



General Assembly

Distr.: General
22 February 2013

English only

Human Rights Council

Twenty-second session

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Written statement* submitted by the Pasumai Thaayagam Foundation, 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.

[11 February 2013]

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

Sri Lanka: International independent investigation into war crimes – An urgent need

Pasumai Thaayagam Foundation humbly urges the Human Rights Council to look into the ongoing human rights crisis in Sri Lanka and the failure of the Government of Sri Lanka (GoSL) to take necessary steps towards accountability and reconciliation, including the failure to make any progress on the implementation of Resolution 19/2. We submit our specific recommendations for action of the Human Rights Council to ensure that both past violations of international humanitarian and human rights law and the ongoing human rights abuses in Sri Lanka are addressed by the international community.

For more than five decades, the Tamils in Sri Lanka has been the target of systematic destruction by the state and its armed forces through discrimination in employment, education, economic development, colonization, and violence against individuals and the community as a whole. Although the armed conflict between the Liberation Tigers of Tamil Eelam (LTTE) and GoSL military forces came to a brutal end in May 2009, the ethnic conflict in Sri Lanka has not been resolved. The GoSL under pretext of counter-insurgency and anti-terrorism and increasing militarization continue to subjugate the Tamils to human rights violations.¹

On-going human rights crisis in Sri Lanka

Programs and human right violations

GoSL has promised to set up an objective and purely non-political justice/policing system in the Lesson Learnt and Reconciliation Commission (LLRC) and 17th Amendment—no such improvements have been made,²³ GoSL has made a number of promises to set up commissions of inquiry for accountability and recognition of crimes committed against Tamil civilians, all of which have failed.⁴ Human rights violations took place in both government-controlled as well as LTTE-controlled areas, including shelling of civilian targets and starvation of entrapped civilians in GoSL designated ‘No-fire zones’⁵, but casualties are significant underestimation due to lack of access by independent monitors in the conflict areas. Perpetrators of such crimes and violence have not been investigated, prosecuted or convicted to this day, barring one lone case of six soldiers.⁶

Displaced Tamils- Internal and external

A large proportion of the Tamil population has been displaced during the civil war. Still today hundreds of thousands are in temporary shelters or refugee camps in miserable conditions.⁷ There is a dire need for the GoSL to provide civilians with humane treatment while under government custody and to allow their efficient return to ancestral homes.

¹ US State Dept. “2010 Country Reports on Human Rights Practices,” April 8, 2011.

² Asian Human Rights Commission, “The State of Human Rights in Sri Lanka in 2011,” 2011.

³ Briefing Notes, “POST-LLRC Human Rights Violations in SRI LANKA,” 19th Session of HRC, Geneva, Issue No. 02 – 2 March 2012.

⁴ Briefing Notes, “POST-LLRC Human Rights Violations in SRI LANKA,” 19th Session of HRC, Geneva, Issue No. 02 – 2 March 2012.

⁵ Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka, 31 March 2011.

⁶ US State Dept. “Country Reports on Human Rights Practices 2000,” February 23, 2001.

⁷ UNHCR, accessed April 18, 2012 <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e4878e6>.

Reprisals against students, human rights defenders & journalists

There are frequent and disturbing reports of reprisals against human rights defenders, including journalists and students. On November 27, during a peaceful memorial service to commemorate Maveerar Naal (Heroes Day), the Sri Lankan police and military forces forcibly entered women's residence halls and carried out unprovoked violent attacks against Jaffna University students. During silent protest and short march to decry Sri Lanka's restrictions on freedom of expression twenty undergraduates were beaten by security forces. On December 1, four students were arrested without warrants by the Terrorism Investigation Division of the police. They were subsequently held at Welikanda military detention camp without due process under draconian measures of the Prevention of Terrorism Act.

There are also continued attacks on journalists in Sri Lanka, which are uninvestigated by the Sri Lankan police. On November 28, during the student protests the editor of the Uthayan in Jaffna was attacked by police and military forces. In addition, the murder of journalist Lasantha Wickrematunge remains unsolved, and the journalist Pradeep Ekneligoda remains "disappeared."

Forced military recruitment of female Tamil civilians

War-ravaged areas of the North and East remain heavily militarized, with a ratio of one soldier for every eleven civilians. The Women's Action Network (WAN), a coalition of local women's organizations, reports that the military has coerced up to 100 or more young Tamil girls into joining the Army. Ratnasingham Sivashankar, a medical doctor who ventured into a military camp in the area seeking the release of one of these young women has been forcibly detained. On December 11, 2012, up to twenty-one of these recruits were admitted to the Kilinochchi District Hospital, some of whom were unconscious upon arrival. The women remain in isolation at the hospital, only seen by military doctors and personnel, and their families are not allowed visits.

Rule of law violations

On November 1, the parliament brought an impeachment motion against the Chief Justice Shirani Bandaranayake of in retaliation to the Supreme Court's ruling on the Divi Neguma Bill, a law concentrating vast powers under the economic development minister, the president's brother Basil Rajapaksa, as unconstitutional. The international community, including the United Nations Special Rapporteur on the independence of judges and lawyers, the Commonwealth Secretariat, and the International Commission of Jurists, has spoken out against the proceedings, describing them as politically-motivated, impermissible, unconstitutional, and an attempt to curb judicial independence.

State-sponsored demographic change

Increasing state-sponsored colonization: the settlement of Sinhalese into traditionally Tamil areas of the North and East is altering the population balance in significant ways. The settlement of numerous Sinhalese soldiers and their families in traditionally Tamil areas is one force driving the demographic change. Sinhalese military officials have become the de facto decision makers in the North. Tamil language sign-boards, roads and villages have been converted into Sinhala. Buddhist temples and statues have been built throughout the North even on private lands and over destroyed Hindu temples.

Lack of progress on accountability

Against the backdrop of the deteriorating human rights situation in Sri Lanka, serious allegations of war crimes and crimes against humanity continue to surface, as documented

by the findings of the 2011 Report of Secretary-General's Panel of Experts on Accountability in Sri Lanka (Panel of Experts' Report), the Petrie Report, and UK's Channel 4 documentaries. The Government of Sri Lanka remains obstinate in its unwillingness to address or investigate these allegations in any transparent or meaningful way. The Government has even failed to make any significant progress in implementation of the recommendations of its own Commission. Though, as stated in the Panel of Experts' Report, the Government's own Lessons Learnt and Reconciliation Commission (LLRC) report established at the repeated urgings of the international community, is "deeply flawed" and "fails to satisfy key international standards of independence and impartiality."

During the last three years, the Government of Sri Lanka has continued to impose repressive policies with impunity and increasing authoritarianism, systematically blocking any attempts that would lead to a meaningful process of accountability and justice.

Urgent need for action of the Human Rights Council

The Government continues to ignore the war crimes, and crimes against humanity identified in the Panel of Experts' Report, the Petrie Report, and by other governments and international agencies. The Panel of Experts' Report in particular identifies crimes against humanity committed by the government, including murder, extermination, imprisonment, persecution and disappearances. The government has failed to take meaningful steps towards reconciliation with the Tamil community as demonstrated by the lack of progress in implementing the LLRC recommendations.

Therefore Pasumai Thaayagam Foundation urges the Human Rights Council:

- The UNHRC should establish an independent Commission of Inquiry to act in accordance with the resolution HRC 19/L.2.
- Set up urgently an international independent investigation into the complete conduct of the Sri Lankan State against the Tamil Nation and specifically call for an investigation of War Crimes, Crimes against Humanity, and the Crime of Genocide against the Tamil people.
- The Office of the High Commissioner for Human Rights (OHCHR) should reinstate a fully functional UN Country Team in Sri Lanka to oversee and directly report to OHCHR
- The OHCHR should schedule official visits by Special Rapporteurs on Disappearances, Torture, Freedom of Expression, Truth, Justice and Reconciliation, and other special procedure mandate holders to report back to OHCHR.
- Take immediate steps to provide space for free flow of information that would bring to light the ground realities prevailing in the North and East of the Island, to stop Sinhalisation of the Tamil traditional Homeland, to demilitarize the Tamil People's Homeland for the people to exercise their democratic rights free from fear of persecution.