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(NGOs in Consultative Status with ECOSOC)

Tamil Victim of Racial Discrimination by Sri Lankan Government.

Written statement to the 17th session of the UN CERD

Joint written statement submitted by the Association des étudiants tamouls de France, Association Bharathi Centre Culturel Franco-Tamoul, Association Burkinabé pour la Survie de l'Enfance, Association Mauritanienne pour la promotion du droit, Association Solidarité Internationale pour l'Afrique (SIA), Integrated Youth Empowerment - Common Initiative Group (I.Y.E. – C.I.G.), Society for Development and Community Empowerment, non-governmental organizations in special consultative status

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Seven years ago in May 2009, the Sri Lankan military killed more than 147 000 civilians in North East of Sri Lanka, but the 2009 victory came at significant human cost for Sri Lankan Army. An estimated 300,000 people were displaced. According to the U.N., some 70,000 civilians were killed in the first five months of 2009. Families and communities were destroyed beyond recognition. In Sri Lanka, a bloody civil war has ended with the Sinhalese military of the government reportedly killing more than 300 000 Tamilese, brutally suppressing the Tamilese minority, and pushing the entire group into no-escape zones in the northeast and east corners of the island, where there already were some 400,000 or more refugees in the late summer and early autumn of 2009.

Sri Lanka is party to all seven core human rights treaties. It ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1982 while in the midst of war against the LTTE. Article 1 of ICERD defines "racial discrimination" as meaning any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin. Yet, the Tamil minority has to struggled to achieve equal opportunities.

Article 2 (a) of ICERD says that each state party must not to sponsor, defend or support racial discrimination by any persons or organizations. But this is also meaningless with the context of Sri Lanka.

Successive governments have continually violated ICERD and the current government has continued the trend. The present government has detained numerous Tamil civilians without filing cause under the Emergency law and Prevention against Terrorism Act even after the removed of emergency law. But the article 5 (a) of ICERD requires "the right to equal treatment before the tribunals and all other organs administering justice."

The same article of refers to "the right to freedom of movement and residence within the border of the State". But the current regime has declared many areas as High Security Zone in north and east part in Sri Lanka where the military fought the LTTE. Since 1990, thousands of people in Myladdy, Palali, Madagal, Sunnagam, Masyappidy, Velvetithurai and Kuranagar - areas that fall within the High Security Zone - have been living as internally displaced persons. The zones were created by the government in order to stop attacks by Liberation Tigers LTTE. But the governments has maintained similar zones, despite the defeat of the rebel movement.

The Prevention of Terrorism Act and Emergency Regulation act have concerned the international community regarding discriminatory civil and political restrictions against the Tamil Resistant. In addition, there are problems with

the possible force to convert to the predominant religion of Buddhism. Interreligious tensions between the prevalent Buddhist population and the minority Christian population have also pushed the boundaries of discrimination.

In Sri Lanka Tamil Nation continues to suffer discrimination despite the defeat of the Tamil Tiger Resistant group against Sri Lankan Military Tyrannies. Government forces in 2009 overwhelmed the Liberation Tigers of Tamil Elam (LTTE), ended a bloody war in which the Tamil Resistant group fought to secure a separate state.

Human rights activists and civil society groups say the end of the conflict has opened the door for the government to put in place policies aimed at institutional and social discrimination against Tamils.

The government has reportedly seized male children below 10 years old, and taken them away, and there is no information on their subsequent fate. The Sinhalese government forces released pregnant women from badly overcrowded refugee enclaves into surrounding areas where there were no potable water, food or shelter, and where they were left to fend for themselves.

Also, there are reported cases of forced disappearances of alleged members of LTTE, and reports of rape. These reports suggest the possibility that there may have been intentions to destroy a population, in whole or in part, via conditions simulating a man-made disaster. During May–October 2009, there were reports of aerial and artillery bombardment of hospitals and schools with no reported military role, bombardment of zones declared safe zones by central government,

Indiscriminate shootings of prisoners of wars, and desecration of dead bodies. The People's Tribunal on Sri Lanka, initiated by members of the Irish Forum for Peace in Sri Lanka (IFPSL), was conducted by the Permanent Peoples' Tribunal (PPT) group in Milan, following the methodology of the Bertrand Russell-Sartre Tribunal on Vietnam. The Tribunal, based on testimony from Tamilese survivors, has accused the Sri Lankan government of responsibility for crimes against humanity.

The conflict between the Government of Sri Lanka and the Tamil Resistant dates back to 1983, when a rebel group formed and rose against the discrimination of the minority Tamil community residing in North and East of Sri Lanka.

After 25 years, the armed conflict between the Sri Lankan Genocidal government forces and Tamils may be nearing its conclusion. But for the quarter of a million civilians trapped or displaced by the fighting, the tragedy

has intensified. Since the fall of the LTTE's administrative center, Kilinochchi, in early January 2009.

This report is based on research conducted by our Representative on ground in Sri Lanka from December, 2008 to May 2019. We conducted over 300 interviews with representatives of local and international nongovernmental and humanitarian organizations, UN agencies, medical personnel, religious leaders, diplomatic representatives, and ordinary civilians affected by the conflict. The interviews were conducted in Colombo and Vavuniya, Jaffna, in Tamil and in Europe from War witness.

The Sri Lankan government's ongoing restrictions on information are denying the Sri Lankan public and the broader international community important information about the situation in the Vanni and the circumstances facing the population there.

The Sri Lankan Genocidal armed forces appear to be engaged in a perverse competition to demonstrate the greatest disregard for the civilian population. In the last Six months alone from December 2008 to May 2009, The Sri Lankan Security forces have committed numerous violations of international humanitarian law, the laws of war. While not all loss of civilian life is a laws-of-war violation, the failure of the government forces to meet their international legal obligations has undoubtedly accounted for the high death tolls.

In violation of the laws of war, the Sri Lankan Security forces bombarded heavy weapons on civil, using chemical weapons and cluster bombs. The Tamil's are killed in Sri Lanka because they are Tamil, and the LTTE grim practices are being exploited by the government to justify its own atrocities. High-level statements have indicated that the ethnic Tamil population trapped in the war zone can be presumed to be siding with the LTTE and treated as combatants, effectively sanctioning unlawful attacks. Sri Lankan forces have repeatedly and indiscriminately shelled areas crowded with civilians. This includes numerous reported bombardments of government-declared "safe zones" and the remaining hospitals in the region.

Displaced persons are increasingly escaping from the battle zone to what they hope is safety within government-controlled areas. Instead, they are finding government internment centers masquerading as "welfare villages." While the government for security reasons should be screening new arrivals, it is instead secretly taking away LTTE suspects to arbitrary detention or possible enforced disappearances. There are demographic change of Tamils in The Island, and Tamil are living under military occupation in their Homeland.

All displaced persons crossing to the government side are sent to internment centers in Vavuniya and nearby locations. These are military-controlled, barbed-wire camps in which those sent there, including entire families, are

denied their liberty and freedom of movement. Humanitarian agencies have tenuous access, but do so at the risk of supporting a long-term detention program for civilians fleeing a war.

The hospital in Vavuniya mirrors the town's internment camps. It lacked even the most basic necessities: many of the hospital beds had no bed sheets, blankets, or pillows. And despite the obvious lack of capacity to handle all of the wounded and attend to their needs, the hospital personnel reportedly were instructed by the authorities not to ask for any assistance from international agencies, and very few agencies have been allowed access to the hospital. Relatives have had difficulty seeing patients, and some have later been visited by the security forces.

Instead of using its victories in the field to promote a more open and democratic nation, the Sri Lankan government has conducted a cynical campaign to prevent all independent public coverage of its military operations and the plight of civilians caught up in the war. It has kept out the media and human rights organizations that could report on them and on government abuses. It has kept displaced persons who could describe the artillery bombardments locked up in camps and hospitals. It has traded the well-being of hundreds of thousands of Eelam Tamils citizens for protection from international scrutiny. With civilian casualties mounting, it has sought to bury its abuses.

The Sri Lankan forces have committed numerous indiscriminate and disproportionate attacks consisting of artillery bombardment and aerial bombing. These include attacks on the government-proclaimed "safe zone" and on clearly marked hospitals. Statements by senior officials indicating that civilians who do not leave LTTE-controlled areas are subject to attack are indicative of an intent to commit war crimes.

Many of the civilian deaths reported in the past month have occurred in an area that the Sri Lankan government has declared to be a "safe zone." , the Sri Lankan armed forces unilaterally declared a 35-square-kilometer "safe zone" for civilians north of the A35 road between the Udayarkattu junction and the Manjal Palam (Yellow Bridge) in Mullativu district. The Sri Lankan Air Force dropped leaflets appealing to civilians to move into the safe zone as soon as possible.

During the next days, several thousand people gathered in a large playground located just north of the A35 in the safe zone. The playground also functioned as a food distribution center for the local government agent (GA) and international organizations. Several people located in or around the GA food distribution center, despite the army declaration of a safe zone in the area, the area was subjected to heavy shelling from SLA positions in the period January 22-29, which killed and injured hundreds of people.

« We have about 200 people described us the horror of the shelling of the safe zone. About the heavy shelling of civilians by Sri Lankan Forces from December 2008, to May 2009, including on so called safe zone ».

During the fighting in 2009, the few hospitals that exist in LTTE-controlled areas have repeatedly come under artillery attack and air attack. This has added immeasurably to the suffering of individuals who have sought help in medical facilities, already horribly overcrowded and dangerously short of medical personnel, equipment, and supplies before the attacks.

There were many wounded children, young people, elderly, all kinds of people. Many people had no legs or arms. There were people everywhere. There weren't enough beds so people were lying on the floor, just on mats. Many of the wounded were from the safe zone.

Many historians trace the root of the conflict back to the government's 1956 decision to make Sinhalese the country's official language, thereby disenfranchising its Tamil-speaking minority. In 1987 Tamil was also recognized as an official language in the constitution, but the move failed to end the conflict that saw about 1,5 million Tamils flee the country.

Nor has the government pursued policies to reconcile the country's ethnic communities after decades of political violence and conflict. Instead, its post-war agenda has been to further centralize power.

There are about the relative success of such 'zones' in Israel, the Sri Lankan government started using the same strategy more extensively against the Tamil militancy since the late 1980s. There are four categories of zones declared from time to time through regulations either under the Public Security Ordinance (PSO) or Prevention of Terrorism Act (PTA): 'prohibited zones,' 'surveillance zones,' 'security zones' and 'high security zones.' While 'surveillance zones' and 'prohibited zones' are marked at sea and the adjoining coasts, the 'security zones' and 'high security zones' are demarcated on land.

The 'surveillance' and 'prohibited' zones usually fall around coasts and territorial waters of northeast of Sri Lanka dominated by Tamils and Muslims. The main objective behind enforcing these zones is to prevent the LTTE from getting arms and other supplies through sea from its international network. The most affected due to such enforcements are, however, the fishermen. The 'security' and 'high security' zones are the most controversial.”

The war has ended but many Tamils are still living under oppressive conditions in areas that were declared High Security Zones.

Evidence collected by BBC Channel 4 News accuses the Sri Lankan Government of ordering the armed forces to "finish off" i.e., kill, all remaining LTTE combatants, including young boys. This may have included civilians too. According to photographed and recorded evidence in this report, the direct orders were acted upon, to the word.

Sri Lankan Government have been accused of campaigning against rights of Tamil Nation. Activists claim that JHU is an extreme Buddhist fundamental organization that advocates denying Tamil demands for equal rights and opposes the devolution of political power, which many see as key to empowering the Tamil minority.

JHU is campaigning against international human rights organizations that highlight human rights violations against Tamil. Wimal Weerawansa, leader of Jathika Nidahas Peramuna, has protested against an initiative for the United Nations to appoint a panel on Sri Lanka. He has also spoken out against International human rights organizations, He also campaign against Tamil Human Rights Activists who came to Geneva.

The devastation wrought against the Tamil civilian population has become the subject of investigative journalism and human rights organizations for last 7 years. In February 2013, Human Rights Watch (HRW) issued "We Will Teach You a Lesson!: Sexual Violence against Tamils by Sri Lankan Security Forces," chronicling 75 cases of rape committed by security forces against Tamil women between 2006 and 2012.

The second session of the People's Tribunal on Sri Lanka held in Bremen, Germany from 7th to 10th of December 2013, was organized by the International Human Rights Association in Bremen and Irish Forum for Peace in Sri Lanka. The second session of the tribunal was tasked with investigating whether the Sri Lankan State is guilty of committing the crime of genocide against the Tamil people. The tribunal was conducted by Milan based Permanent Peoples' Tribunal (PPT) and was hosted by Gemeindezentrum und Kiche St.Pauli, Bremen.

The OISL report prepared, without able to visit Sri Lanka, could be able to bring out some of the key violations committed against Tamils are of Genocide in nature. The report identifies the failure of the Sri Lanka as a state and failure of its constitutional institutions including judiciary should be taken seriously and further criminal investigations need to be commissioned at the international level to independently investigate the crime of Genocide of Tamils.

Following a landmark international investigation, in September 2015 the United Nations released a major report on Sri Lanka in which it found strong evidence that serious rights violations, war crimes and crimes against

humanity had been committed during the civil war. In response, the government of Sri Lanka – acting through the UN Human Rights Council – made a series of promises to war survivors and the international community, pledging a wide-ranging set of measures designed to address the legacy of the war. These promises were contained in Human Rights Council resolution 30/1, agreed in October 2015.

They suggest that not enough is being done to lay the foundations for a sustainable peace in Sri Lanka and to avert yet another cycle of conflict. Strong public and international pressure has played a major

In Srilanka, there had been nearly eighteen Commissions of Inquiry from 1963 to 2013 but none could deliver justice. It should be noted that a majority of these commissions were related to crimes against Tamils.

Srilanka has long used “Sovereignty” as a defense against international "intervention" and has executed its genocidal plans on Tamils. Even before the emergence of the LTTE, Srilanka had committed multiple genocides on Tamils.

The successive Governments from 1948 have adopted anti Tamil stands, The present draft lacks the voice of tamils. The Mythiripala Srisana was leading the government during the final stages of the 2009 war in which nearly 147,000 tamils were missing. This genocidal war was used as an instrument to wipeout the sovereignty of Tamils, they earned through their 60 year resistance.

The Tamil homeland is occupied by the Sri Lankan military with ratio of 1 soldier for every 6 tamils. Whereas Sri Lanka military’s composition is 99% Sinhalese. This militarization will not protect victims or witnesses who are predominantly Tamil. It is my duty to remind the forum that the Sri Lankan constitution has not endorsed by Tamils.

So the majority of the Tamil representatives from grass root expressed their demand for international independent investigation for genocide. This demand is emanating from the cycle of violence by the Srilankan regime from 1948 and their deceptive politics. The present President Mythiribala Sirisena, Prime Minister Ranil wickeramasinge and proposed Reconciliation commission head and former President Chandrika are all committed heinous crimes against Tamils and can find some of the crimes listed in the OISL.

The UN Human Rights Council investigation (OISL) into the crimes committed during the final stages of the Sri Lankan civil war in May 2009. OISL called for witnesses to give their accounts of Sri Lanka during the war; the Sri Lankan Government (GoSL) reacted by increasing fear and intimidation on the Tamil population in general and on the people publicising the OISL call in particular.

Most of the witnesses who came forward to OISL had fled the country since 2009. They provided compelling stories of the events they witnessed. But they did so under OISL assurances of anonymity fearing for the lives of their relatives in Sri Lanka. They fear for their lives if they go back to Sri Lanka and in numerous UK court cases, their fear has been found to be valid.

Sri Lanka is not a safe place for witnesses. The current UNHCR guidelines, which came into effect in December 2012, recognise certain 'Witnesses of Human Rights Violations' and 'Victims of Human Rights Seeking Justice' as a category of persons at risk in Sri Lanka. This was reaffirmed in the (current) United Kingdom asylum country guidance case which found that individuals who have "given evidence ... implicating the Sri Lankan security forces, armed forces or the Sri Lankan authorities in alleged war crimes" are at "real risk of adverse attention or persecution on return as potential or actual war crimes witnesses." Thus, if prosecutions are conducted in Sri Lanka, the vast majority of witnesses who contributed to the OISL will not be able to provide evidence.

Women's bodies have historically been a secondary battlefield in the theater of war, a space where victors claim their spoils and nations plant their flag. In Sri Lanka post-2009, Tamil women's bodies in the North and East have become both the site of a violent Sinhalisation process and their only means of survival in a militarized environment. Direct interviews and a compilation of secondary sources reveal that in the period from 2008-2013 women lost their reproductive rights, were forced into coercive sexual relationships or marriages, and faced the constant threat of rape, even as they desperately tried to escape the island. These acts collectively highlight the structural violence that marginalizes Tamil women and subjugates Tamil society. Due to the cultural positioning of Tamil women, these acts go far beyond the immediate physical and psychological damage to the individual woman, they also serve to humiliate Tamil men and reinforce Tamil powerlessness. Violations against Tamil women are a powerful symbolic display of the domination of the Sinhala Buddhist state and majority; they are one of the myriad ways by which the state seeks to destroy the essential foundations of the life of the Tamil people.

Figures vary, but approximately 12,000 former Liberation Tigers of Tamil Eelam (LTTE) members have been 'rehabilitated' since the end of the war and 'reintegrated' back into society. Relative to such numbers little is known of the 'Rehabilitation Programme' beyond the Government of Sri Lanka's (GoSL) own pronouncements. In this report, we enable the voices of the 'rehabilitated' to speak out. We present fresh testimony from seven different sources, five of who were 'rehabilitated' and a further two who had privileged access to the camps.

Care has been taken to preserve the anonymity of these witnesses for their own and their extended family's security.

Tamil Rights NGO's report begins by briefly setting the scene, namely the end

of the civil war, for the analysis on rehabilitation that follows. The analysis explores the who, what, when, where and why of the rehabilitation programme: who qualifies for rehabilitation, what does the programme consist of, what are its timelines, where is it conducted and finally, what are the objectives of the programme, what are the motivations of those who established it, and those who carry it out ?

Having focussed on the details of the programme, on what the GoSL claims it to be, and what Tamil Rights NGO's sources report of it, « we look beyond the programme itself, to wider government policies, to historical events including the conduct of the war and to consideration of the nature of the Sri Lankan state. In light of this we contend that rehabilitation is one aspect of a coordinated plan of different actions aimed at the destruction of essential foundations of the life of the Tamil people of Sri Lanka.

The perpetrators of the crimes should be investigated and the victims need to be protected by re-establishing their own sovereignty in their homeland.

There cannot be two standards for heinous crimes like crime of genocide.

Exempting srilanka from independent international investigation will only strengthen the structural genocide on Tamils. The international community should come forward to formulate international tribunal to investigate Sri Lanka or refer srilanka to International criminal court similar to Syria.

Events like the above are a few examples that can briefly explain why Srilanka does not have the capacity to investigate its own crimes. Like elsewhere let the victims be protected by their own sovereignty to submit their testimony of the crimes committed.

We welcome Secretary General's referral of Syria to ICC. Tamil life is also equally precious that of Syrian innocents. In a similar way let there be an International Criminal Tribunal for Sri Lanka (ICTSL) under U.N. Charter Article 22 to investigate Crime of Genocide of Tamils

No one ought to be a judge in his own cause.

The subsequent Human Rights Council Resolution (A/HRC/30/L.29) - which was co-sponsored by the Sri Lankan Government - reiterated the need to establish a special judicial mechanism to investigate and prosecute "violations and abuses of human rights and violations of international humanitarian law." The Resolution affirmed "the importance of participation in a Sri Lankan judicial mechanism, including the special counsel's office, of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators."

We note with concern the recent statement by President Maithripala Sirisena (BBC interview, 21 January 2016) that he will “never agree to international involvement” and that “we have more than enough specialists, experts and knowledgeable people in our country to solve our internal issues”. This statement goes against both the word and spirit of the Resolution. It is also patently incorrect – as clearly outlined in successive reports by independent UN experts, the Sri Lankan justice system does not have the requisite independence, impartiality or expertise to administer fair and effective war crimes prosecutions. The Sri Lanka Government must not be allowed to backtrack on its commitments or use technical legal excuses to block full international judicial and prosecutorial participation.

If the accountability mechanisms are to “uphold the rule of law and to build confidence in the people of all communities of Sri Lanka” there must be a meaningful consultation process. The victims’ voice must be heard. And their views on the need for full participation of foreign judges and prosecutors within the judicial process must be accommodated.

We urge you to insist that the Sri Lankan Government conducts broad consultations with all stakeholders and respects its international commitments by implementing the word and spirit of the Resolution.

Tamil Political Prisoners

The rights of all prisoners in Sri Lanka are regularly violated. However, political prisoners who are Tamil, the largest Political prisoners are Tamils in the country, have been at the receiving end of some of the most severe forms of abuse. Since the conflict between the Sri Lankan government and the LTTE, the separatist militant group, turned into civil war in 1983, tens of thousands of Tamils suspected of links with the LTTE have been arrested and detained in prisons, detention camps and police custody. Several Sinhalese people have been arrested for the same reasons and some of them have also faced abuse and ill treatment.

The Sri Lankan government has denied the routine use of torture in the country, and has refused to investigate the widespread reports of the practice or to hold those suspected to be responsible to account. Sri Lanka should put more effort into actually ending human rights violations and impunity of perpetrators than it does into defending itself against criticism.

Government Statements Regarding Civilian Casualties

As civilian casualties from the fighting intensified in 2009, senior Sri Lankan military officials have made public statements regarding civilian loss of life that raise serious concerns about the military's compliance with its obligations under international law to do everything feasible to minimize civilian casualties.

A Ministry of Defense statement issued on February 2 2009 states:

While the Security Forces accept all responsibility to ensure the safety and protection of civilians in the Safety Zones, they are unable to give such an assurance to those who remain outside these zones. Therefore, the government, with full responsibility, urges all civilians to come to the Safety Zones; and also states that as civilians who do not heed this call will be among LTTE cadres, the Security Forces will not be able to accept responsibility for their safety.

Sri Lanka's Defense Secretary Gotabhaya Rajapaksa suggested in an interview to media on February 3 that all persons subject to attack by the armed forces were legitimate LTTE targets. He stated: "There are no independent observers, only LTTE sympathizers. Radio announcements were made and movement of civilians started a month and a half ago."

The humanitarian needs of the more than 350,000 civilians trapped in the Vanni have only grown more acute since end of 2007. According to a February 6 2009, statement by the World Food Program (WFP): "Livelihoods have been almost completely lost, exacerbating the general food insecurity, and traditional coping mechanisms have been exhausted. People depend almost entirely on humanitarian food assistance for survival."

A source confirmed that the SLA had used the convoy on December 29 to advance its position, saying that "long lines of SLA troops were walking alongside the convoy."

Beyond shortages of food and water, lack of medical supplies-also due to restrictions on humanitarian access-has been sharply felt at the remaining treatment centers.

Sri Lankan security forces subject people fleeing from LTTE-controlled areas to several stages of screening, ostensibly to separate those affiliated with the LTTE from displaced civilians. While the government has legitimate security reasons for screening displaced persons to identify and apprehend LTTE cadres, the screening procedures need to be transparent and comply with the requirements of international humanitarian and human rights law. So far, none of these requirements have been met and dozens of individuals, perhaps many more, have been detained during the screening process. The fate of such detainees remains unknown, raising fears of possible enforced disappearances and extrajudicial killings.

Upon arrival in Vavuniya, all displaced persons apparently without exception are subjected to indefinite confinement in de facto internment camps, which the government calls transit sites, "welfare centers," or "welfare villages." Those requiring immediate medical attention are first taken to the hospital, and then to one of the camps.

At the same time, relief agencies were struggling to set up additional shelter, water, and sanitation facilities at the last moment, as the displaced persons were being brought to the sites.

The history of freedom of expression in Sri Lanka is indivisibly linked to a nearly three-decade old war and the policies pursued as well as actions undertaken by successive governments and non-state actors. These have led to the murder and abduction of journalists, censorship, intimidation and tolerance of a culture of impunity, which continues to have a direct impact on media freedom and represents a threat to the freedom of expression on the Internet. The directives of national security and arbitrary judgements by government officials on what constitutes the national interest and public morality have been manipulated to stifle dissent and block web content that is considered offensive. The situation is compounded by a legislative framework with broad provisions that allow for civil liberties to be trumped in favour of national security provisions and regulatory standards that demand neither an independent regulatory commission nor transparent administrative practices and adequate protection of data and privacy.

In the period of the Ethnic conflict in Sri Lanka human rights supporters' freedom of expression was subject to systematic interventions by the Government, resulting in well-known violations, including several enforced disappearances. The new Regime, which came into power in January 2015, has assured to address these issues.

Since January 2015 various forms of low-level harassment and intimidation have persisted despite the relative decrease in killings and disappearances. Although the methods differ from those previously adopted, these actions continue to have a chilling effect that is designed to restrict unfavorable reporting and prevent transparency. As such they interfere with the right to freedom of expression. These issues are compounded by the current legislative framework which provides justification for systematic interference with freedom of expression

To date, certain progress has been made. A number of immigrant journalists have been requested to return (however one was then arrested on return)

Paragraph 1 of article 19 requires protection of the right to hold opinions without interference. This is a right to which the Covenant permits no exception or restriction. Freedom of opinion extends to the right to change an opinion whenever and for whatever reason a person so freely chooses. No person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. It is incompatible with paragraph 1 to criminalize the

holding of an opinion. The harassment, intimidation or stigmatization of a person, including arrest,

Legal Environment

While the right to freedom of speech, expression, and publishing is guaranteed under Article 14 (1) (a) of Sri Lanka's constitution, it is subject to numerous restrictions for the protection of national security, public order, racial and religious harmony, and morality. There is no constitutional provision recognizing internet access as a fundamental right or guaranteeing freedom of expression online. A culture of impunity, circumvention of the judicial process through arbitrary action, and a lack of adequate protection for individuals and their privacy, compound the poor enforcement of freedom of expression guarantees.

The key legal root used by the Government to justify organized interfering with freedom of expression has been the 1978 Prevention of Terrorism Act (PTA) which is allow police 'to search, arrest and detain' individuals without warrant, for a period up to 18 months. These excessively broad powers do not meet the necessities of the allowable limitations of the International Covenant on Civil and Political Rights (ICCPR Restrictions should be narrow and are only admissible when they are provided by law, have a legitimate aim such as public order, and are both necessary and equivalent.

Other fundamentals of wished-for legislature limited debated foundations. A noticeable example was the wished-for Bill on hate speech – thankfully subsequently withdrawn. Tabled as an amendment to the Penal Code, the wished-for definition of hate speech was similar to that in the PTA and would allow arbitrary arrest on that basis. Thus, the adoption of this law would have nullified the effect of the promised repeal of the PTA.

A number of proposed legislative measures develop the PTA and address freedom of expression. A proposed Right to Information Bill has the potential to start a new era for the media by providing an independent information commission that includes civil society and media representatives. However, despite long-term negotiations in 2015, the Government has so far been reluctant to adopt the Bill.

In July 2015 the new regime declared the revival of the Press Council, an organization that has in the past been used to sanction journalists and prohibit the publication of "false" information about the government. Thus, like several previous administrations, the new Regime could use the Council as a tool to coerce media.

Recent Trends in Sri Lanka on Freedom of Expression

in kilinochchi a Tamil young journalist attacked by the Sri Lankan Army on Friday 12.04.2016 at poonakary paranthan road bridge he has went to coverage media news , the army colonel who was in civilian clothes attacked itself .

The notorious 'Terrorist' Investigation Division (TID), operated by the 'Defence Ministry' of genocidal Sri Lanka has arrested V.S. Sivakaran, the Youth Wing secretary of Ilangkai Thamizh Arasuk Kadchi (ITAK) and the editor of Tamil weekly 'Puthiyavan' on Wednesday 27th April 2016 afternoon at the paper office located on Mannaar Main street. Sivakaran's arrest is an attempt to suppress criticism being levelled against the abduction-styled arrests taking place in the Tamil homeland, journalists in North said. The arrest comes 2 days after Sivakaran went on record strongly condemning the PTA based arrests that have taken place in the North and East. He was invited to come to Human Rights council but A 'travel ban' has been imposed on Sivakaran for 6 months.

A 25 year old Tamil was arrested last 22 April 2016, for watching a YouTube video of a Tamil Eelam song, produced by the LTTE, on his mobile phone. The man, who was watching the video near his home in the Gurunagar part of Jaffna, was caught by police officers in civil clothing, who heard the song and took the mobile phone from him, before arresting him. He was produced before magistrates in Jaffna and remanded for 14 days.

On May 2009, In the North, Tamil journalists have been assaulted and threatened, a camera broken and although these incidents have been reported to have been settled amicably, we should not treat such incidents lightly. There is certainly have more freedom of expression now for Singalaise Journalist than under Rajapakes, but just there is no any change for Tamil Journalist.

There is no still accountability for those who killed Sivaram. That's also the case for many other journalists who had disappeared, been killed, assaulted, and media institutions that have been subjected to arson and other attacks. In Jaffna, we will remember the killing of Uthyana staff, on eve of World Press Freedom day. Press Freedom day in Sri Lanka will remain bloody red and no amount of rhetorics, discussions and provision of privileges to journalists by the government can take this away. Only genuine structural reforms together with accountability will help erase the stains.

Despite the dangers, the Tamil journalists in South North-East of Sri Lanka are not only focussed on presenting the true story to the public, but also are also working equally hard to ensure people's right to freedom of expression and press freedom. The journalists are taking their battles to the courts, streets and online space for advocacy and building unity and solidarity for campaigning on common causes.

The Yahapalanaya government had decided to re-invoke the Press Council Law – the law enacted by the United Front Government of Sirima Bandaranaike and the Marxists to tame the press after taking over the then independent group of Lake House newspapers. That law had draconian measures such as: Preventing any government employee talking to the press without sanction of a ministry secretary and the appointment of a Press Council devoid of representatives of the press – save one pro government journalist who happened to be more pro-government than the government.

Disturbingly, Sri Lanka has been ranked 141 out of 180 countries in the World Press Freedom Index prepared by Reporters without Borders.

It is no secret that previous regimes as current regime have overlooked serious incidents of intimidation and violence against journalists including the killing of media personnel in Sri Lanka.

Expectation

The new Regime guaranteed change and the promotion of human rights. However, although the methods used to target journalists and suppress expression have changed, the effects remain the same. Widespread intimidation and harassment, coupled with impunity for historical and contemporary violations, contribute to a noticeable chilling effect, hindering journalists' right to freedom of expression.

In light of above, the Sri Lankan Government is urged:

To repeal the PTA and halt the revival of the Press Council and to adopt the Right to Information Bill;

In 1983, at the outbreak of the civil war in Sri Lanka, the International Commission of Jurists concluded that Sri Lanka's abuses of prisoners constituted a "systematic" and "almost universal" practice; that year, for example, 53 Tamil inmates were killed by Sinhalese guards at the Welikada high security prison. Thirty five years later, the system remains unchanged and the systematic abuse of prisoners continues to be the norm; in November 2012 it was reported that 27 inmates were killed at Welikada prison. Continuing abuses highlight the unchanging nature of Sri Lanka's detention policy and the associated violations of human rights that have resulted in over 20,000 internments since the end of the civil war in May 2009.

While States have acknowledged the on-going violations committed by the Government of Sri Lanka, the Government has failed to address these concerns. This intransigence with respect to human rights and the rule of law is evidenced by the last Universal Periodic Review (UPR), wherein the Sri Lankan government rejected 100 of 210 recommendations, the largest number of outright rejections in the UPR's history in 2012.

The systematic practice of arbitrary detention utilised by the Government of Sri Lanka in the repression of civilians requires immediate and sustained attention from the Human Rights Council and the Working Group on Arbitrary Detention.

Sri Lanka's international obligations

Sri Lanka is a party to the International Covenant on Civil and Political Rights, which contains stringent regulations, intended to safeguard against abuse in detention. Article 9 prohibits arbitrary detention – including in the context of a legitimate derogation under a state of emergency – while establishing further protections with respect to an individual's right to a fair trial within a reasonable timeframe, and the right to be informed of any charges.

The civil war: emergency regulations & prevention of terrorism act (PTA)

During the civil war, tens of thousands of individuals were detained under the Prevention of Terrorism Act and the Emergency Regulations. While the majority of these individuals were ethnic Tamils suspected of association with the Liberation Tigers of Tamil Eelam (LTTE), and subject to ill treatment. Most of those Tamils never made any complain because of Threat on them and on their Family members by the occupied Sri Lankan Military.

For example, Amnesty International reports that two Sinhalese political activists detained on suspicion of assisting the LTTE were subject to particularly severe treatment, coupled with intense media coverage intended to vilify the individuals. While detention-related abuses disproportionately affect the Eelam Tamils, Sri Lanka's detention policies and practices have serious consequences for the entire population.

Post-civil war: The 'emergency' is lifted, but the PTA continues

In August 2011, Sri Lanka lifted the declared state of emergency. However, the Government of Sri Lanka has continued to keep the Prevention of Terrorism Act in force, elements of which violate international obligations under Article 9 of the International Covenant on Civil and Political Rights, as discussed below. The Government has also introduced supplementary provisions in order to detain LTTE suspects without charge or trial, some of which have been deemed unconstitutional by leading Sri Lankan constitutional lawyers.

Detention without charge

Under Section 9(1) of the Prevention of Terrorism Act, individuals may be arrested without charge and detained for up to 18 months by a detention order. While detainees must be brought before a magistrate within 72 hours of their arrest, the magistrate "shall order the remand of [the individual] until the conclusion of the trial". This order cannot be challenged in court. As an example of this practice, it is reported that as of December 2011, 42 of the 65 Tamil detainees held in Anuradhapura prison have yet to be charged, after two

to six years in prison. Evidence also indicates that where protections are afforded, such as an individual's right to be informed of the reasons for their arrest, such protections have been consistently violated in practice.

Arbitrary detention

The Working Group on Arbitrary Detention considers a deprivation of liberty to be arbitrary when "the total or partial non-observance of the international norms relating to the right to a fair trial... is of such gravity as to give the deprivation of liberty an arbitrary character". The length of detention in waiting for a trial can last years, often without charges ever being brought; these policies suggest that the Government of Sri Lanka is systematically carrying out arbitrary detention. Individuals being held without these protections amounts to a violation of the right to be informed of charges against an individual as well as the right to trial within a reasonable timeframe, guaranteed under Articles 9(2) and 9(3) of the International Covenant on Civil and Political Rights.

The use of emergency laws and the Prevention of Terrorism Act in Sri Lanka has resulted in a culture of impunity wherein arbitrary detentions and widespread torture and ill treatment has become the norm. Further, the UN Committee against Torture recently stated that it was "seriously concerned" regarding the "widespread use of torture... in police custody." Between 1998 and 2011, the Asian Human Rights Commission documented 1,500 cases of police torture in Sri Lanka, which indicates a pattern of arbitrary detention resulting in an environment whereby detainees are more susceptible to torture and other forms of ill treatment.

UN Special Rapporteur on torture Mr Juan E. Méndez on April 2016 said that detainees in Sri Lanka are still experiencing torture as a tactic used by criminal and terrorism investigators seven years after the country's civil war ended.

In October 2015 that police forces in Sri Lanka regularly torture and mistreat criminal suspects in custody. HRW Asia director Brad Adams said, "the Sri Lankan police treat the use of torture as an ordinary way of obtaining confessions." HRW compiled allegations of police torture which took place in Sri Lanka between 2014-15 and included beatings, electric shocks, use of stress positions, and failure to provide needed medical treatment among others. The rights group called on the Sri Lankan government to create an independent oversight authority to monitor the police actions and bring an end to the police abuse.

Detention for political beliefs

The Government of Sri Lanka claims that there are 318 political prisoners currently incarcerated. However, documentation by Sri Lankan activists

indicates that up to 3000 detainees are currently in detention for their political beliefs, many of whom have been awaiting charge for at least five years.

Transfers and access to information regarding detainees

Several prisoners' families interviewed by the Sri Lanka Campaign for Peace and Justice in late 2012 stated that their relatives have been transferred between at least three prisons during their detention – often to delay their release – without any prior information or reasons for transfers given. According to Section 7(3) of the Prevention of Terrorism Act, police have the power to transfer a detainee without judicial permission or supervision. With no central registry in place, these unsupervised transfers can result in an individual effectively becoming lost in the system, with a substantial risk for abuses of this policy, such as torture and disappearances.

Thousands of families have also had limited access to their relatives, and are often denied all access. This issue is exacerbated because families typically received little to no information from the authorities regarding the whereabouts or health of detainees, implicating the right to respect for family life.

The notorious 'Terrorist' Investigation Division (TID) of occupying Colombo has detained at least 23 Eezham Tamils from North and East at various prisons since 29 March 2016. The arrests have taken place in white-van abduction style and through hostage-taking of family members. One of the victims is a woman, who is detained at Vavuniyaa. Two males are being interrogated at the so-called 4th Floor torture chamber in Colombo, while the remaining 20 are being detained at Boosa prison in Galle district in the South. All the 'arrests' have been carried out under the Prevention of Terrorism Act (PTA), with judicial evidence standards for arrest lower than even "reason to believe."

Shadowy structures of repression

While the world hails "the new Sri Lanka" for committing to deliver accountability for the past, the same torturers and rapists are in place doing what they've always done. Politicians may come and go but the shadowy structures of repression remain in tact. Experts discuss transitional justice and security sector reform for Sri Lanka but they use terms that don't yet exist in the local languages. They don't look the human beings in the eye who've been crushed and degraded again and again in ways that are often too unspeakable to articulate in words. They talk about mapping projects or jurisdictions but it's the scar diagrams that doctors draw for torture survivors that really map what politics can do to human flesh.

For the new Sri Lankan government the victims of ongoing torture and sexual violence are an inconvenience; they disrupt the meta-narrative of hope and

change. They shouldn't worry too much: the recent victims exist clouded in shame and pain in foreign lands and it's pretty easy to overlook them. They don't hold noisy protests like the Families of the Disappeared. But without their testimony there will only be a partial truth at any future Truth Commission.

Sexually violating detainees

Then there's the difficulty of talking about rape, especially male rape, in any society that's squeamish about talking about sex. One young man described kneeling on the floor while a circle of soldiers took out their penises and forced him to perform fellatio on them one by one. Perpetrators acting in groups while sexually violating Tamil detainees is a common feature in the accounts of survivors. There's no sense of shame about raping men in front of each other even though homosexuality remains illegal in Sri Lanka. Not that this is about sexual gratification, rather about the systematic destruction of Tamils physically, psychologically, financially and culturally. Some of the recent victims look so young that I've often wondered if there's also an element of paedophilia involved too.

Survivors of "white van" abductions and torture have arrived abroad in recent months with scars so fresh that they're still bleeding. One Tamil woman still had the marks visible from the handcuffs on her wrists; another had the scratch marks from her rapists still visible. A young man had cigarette burns and branding marks on his body that were still pink. In many countries it's considered unacceptable to brand livestock but Sri Lanka's torturers seem to enjoy marking their victims, safe in the knowledge they will never get caught.

Violations tend to be recorded individually but when you start to look at each family, there is layer of pain piled upon layer of loss, repeated again and again, and finally topped with the loneliness of exile. These are mostly survivors of the death march of Mullivaikkal – the final village of Sri Lanka's 2009 killing fields. Starvation was their constant companion, death whispering all the time in their ear. Some literally crawled on all fours on injured limbs to escape the war zone; others ran through puddles of human blood. Teenagers were forced to join the rebels at gunpoint; most who survived the trenches just waited for an opportunity to desert and join their parents. Terror came from every direction – the air, the sea, the lagoon and their own people who needed reinforcements. Many families lost a child in the war – if there was a corpse and they found it and had time to conduct a hasty burial in an unused trench they were considered lucky. Not knowing is even worse – a half-life of decaying hope.

Paying ransoms

Years later they've returned to their scorched villages, to homes with no roofs or doors, to a land littered with human bones. They've survived detention,

either as internally displaced people or as rehabilitees. They farm or fish, and get on with life, working hard and keep their heads down. They silently mourn those who disappeared or perished in the war. Then a son or daughter disappears one day in one of the notorious “white vans”. There’s a frantic search and if they’re lucky they find a broker who locates the child before too long elapses. Huge sums of money are raised to pay the ransom but paying never prevents the torture and sexual abuse, it only secures release afterwards.

Several of those being tortured and raped in 2015 were victims of abduction by the LTTE while as young as 15 years old. You would think that would elicit some sympathy but on the contrary they are detained for not having declared themselves LTTE members, no matter that they never chose to join, remained in the movement a matter of weeks and often deserted. Their crime six years later is that they didn’t join the government’s rehabilitation programme, which was rife with torture too. One way or another they seem destined for torture; it’s just a matter of when.

Even in exile it’s not over. The family continues to be harassed by the security forces. Sometimes a father or mother or a sibling is detained or disappears. There are suicide attempts; self harming is common among survivors. They live in a state of mind always defined by the past: flashbacks, nightmares, insomnia, sweating. The mere sight of a man in uniform or sound of a boot crunching on a hard floor can set them off.

No justice

It’s a very long journey back from the terror of the torture cell. A highly educated civil servant who was raped with a glass coca cola bottle in detention told me how he’d ended up sleeping rough on the streets of London because he was so traumatised by what had happened to him. No matter that he had a sibling in London to look after him. Sexual violence obliterates the individual’s sense of self every bit as much a shell blasts a body apart. It also erects frontiers and no-go zones within close-knit families. A woman who’d been repeatedly raped for years in detention still hasn’t told her brother for fear his wife will throw her out of the house if she knows. She hides the truth and it’s eating her from the inside.

Those who do manage to speak about what they’ve survived do so for one reason only: to stop it happening to anyone else. They know they will never get justice for themselves. That is a very bitter pill to swallow.

A year into the new government in Sri Lanka and the torturers are still racking up - at the very least - dozens of new victims. There is absolutely no sign of it stopping.

UN responsibility

The panel led by former senior UN official Charles Petrie concluded that the United Nations failed in its mandate to protect civilians in the last months of Sri Lanka's bloody civil war.

It criticized senior officials in New York, as well as UNDP's leadership team in Colombo, charging they routinely downplayed the extent of the Sri Lankan government's complicity in killing the vast majority of at least 70,000 civilians by indiscriminate shelling.

Since 2008 Helen Clark held the post of administrator who is the UNDP's most senior official based in the UN head quarters (UNHQ). The UN resident coordinator reports to the Secretary-General through UNDP. The UN team in Sri Lanka "did not perceive the prevention of killing of civilians as their responsibility — and agency and department heads at UNHQ were not instructing them otherwise," according to the Petrie report. "The United Nations system failed to meet its responsibilities," the UNSG announced after receiving the report in November 2012.

Helen Clark's top managers allegedly drove Lena Sinha out of her job in retaliation for participating in the investigation that sharply criticized the agency's response to mass atrocities in Sri Lanka, reports 'Foreign Policy' referring to internal UN emails and several past and present UN based officials and diplomats.

After the Petrie report was released, Lena Sinha, was told she would "never work for the UNDP again", says FP.

'Abuse of Authority'

The offices of the deputy UN secretary-general and a top aide to U.N. chief Ban Ki-moon unsuccessfully lobbied Clark's office to rescue Lena Sinha's 15 year long career, the publication says.

FP quoting an email by Charles Petrie says that he characterized UNDP's treatment of Sinha as "an extraordinary demonstration of vindictiveness and abuse of authority."

"It seems that UNDP, and Helen Clark in particular, took the Petrie report personally," Edward Mortimer, who served as a top advisor to former UN Secretary General Kofi Annan has told FP.

"UNDP has it tragically backward, apparently retaliating against a staff who helped document the UN failings in Sri Lanka, while promoting staff who were

actually responsible for those failings,” Philippe Boloignon, the deputy director for global advocacy at Human Rights Watch has said.

Please Note the The Chief Minister of Northern Provincial Council, Chief Justice Mr Wigneswaran passed a Résolution for ask to the OHCHR to have a international investigation.

Please note The Tamil Nadu Parliament urges OHCHR to seek an international probe into “war crimes” in Sri Lanka.

Chief Minister Jayalithaa urged the Centre to move a resolution along with United States and other countries at the UNHRC for the international probe against all the perpetrators of the human rights violations and those responsible for the genocide.

“In case, the United States takes a pro-Lankan stand, India should take diplomatic efforts to change that,” Ms. Jayalithaa said to the unanimous approval of the members in the House.

Please note a group of eminent persons from various countries has called upon the United Nations Human Rights Council (UNHRC) to establish an international independent judicial process under UN auspices to go into alleged war crimes in Sri Lanka.

In an open letter, the group contended that “very little has changed” since the Council adopted a resolution in March 2014, setting up an international investigation into allegations of crimes committed during and since the war through the Office of the UN High Commissioner’s Investigation on Sri Lanka or OISL.

The proposed international process should have the elements of application of international criminal law, including war crimes, crimes against humanity, and genocide; consultation on the mechanism’s design with all affected groups, especially victims; independent operation and adequate funding; guarantees of witness protection; access to information from all sources, including government and military and the appointment of independent and competent personnel.

Meanwhile, in Sri Lanka, Mr. M.K. Shivajilingam and Ms. Ananthi Sasitharan, members of the Tamil National Alliance in the Northern Provincial Council, along with others, concluded a five-day walk this evening in Nallur of Jaffna, demanding an international mechanism. They began their walk in Killinochchi last week.

Mr. R. Sampathan, the Opposition leader in the Sri Lankan parliament said that the Tamil people will not have faith in a domestic investigation because not a single domestic investigation which had been carried out in the country, was conducted properly. He added that, for an example, a commission was appointed to investigate the incidents where five students were killed in Trincomalee, and eighteen employees of the French NGO Action Contre la Faim (ACF) in Muttur were killed.

Sampanthan also said that a team of international experts were appointed to this commission and its chairman was the Former Chief Justice of India.

Recommendations

We urge Human Rights Council Members and observer states to:

- Adopt a resolution supporting the implementation of OISL's recommendations aimed at ending impunity, accounting for the past and reforming systems, and ensuring ongoing Human Rights Council engagement including by monitoring the implementation of the OISL report and the human rights situation in Sri Lanka, and providing for regular updates;
- Offer international expertise dedicated to ensuring that allegations identified by OISL of crimes under international law by Sri Lankan government forces, allied armed groups, are promptly, thoroughly and effectively investigated and that those suspected of committing a crime are prosecuted in genuine proceedings that fully conform to international standards for fair trial;
- Offer international expertise dedicated to ensuring that victims of crimes under international law and human rights violations and abuses are provided with other effective remedies, including full reparation and truth.
- Support the measures recommended above to the Human Rights Council;
- Offer support for and urge Sri Lanka to accept international cooperation and expertise to end impunity;
- Ensure that assistance provided emphasizes the centrality of victims and their special status in the design and implementation of mechanisms to deliver truth, justice, reparation and non-recurrence of violations.
- To support Tamils Rights to Self-Determination, by referendum.

We urge on the Government of Sri Lanka to:

- Initiate wide reaching and meaningful public consultation, including with victims and their families, civil society and other stakeholders to understand their needs and expectations regarding truth, justice, full reparation including guarantees of non-recurrence and ensure their full participation in any accountability process;

- Repeal the Prevention of Terrorism Act which allows authorities broad discretion to hold detainees where they choose and to move detainees from place to place while under investigation, and stop using the law until it is repealed.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, The Rome Statute of the International Criminal Court, The International Convention for the Protection of All persons from Enforced Disappearances:
- Prisoners are being held in captivity for extended periods of time without charge or trial. We therefore call upon the Government of Sri Lanka:
 - o To immediately end all forms of arbitrary detention;
 - o To immediately release all political prisoners or to bring charges against them by a specified date, while complying with the requirements of international human rights law;
 - o To allow an independent investigation into prison riots;
 - o To provide clear justification for the transfer of prisoners with adequate notification to families;
 - o To make public the list of detainees by the Government of Sri Lanka during the 2009-2016.
 - o To demilitarize occupied land of Eelam Tamils