



Justice C.V.Wigneswaran

Member of Parliament

Secretary General, Thamizh Makkal Kootani

Leader, Thamizh Makkal Thesya Kootani

Former Chief Minister of Northern Province

Sri Lanka

Date: 08.09.2021

Honourable Michele Bachelet
UN High Commissioner for Human Rights
Geneva.

Dear Madam High Commissioner!

The Ministry of Foreign Affairs of the Government of Sri Lanka has sent a briefing note to the UNHRC on 27/08/2021 in preparation for the forthcoming UN Human Rights Council session. At the outset, I should make it clear that this brief letter from me is not my final reply to the government's briefing note /statement. The note has just got into my hands. Since I must urgently release my rejoinder today, I do not have time to write in detail the true situation—with evidence and statistics—to refute all the false information in this Government briefing note. I offer this brief rebuttal at present, and will follow with a more comprehensive document within a few weeks' time to set the record straight.

1. Introduction

The President of Sri Lanka has repeatedly stated that there is no such thing as an ethnic problem in Sri Lanka, only an economic problem. The government openly pursues its policies and programs based on this position. It is untrue that the rights of the Tamil and Muslim people have been upheld since Sri Lanka's victory in the war. Discrimination and repression continue until today.

In the 12 years since the war ended in 2009, more land has been expropriated in the North than was expropriated during the 26-year old war. In fact, state institutions have grabbed more than 100,000 acres of land (including private land) in Mullaithivu District alone. Thousands of acres of State Land and private land within the Tamil homeland of North and East is occupied by the Military even now.

Human rights violations against Tamil and Muslim people in the North and East have actually increased in the post-war period. Violence against Muslims has worsened since 2009. Their rights are now being violated worse than ever, and consequently mutual distrust and tension between the races have worsened.

Sri Lanka's briefing note to the UN purports to record progress on the ethnic issue. In so doing, the statement attempts to deceive the international community.

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2. COVID and Sri Lanka's Track Record on Human Rights

The Government briefing note refers to Sri Lanka's current problems with COVID. This is simply an attempt to divert the UN's attention from the fact that the problems have been ongoing, since long before March 2020. The statement also mentions that Resolution 46/1 of March 2021 was passed without Sri Lanka's consent. However, Sri Lanka withdrew from Resolution 30/1 in 2020, which it co-sponsored in 2015.

Therefore, the briefing note's claim that Sri Lanka is cooperating with the UN mechanism is ridiculous. This is a complete lie, and is an attempt to drag on for time. In the context of Sri Lanka's economic downturn and the impending macroeconomic crisis, all the while having alienated the international community, the current government now claims to engage with international mechanisms to soften the disapproval it has earned.

The report also contains untrue information that state institutions have been established to resolve Sri Lanka's grave problems within the scope of SDG 16. Merely providing policy frameworks and guidelines, without adhering to due process—and without providing effective structures and qualified staff to implement, monitor and take corrective actions—does not and cannot solve the grave issues that the UNHRC highlighted in Sri Lanka. The absence of political will and commitment, with required oversight, make these initiatives ring hollow.

3. The Office on Missing Persons (OMP)

When the Office on Missing Persons (OMP) was set up in 2016, Tamil political parties, organisations of disappeared people, Civil Society Organisations and the general public vehemently opposed the move. They said then that it was intended to deceive the international community by publishing inaccurate information about the disappearances.

The Government briefing note now refers to the OMP to provide untrue information about missing persons. Representatives of the Tamil people and religious leaders have used **government records** to claim that the number of people missing at the end of the war was more than 146,000. The UN Panel of Experts and the UN Internal Review Report indicate that the death toll at the end of the war was more than 40,000, and that the death toll could be even more than 70,000. Nevertheless, the OMP note passed on to the UNHRC only cites 14,988 cases of missing persons. This highlights the government's hidden agenda.

Needless to say it is necessary to investigate to what extent has the Government adhered,

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adopted and practiced the core principles of transitional justice. Persons with questionable backgrounds have been appointed to the Office on Missing Persons. The lack of neutrality and independence among the persons so nominated to office needs critical examination.

4. Office for National Unity and Reconciliation (ONUR)

During my tenure of office as Chief Minister, Northern Province, I had responded to matters relating to ONUR in my numerous communications with the then Government and the UN. I will respond in due course to the observations of the Government in their briefing note.

Yet the sudden reference to an International Conference scheduled for 30th and 31st of October, 2021 amused me. It made me wonder about the sincerity of the current dispensation. Any truly considered event of this nature requires a substantial lead period, consultative process with true representation of diverse stakeholders who have had direct exposure to the post war context.

It certainly is an attempt to pull wool over the International Community 's eyes. In fact, as a Parliamentarian, I have not heard anything about this Conference so far.

5. Land Grabbing and the Release of Tamil Lands

Inter-ethnic harmony is now worsening as government agencies expropriate the lands of Tamil-speaking people. It reports that about 90% of the land confiscated by the military has been released. In fact, the military continues to occupy large tracts of Tamil land. People are constantly protesting in front of the military camps to release their lands.

At the same time, government agencies continue to expropriate large tracts of land in the North and East. It is also setting up new government structures, such as the Archaeological Task Force for the Eastern Province, for this purpose. The recent report of the California-based thinktank, the Oakland Institute, demonstrates the extent to which the government has usurped the Tamil people's title to their lands, including by militarizing the North and East.

Just this morning I received information that lands in Periakattu in the D.S. Division of Chettikulam belonging to the Tamil Refugees who left their lands due to the war, have been arbitrarily appropriated and allocated to the Army to do *chillie* cultivation. Close by the Army had already expropriated land to set up a Tanker Training Camp. The presence of the Army is increasing daily in these areas.

Below are some excerpts from the Oakland Institute report. I also enclose the full report of the Oakland Institute for the attention of the UNHRC-

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“In the Mullaitivu District, the Forest Department has expropriated 32,110 acres of land and the Wildlife Department claimed 23,515 acres. The Archaeological Department has seized 202 acres and the Mahawali Authority has taken 4,368 acres. Also, more than 25,000 acres of land have been expropriated for the formation of the Manalaaru/Weli Oya Sinhala DS Division. Since the end of the war in 2009, 67 Buddhist temples (viharas) have been set up in the Mullaitivu District alone under the Archaeological Department. The cemeteries of the LTTE cadres have been levelled; military camps have been set up and war victory symbols erected” (p. 5). These figures would have now increased since the Report was prepared last year.

“All together it is over 80,000 acres of land in Mullaithivu that were grabbed by the security forces and the government departments in the District. Overall, Mullaithivu is comprised of 621,917 acres, out of which 420,300 acres form deep forest. Only 201,617 acres are available for public use. According to this calculation, more than 40 percent of the land available for public use is controlled by the military and other government agencies. The case of Mullaithivu is the acid-test that reflects the gravity of the situation in the North and East, when it comes to land grabbing through various forms” (p.20).

“12 years after the end of the war, large numbers of troops remain in the region. In the Mullaithivu District alone, the military has acquired more than 16,910 acres of public and private land. There are at least seven Army camps and five naval bases located just 15 kilometers from the village of Alampil to the village of Kokkilai in Mullaithivu. Military camps, buildings, and restricted areas are found in various places where no visitor to the North and East can travel freely, despite the absence of war” (p.5).

“Statistics provided by the former Minister Akila Viraj Kariyawasam during a question and answer session in Parliament on May 3, 2017 show the extent of Buddhistization in the North and East, in the guise of archaeological preservation. According to the Minister, there are a total of 131 Buddhist temples (viharas) in the Northern Province under the Archaeological Department” (p.16).

The Buddhist remains in the North and East belong to an era circa 2000 years ago when the indigenous Tamils became Buddhists. There was no Sinhala language at that time nor Sinhalese people at the time those Buddhist places of worship were built. Sinhala language came into existence around 6th or 7th Century AD.

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"Five of the seven Sri Lankan Army's Regional Headquarters are located in the Northern and Eastern Provinces. According to our estimates, there is a ratio of one soldier for every six civilians in the North and East. While the Sri Lankan government has repeatedly stated that the LTTE poses no more threat to national security, the massive military presence provides security for Sinhalese settlements while facilitating the Buddhistization process and keeping the population in the North and East under constant repression and intimidation" (p. 5).

6. Conclusion

Taking together everything that I have briefly outlined, an independent inquiry into Sri Lanka's human rights record, including its post-war actions, is necessary. An independent external mechanism is required because of the lack of neutrality and independence of domestic structures. Our view is based on past experience. In particular, I refer to the numerous previous Presidential Commissions, and the lack of implementation of their recommendations—due to the absence of political will, commitment, capacity and capabilities. My previous statements to the UNHRC have outlined this problem with Sri Lankan government reports.

Therefore, I urge the UN to take immediate steps to launch an independent international inquiry mechanism to ascertain the accuracy of the figures and data in their briefing note submitted to the UNHRC by the Government. Meanwhile, I urge the Government of Sri Lanka to agree to an independent international inquiry without any fear if it believes the details in their briefing note are correct. I also urge the UN to take action to appoint a Special Rapporteur to investigate land grabbing in the North and East, which has intensified in the last few years.

I thank you.

Yours Sincerely

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