

9th August 2022

UN High Commissioner for Human Rights

Human Rights High Commission

Geneva, Switzerland

Dear High Commissioner,

As the UN Human Rights Council's (UNHRC) September Session is approaching, we, from the Tamil political parties in Sri Lanka wish to jointly bring to your kind attention our assessment of the situation of Tamils since the adoption of UN Resolution 46/1 in March 2021 and our suggestions for the protection and promotion of human rights for Tamils in Sri Lanka.

We also want to express our appreciation for your OHCHR report on Sri Lanka on Jan 12, 2021 inter alia referring to accountability as follows,

"Member states have a number of options to advance criminal accountability and provide measures of redress for victims. 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 committed by all parties in Sri Lanka before their own national courts, including under the principles of extraterritorial or universal jurisdiction. The High Commissioner encourages Member States to work with OHCHR, victims and their representatives to promote such avenues for accountability, including through opening investigations into possible international crimes, and to support a dedicated capacity to advance these efforts. Member States can also apply targeted sanctions, such as asset freezes and travel bans against State officials and other actors credibly alleged to have committed or be responsible for grave human rights violations or abuses, as well as support initiatives that provide practical benefits to victims and their families." <https://undocs.org/A/HRC/46/20>

We also would like to bring to your kind attention an open letter from 20 former high-level UN officials on February 18, 2021. The signatories included all four former UN High Commissioners for Human Rights - four former high officials of the UN, nine former Special Rapporteurs who had visited and written reports on Sri Lanka, and, all three members of the Secretary-General's Panel of Experts on Sri Lanka.

As the signatories noted, "The recently released report on Sri Lanka by UN High Commissioner for Human Rights underlines, yet again, the country's lack of progress on justice and accountability. Based largely on an analysis of emerging trends, it makes a compelling case for decisive international action to ensure justice and accountability for mass human rights violations and atrocities in Sri Lanka as a central element of the search for sustained reconciliation and the prevention of the recurrence of rights abuses and conflict." They concluded, "Given the continued reluctance of the Sri Lankan Government to meaningfully uphold the human rights of all, only decisive, international action to ensure justice and accountability can interrupt Sri Lanka's periodic cycles of violence." <https://chrgi.org/wp-content/uploads/2021/02/Sowing-the-Seeds-of-Conflict.pdf>

There was continued impunity for violations committed during the war that ended in 2009 and the government ignored repeated UN Human Rights Council Resolutions calling for justice and accountability. As such, justice stalled and impunity prevailed. Tamil victim groups, Human rights defenders, Civil society leaders, Journalists and others were increasingly intimidated and harassed by Sri Lankan authorities.

Overwhelming presence of the Sri Lankan military which is comprised almost exclusively of Sinhala – Buddhist persons in Tamil areas and counter-terror laws results in intimidation and abuse against Tamil people and restrict the space for freedom of expression and peaceful protests, while discrimination against and marginalization of the Tamil people continues.

Under the guise of “development projects,” government - driven Sinhalese - Buddhist colonization (settlements) is growing in traditional Tamil areas with the intent to change the demography, disturb the contiguity of the North East Tamil speaking areas and deny Tamil people access to their lands. Several government departments, including the Mahaweli Authority, Archaeological Department, Forest Department, and Wildlife Department are deployed in this initiative. This encroachment is also facilitated by the presence of the Sri Lankan military. The present ethnocratic government is bent on disturbing the demography of the North and East areas and plant Sinhala settlements within predominantly Tamil speaking areas, and re-demarcation of divisional boundaries to incorporate Sinhala – Buddhist areas into Tamil districts and remove Tamil areas and annex it with Sinhala districts, with the aim to increase the Sinhala – Buddhist population in the Tamil areas and make Tamils a minority in their traditional homeland.

Victims’ families and those seeking justice are harassed, threatened, and intimidated by the Terrorist Investigation Department (TID), Criminal Investigation Department (CID) and other Government intelligence agencies.

Despite numerous appeals and Resolutions by the UN Human Rights Council, Sri Lanka continues to use draconian Prevention of Terrorism Act (PTA) and other laws. The PTA has provisions contrary to the normal laws of the country, in that confessions given to police officers frowned upon by our Evidence Ordinance, are solely admitted for convictions. While numerous Tamil political prisoners are imprisoned for years without charge or trial or convicted after unfair trials, not a single member of the Sri Lankan security forces was arrested or charged for committing atrocity crimes against Tamils. It is pertinent to mention that members of the security forces have been released from their convictions or charges of crimes by the current Government.

We would like to point out that repeated mass killings of Tamils amounting to genocide is due to lack of permanent political solution to the protracted ethnic conflict in Sri Lanka. We strongly feel that an internationally conducted and monitored referendum is the only way to bring permanent political solution to the ethnic conflict, thereby stopping mass atrocities against the Tamil people.

WE RESPECTFULLY APPEAL TO YOUR HONOUR TO TAKE THE FOLLOWING STEPS TO HELP ALLEVIATE TAMILS’ SUFFERING AND BRING JUSTICE FOR THE ATROCITY CRIMES COMMITTED AGAINST TAMIL PEOPLE BY THE SRI LANKAN STATE:

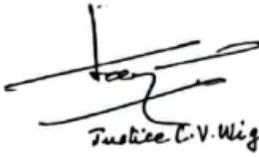
- 1) As suggested by the OHCHR March 2021 report, reiterate the importance of referring Sri Lanka to the International Criminal Court (ICC), and call on the UNHRC to urge the UN Security Council to Refer Sri Lanka to ICC, as it did in the North Korea case.
- 2) Reduce overwhelming Sri Lankan military presence in Tamil areas to pre-1983 levels, when the war started in Tamil areas, and the Government exponentially increased military presence in Tamil areas. Thirteen years have passed since the war ended in 2009, still the government maintains the same military level in Tamil areas. According to US based Think-Tank Oakland Institute, military to civilian ratio is one to six (for every six civilians there is one military), which is considered very high in the world. Notably, in the Mullaitivu District, the ratio is one to two (for every two civilians, there is one military). It should be noted that many military units in Tamil areas such as the Joseph camp in Vavuniya were credibly accused by the UN and by several international institutions, of atrocity crimes against Tamils people, which includes mass killings of Tamil civilians, large scale rape of Tamil women and girls, abductions, and thousands of enforced disappearances.
- 3) Stop government sponsored Sinhala – Buddhist settlements in Tamil areas, including re-demarcation of divisional boundaries to incorporate Sinhala – Buddhist areas into Tamil districts and annexing Tamil areas into Sinhala-Buddhist areas.
- 4) We also appeal to Your Honor to strongly consider calling for an internationally conducted and monitored referendum to bring about a permanent political solution to the protracted Tamil conflict thereby preventing further atrocity crimes against the Tamil people, which they repeatedly faced inter alia in 1958, 1977, 1983 and 2009.
- 5) As suggested earlier by OHCHR, we urge you to call on the Governments around the world to arrest and prosecute Sri Lankan political and military officers in their territory, under the principle of Universal Jurisdiction, which allows for the prosecution of serious international crimes, even if they were not committed on the country's territory. This is more pertinent now, given that the former President of Sri Lanka Gothabaya Rajapakse fled Sri Lanka and currently in Singapore and may move to other countries. His departure may have opened new possibilities for Justice. Also, since he is no more a President, he loses the protection under head of state immunity. Mr. Gothabaya Rajapakse was the Secretary of Defense who oversaw the war, when according to UN Internal Review Report around seventy thousand Tamils were killed during the final six months of the war and scores of Tamil women and girls were raped. Thousands of civilians who emerged from the conflict zone were detained in camps where the security forces committed rape, torture and enforced disappearances. Also, International Truth and Justice Project (ITJP) in February 2017 handed over details to UN of Sri Lankan Military run "Rape Camps", where Tamil women are being held as "sex slaves". According to UK Foreign and Commonwealth Office report in April 2013, there are over 90 thousand Tamil war widows in the North and East of Sri Lanka. Thousands of Tamils had disappeared, including babies and children. UN Working Group on Enforced Disappearances stated in 2020 that the second highest number of enforced disappearance cases in the world is from Sri Lanka.

- 6) Freedom of Expression is severely restricted in Tamil areas for several years, facilitated by the extremely large Military presence in Tamil areas and restrictive laws. Chief among the restrictive laws is the Sixth Amendment to the Constitution, which limits and criminalizes political expression.

The fact that the former President has fled the country need not constrain Your Honour from taking steps to compel Sri Lanka to answer the charges against it.

We submit these facts for your kind attention, consideration, and necessary action and to support your commitment and untiring efforts to ensure justice to the Tamil people of Sri Lanka.

Thanking you, Sincerely,



Justice C.V. Wigneswaran, M.A.

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