri Lankan regime, military, and intelligence personnel - adds impetus to the High Commissioner’s recommendations. We urge that these calls strengthen the resolve of Member States that domestic accountability in Sri Lanka is not possible and a strong international process is essential.

The High Commissioner recommends Sri Lanka to “**Invite OHCHR to strengthen its country presence.**” We fully endorse this call to increase OHCHR’s country presence in Sri Lanka and urge OHCHR to protect and strengthen the efforts of human rights defenders, to help in tracing the missing and to offer assistance in exhuming mass graves and identifying remains following international best practices.

Finally, we look forward to the High Commissioner’s reports on Sri Lanka over the coming year, urge HRC member states to fully take advantage of the Sri Lanka Accountability Project’s efforts to provide judicable material to victims and courts for justice for the serious international crimes committed in Sri Lanka, and look forward to the Project’s recommendations to the Human Rights Council for future avenues for justice to be delivered at the 57th session in September 2024.

For more information, please contact:

Mr. Krish Illungko
Chairperson, Australian Tamil Congress (**ATC**)
chairperson@australiantamilcongress.com

V. Ravi Kumar
General Secretary, British Tamils Forum (**BTF**)
www.britishtamilsforum.org
[@tamilsforum](https://www.instagram.com/tamilsforum)

Irish Tamils Forum (**ITF**)
0035389959270
irishtamilsforum@gmail.com

Solidarity Group for Peace and Justice (**SGPJ - South Africa**)
padayacheepregasen@gmail.com

Swiss Tamil Action Group (**STAG**)
+41764450642
swisstamilag@gmail.com

Anandaraj Ponnambalam
President, United States Tamil Action Group (**USTAG**)
www.theustag.org
[@UstpacAdvocacy](https://www.instagram.com/UstpacAdvocacy)