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United Nations Forum on  
**HUMAN RIGHTS, DEMOCRACY  
and the RULE OF LAW**

GENEVA, 22-23 NOVEMBER 2018



**UNIVERSAL DECLARATION OF HUMAN RIGHTS**  
**#STANDUP4HUMANRIGHTS**

*Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world.*

**— Eleanor Roosevelt —**

Wenesday, 02 January 2019

Excellencies,  
Madame, Monsieur,

With perspectives of Eelam Tamils Rights NGOs, elected members, and intellectuals network accross the World, have partnered to celebrate the 70th Anniversary of the adoption of the Universal Declaration of Human Rights (UDHR). Tamil Rights NGOs Network want to take this opportunities for make awarness on Eelam Tamils Genocide in Sri Lanka. The UDHR, a milestone document in the history of human rights, was enacted by the UN on December 10, 1948. It sets out, for the first time, fundamental human rights to be universally protected.

### **70 years of progress on Human Rights**

All human beings are born free and equal in dignity and rights. This simple yet radical idea is enshrined in the Universal Declaration of Human Rights

The 70th anniversary of the Universal Declaration of Human Rights, which was adopted on 10 December 1948 by the United Nations General Assembly. The Declaration is the key source of inspiration for contemporary instruments and standards of International Human Rights Law all around the world.

## **Learning from the past and ongoing Sri Lanka's Genocide against Tamils**

In the fall of 2008, Sri Lanka's decades-long civil war was entering its grim final stages. The government had launched a major offensive against the Freedom fighter Tamil Tigers in the north of the country, and authorities warned they could not guarantee the safety of UN staff in the war zone.

### **UN leaders had a difficult choice to make.**

The danger was not hypothetical. In November 2007, UN offices in the safe zone sustained damage from Government-initiated air strikes. And the attacks were growing in intensity. To ensure the safety of staff, the UN chose to evacuate the Tamil Tigers controlled area.

This decision is one of many that have come under scrutiny in the aftermath of the conflict. Critics say the UN's withdrawal cleared the way for a merciless military onslaught in which tens of thousands of civilians were killed, with no one to bear witness.

An internal inquiry into the UN's actions recognized the commitment of UN employees, international staff and Sri Lankan nationals, who worked determinedly under difficult circumstances. But the report concluded that there was "systemic failure".

Under pressure from the government and facing the threat of expulsion, some UN staff were reluctant to tell the world about mounting civilian casualties, the report said. In order to preserve their ability to continue humanitarian work in the country, UN staff held back on speaking out more forcefully.

While acknowledging the difficult trade-offs in such circumstances, the UN vowed that the mistakes made in Sri Lanka should never be repeated.

Out of this pledge came the Human Rights up Front initiative. Then Secretary-General Ban Ki-moon launched the initiative in 2013 to ensure that protecting human rights is at the centre of all UN action and understood to be the responsibility of all UN personnel.

Human Rights up Front sets an imperative that UN staff take timely and effective action to prevent and respond to serious violations of human rights or humanitarian law.

Ban Ki-moon's successor has continued and built on this commitment. "Human rights must be weaved into United Nations action at all levels," António Guterres said in remarks to the UN Human Rights Council. "It is why I am working – in the spirit of Human Rights up Front – to ensure that the United Nations places defending and promoting human rights at the core of all our efforts."

On the 70th anniversary of the Universal Declaration of Human Rights, the UN is celebrating the progress that has been achieved on human rights all around the world. At the same time, it is clear that the promise of the Declaration is yet to be realized fully. Too many people still face violations – even complete denial like the situation of Eelam Tamils in North and East of Sri Lanka– of their human rights.

For the UN, there will be many more difficult choices. But the organization is committed to upholding the spirit of the Declaration and the Human Rights up Front initiative. The objective is clear and non-negotiable: to guarantee everyone a life free from want and free from fear and occupation.

From this constat :

1. We, undersigned, representatives of the Eelam Tamil nation in Tamil Eelam and worldwide, along with our allies, respectfully invite you to employ your good offices to find a just, comprehensive, and internationally acceptable solution to the question of Tamil Eelam.

2. First, we invite your support for a resolution to institute a international investigation on Genocide against Eelam Tamils, or a special criminal tribunal, to investigate the litany of crimes (in violation of treaty obligations and *jus cogens* norms) that we allege Sri Lankan personnel to have committed against Eelam Tamils.

3. Second, we invite your support to institute a UN mechanism facilitating Eelam Tamils' free exercise of the inherent right of self-determination, by means of popular consultation, in accordance both with Article 1 ICCPR, and with Paragraph 5 of General Assembly Resolution 68/175.

4. We intend to show, by means of this letter, that continued impunity for Sri Lanka's international crimes shares a mutually causal relationship with obstruction of the exercise of Eelam Tamils' right of self-determination. In this respect, we recall the words of the Independent Expert on the Promotion of a democratic and equitable international order to the General Assembly: "For human rights, peace, security and stability to flourish, the relationships between peoples and governmental entities must be based on genuine and continuing consent, on the understanding of a *contrat social* and, if this *contrat* is violated by Government, the people as sovereign have the democratic right to redefine the relationship."<sup>1</sup>

5. Eelam Tamils assert that the exercise of our right of self-determination shall occasion an end to the dominion of one nation by another: an undesired unity that allows the anguished inheritance of history's crimes to endure. The invocation of our own liberty is bound together with the promise of freedom to every nation and people.

#### **A. What We Allege**

6. All sources agree that the conflict killed an approximate minimum of 60,000 between 1983 and 2008. Within this period, several international crimes have been documented on the part of Sri Lankan personnel. The 2011 Panel of Experts' Report confirms indiscriminate Sri Lankan Army killings of at least 40,000 civilians in early 2009, the final period of conflict.<sup>2</sup> The victims are predominantly of Eelam Tamil origin.

These ethnically characterized killings of non-combatants, we argue, are murders that constitute a crime against humanity under the Rome Statute Article 7(1)(a), holding *jus cogens* status<sup>3</sup>; violate Article III(a) common to the Geneva Conventions (constituting war crimes in a non-international armed conflict); and violate the Genocide Convention Article II(a).

7. Cell-phone footage, taken by Sri Lankan soldiers at the end of the conflict, shows combatants of the Liberation Tigers of Tamil Eelam (LTTE) executed without trial.<sup>4</sup> Such acts, we argue, violate Article III(d) common to the Geneva Conventions.

8. Following the end of the conflict, forcible internal displacement and wholesale internment of Eelam Tamils took place in places such as Manik Farm (which held 300,000, closed in 2012<sup>5</sup>) and

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<sup>1</sup> UN General Assembly (A/69/272) *Interim report of the Independent Expert on the promotion of a democratic and equitable international order*, para. 8

<sup>2</sup> *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka* para 137, 31 Mar 2011

<sup>3</sup> "Those peremptory norms that are clearly accepted and recognized include the prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right of self-determination." Commentary on Article 26, in *Yearbook of the International Law Commission* "Draft Articles on Responsibility of States for Internationally Wrongful Acts," with commentaries (2001) Vol. II, Part 2, p 85.

<sup>4</sup> BBC Channel 4 documentary, *Sri Lanka's Killing Fields*, directed by Callum Macrae, 14 Jun 2011

<sup>5</sup> "Sri Lanka shuts Manik Farm IDP camp" *The Hindu* 25 Sep 2012

Joseph Camp (still the site of torture and rape reports in December 2016<sup>6</sup>). It was reported that “[a]bout 1,400 people are dying every week at the giant Manik Farm internment camp set up in Sri Lanka to detain Tamil refugees [according to] senior international aid sources.”<sup>7</sup>

We believe that such forcible population transfer and internments constitute crimes against humanity under the Rome Statute Article 7.1(d) and (e), which holds *jus cogens* status. We further believe that such conditions of internment appear to have altered Eelam Tamils’ conditions of life in a manner calculated to bring about their destruction as a group, in the sense of the Genocide Convention, Article II(c).

9. Consequent to forcible displacement and internment, militarization of historically Tamil areas has proceeded at an extremely rapid pace. In historically Tamil Mullaitivu, for instance, it has produced a ratio of one (Sri Lankan Sinhalese) soldier to every two (Eelam Tamil) civilians.<sup>8</sup>

Settlements on requisitioned Tamil land, consisting of military families who also benefit from state financial incentives to have a third child,<sup>9</sup> appear calculated to alter Eelam Tamils’ conditions of life in a manner that may bring about their destruction as a group, in the sense of the Genocide Convention, Article II(c). Militarization of their homeland also appears to deprive Eelam Tamils of the ability to dispose of their natural wealth, resources, and means of subsistence, in the sense of ICCPR Article 1(2).

10. The foregoing allegation is complemented, in particular, by substantiated reports that long-lasting birth control implants were coercively administered among Tamil women in Kilinochchi.<sup>10</sup> This measure arguably restricts births among the Eelam Tamil people group in the sense of the Genocide Convention, Article II(d); and deprives them of the right to protection of the family under ICCPR Article 23(1).

11. While several countries (including Canada<sup>11</sup> and Switzerland<sup>12</sup>) return Eelam Tamil refugees to Sri Lanka, citing the end of the armed conflict to show that Sri Lanka is safe for them, the Working Group on Arbitrary Detention reports receiving “accounts of Tamils who were arrested and detained in 2015, 2016 and 2017 when returning to Sri Lanka after seeking asylum in another country or working abroad.”<sup>13</sup>

12. The Special Rapporteur on Torture noted that “torture and ill-treatment as a routine method of work,” in conditions of “total impunity,” characterized such detention under Sri Lanka’s Prevention of Terrorism Act (PTA),<sup>14</sup> indicating a violation of ICCPR Article 7. Such acts arguably constitute serious mental and bodily harm (in the sense of the Genocide Convention, Article II[b]), to Eelam Tamil detainees.

13. Sri Lanka has undertaken to repeal the PTA, but its proposed replacement legislation also suspends *habeas corpus*.<sup>15</sup> The provisions of the PTA and its replacement therefore both facilitate

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<sup>6</sup> *Joseph Camp* International Truth and Justice Project pp. 5, 11, Mar 2017

<sup>7</sup> “Tamil death toll ‘is 1,400 a week’ at Manik Farm camp in Sri Lanka” *Times Online UK* 10 Jul 2009.

<sup>8</sup> *Normalising the Abnormal: The Militarisation of Mullaitivu District*, Adayaalam Centre for Policy Research (ACPR) and People for Equality and Relief in Lanka (PEARL), 4 Oct 2017

<sup>9</sup> “Sri Lankan budget continues payments for soldiers that have third child” *Tamil Guardian* 21 Jan 2016

<sup>10</sup> “Coercive Population Control in Kilinochchi” *Groundviews* 13 Sep 2013

<sup>11</sup> “Sri Lankan family deported after spending 5 years in Canada” Canadian Broadcasting Corporation 3 Dec 2017. This case involved Robert Lawrence, a former UN employee in Sri Lanka.

<sup>12</sup> “Swiss to get tough on Sri Lankan refugee status” *Swissinfo.ch* 8 Jul 2016

<sup>13</sup> *Working group on arbitrary detention: preliminary findings from its visit to Sri Lanka (4 to 15 December 2017)*, OHCHR, 15 Dec 2017

<sup>14</sup> A/HRC/34/54/Add.2, paras. 111-112

<sup>15</sup> Prof. Christof Heyns and Toby Fisher, “The Policy and Legal Framework Relating to the Proposed Counter Terrorism Act of Sri Lanka: A Review of Compliance with International Human Rights Norms” Foundation for Human Rights and Institute for International and Comparative Law in Africa, 13 Jun 2017

arbitrary detention in the sense of ICCPR Article 9, and furthermore deny detainees the right to legal personhood in the sense of ICCPR Article 16.<sup>16</sup>

14. The Bishop of Mannar documents 146,679 missing at the end of the conflict, based on government records.<sup>17</sup> President Sirisena met with representatives of the families of victims of enforced disappearances on June 12, 2017, promising to release a list of the names and last-known whereabouts of the disappeared.<sup>18</sup> While the administration instituted the Office of Missing Persons (OMP) in compliance with UNHRC Resolution 30/1, the OMP has not been operationalized; and the administration has not produced the list of those missing.

15. This is a partial list of allegations. A thorough investigation will unearth others. To date, no one has been prosecuted for any of these acts. Sri Lanka's deadline for compliance with UNHRC Resolution 30/1, which requests a hybrid tribunal to investigate international crimes, has been extended until March, 2019. Yet, repeated public statements from President Sirisena indicate his intention to shield Sri Lankan military personnel from investigation, and thus to violate Resolution 30/1.<sup>19</sup> In March, 2019, all domestic remedies will have been exhausted.

16. Paragraph 4 of the "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law"<sup>20</sup> prescribes that

In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.

Eelam Tamils seek the support of the Secretary-General for such investigation and prosecution through an international judicial organ competent to do so, in compliance with the obligations imposed on the international community through General Assembly Resolution 60/147.

## **B. The Question of Tamil Eelam**

17. The above-mentioned human-rights abuses and international crimes, we strongly believe, are a consequence of the Sri Lankan state's domination of the Eelam Tamil nation. Simultaneously, we consider such crimes and abuses to structurally perpetuate that status. The Human Rights Committee's General Comment 12 on ICCPR Article 1 notes:

The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights. It is for that reason that States set forth the right of self-determination in a provision of positive law in both Covenants [ICCPR and ICESCR] and placed this provision as article 1 apart from and before all of the other rights in the two Covenants.<sup>21</sup>

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<sup>16</sup>This interpretation is bolstered by the *Tharu et al. v. Nepal* decision (CCPR/C/114/D/2038/2011 paras. 10.6–10.9)

<sup>17</sup>"Mannar Bishop questioned by Sri Lankan CID on 'disappearances'" *Weekend Leader* 10 May 2012

<sup>18</sup>"President Sirisena promises families lists of forcibly disappeared will be released" *Tamil Guardian* 12 Jun 2017

<sup>19</sup>Mr. Sirisena's oft-repeated refrain appeared perhaps most recently in "President asserts troops will not be taken before war tribunals" *Colombo Gazette* 9 Nov 2017.

<sup>20</sup>A/RES/60/147

<sup>21</sup>HRC "CCPR General Comment No. 12: Article 1 (Right of self-determination) The Right of self-determination of Peoples" 13 March 1984.



18. Post-conflict development-centred initiatives that elide this intrinsically national subordination can, therefore, only reinforce it. In the words of the Independent Expert on the Promotion of a democratic and equitable international order,

The general comment underscores a particular aspect of the economic content of the right of self-determination, namely the right of peoples, for their own ends, freely to dispose of their natural wealth and resources.<sup>22</sup>

19. The ICCPR's guarantee of the right of all peoples of self-determination founds the Eelam Tamils' claim. States the Independent Expert:

Participants at a UNESCO expert meeting on self-determination endorsed what has been called the "Kirby definition", recognizing as a "people" a group of persons with a common historical tradition, racial or ethnic identity, cultural homogeneity, linguistic unity, religious or ideological affinity, territorial connection, or common economic life.<sup>23</sup>

20. Eelam Tamil citizenry is defined by the 1976 Vaddukodai Resolution: which formed the 1977 electoral platform of the Tamil United Liberation Front (TULF), and remains recognized as the basis of Eelam Tamil identity today. It affirms, in part: "the State of Tamil Eelam shall consist of the people of the Northern and Eastern provinces and shall also ensure full and equal rights of citizenship of the State of Tamil Eelam to all Tamil-speaking people living in any part of Ceylon and to Tamils of Eelam origin living in any part of the world who may opt for citizenship of Tamil Eelam."

The Vaddukodai Resolution thus provides the basis for response to the conditions of status as a people. Eelam Tamils self-evidently constitute a group of persons. These persons hold a common historical tradition, with a recorded literary history of at least two millennia.<sup>24</sup> By virtue of self-identification as Tamils, they hold a common ethnic identity. Their habits of daily life, dress, cuisine, etc. demonstrate cultural homogeneity. As speakers of the Tamil language (especially its Eelam variety), they hold linguistic unity. The Vaddukodai Resolution, and Eelam Tamil social practice, enshrine a secular society respecting Hindus, Christians, and Muslims. Eelam Tamils hold ideological affinity based on the principles of "nationhood, homeland, and self-determination."<sup>25</sup> The Vaddukodai Resolution indicates the demographic claim of the Eelam Tamil population to the contiguous Northern and Eastern Provinces of the island of Ceylon, indicating territorial connection. Eelam Tamils are demonstrably bound together, both within their national territory and worldwide, by commercial, charitable, and familial economic ties.

Eelam Tamils therefore fulfill each condition constituting a "people" under the "Kirby definition." As such, they hold the right of self-determination under ICCPR Article 1.

21. Regarding the Kirby conditions, The Independent Expert notes:

To this should be added a subjective element: the will to be identified as a people and the consciousness of being a people.<sup>26</sup>

In this respect, the Vaddukodai Resolution's formulation received overwhelming democratic ratification. Since the 1977 Sri Lankan election, Eelam Tamils have consistently aspired to governance by a state of their own. The 1977 TULF election manifesto stated:

The Tamil nation must take the decision to establish its sovereignty in its homeland on the basis of its right to self-determination. The only way to announce this decision to the Sinhalese government and to the world is to vote for the Tamil United Liberation Front. The Tamil-speaking representatives who get elected through these votes, while being members of the National State Assembly of

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<sup>22</sup> A/69/272 para. 23

<sup>23</sup> A/69/272 para. 4

<sup>24</sup> Harvard Tamil Chair Inc. "Tamil Language" <<http://harvardtamilchair.org/tamil-language>>

<sup>25</sup> See Anton Balasingham, *War and Peace: Armed Struggle and Peace Efforts of Liberation Tigers* (Fairmax 2004) 400-401

<sup>26</sup> A/69/272 para. 4

Ceylon, will also form themselves into the National Assembly of Tamil Eelam which will draft a constitution for the state of Tamil Eelam and establish the independence of Tamil Eelam by bringing that constitution into operation either by peaceful means or by direct action or struggle.<sup>27</sup>

The Northern and Eastern Provinces overwhelmingly elected TULF representatives in 1977. Eelam Tamils thereby expressed a democratic consensus to be recognized as a people and to hold a state of their own, by exercising the right of self-determination.

22. Having established that Eelam Tamils are a people who have the right of self-determination, this letter partially documents the historical exercise of this right; both through the establishment of a *de facto* state during the time of the Ceasefire Agreement (CFA 2002-2006), and through popular consultations immediately after the conflict (2009-2010).

23. The era that followed independence from British colonial administration had previously exhausted the domestic recourse available through Sri Lankan constitutional democracy and nonviolent civil disobedience.<sup>28</sup> Similarly, violent reprisals followed the 1977 election results.<sup>29</sup>

24. This closure of democratic space through which to articulate the right of self-determination gave rise to an armed movement, the LTTE. The group began significant operations following the “Black July” pogroms of 1983. Coinciding approximately with the end of the Indian intervention in the conflict (1989-1990), the LTTE established effective control over significant portions of the Northern and Eastern provinces, defined as Tamil Eelam under the Vaddukodai Resolution.<sup>30</sup> These territorial positions were acknowledged in Paragraphs 1.4 and 1.5, and recognized in Paragraph 2.6 of the February 2002 Ceasefire Agreement (CFA).

25. The ceasefire thus saw recognition of the *de facto* state of Tamil Eelam. The UNHCR (for instance) acknowledged “legitimacy,”<sup>31</sup> or recognition, from external governments and institutions for the LTTE through such means as the Sub-committee for Immediate Humanitarian and Rehabilitation Needs (SIHRN), a joint LTTE-GOSL organization.<sup>32</sup> Similarly, the Post-Tsunami Operational Management Structure (P-TOMS) established joint cooperation for natural disaster relief in 2005.

26. On the basis of its ability to enforce territorial control, the LTTE ultimately expressed willingness to explore a federal solution. In December 2002, LTTE theoretician Anton Balasingham made the statement:

The decision as far as the LTTE is concerned is in line with the policy that we have been advocating for the last two decades or more. That is, a regional autonomous model based on the right to internal self-determination of our people in the historical areas where the Tamil and the Muslim people live. So, with this autonomous model or model of self-government that we were referring to, has to be couched or properly conceptualised within an appropriate concrete constitutional form. That is what we decided, that we will opt for a federal model.<sup>33</sup>

27. The “Autonomous Model” produced a Constitution of the *de facto* state of Tamil Eelam under the rubric of the Interim Self-Governing Authority (ISGA). The ISGA proposal was released on October 31, 2003 (during the CFA). The document expressed full autonomy within the formal

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<sup>27</sup> Balasingham 28-29

<sup>28</sup> See Balasingham 1-36

<sup>29</sup> Balasingham 28-30.

<sup>30</sup> See Appendix: “Distribution of Territorial Control, circa 2005”.

<sup>31</sup> UNHCR *Global Appeal 2004* p. 200

<sup>32</sup> Balasingham 402

<sup>33</sup> Government of Norway, “Breakthrough in Sri Lanka Peace Negotiations”

<[https://www.regjeringen.no/no/aktuelt/breakthrough\\_in\\_sri\\_lanka\\_peace/id248914/](https://www.regjeringen.no/no/aktuelt/breakthrough_in_sri_lanka_peace/id248914/)>

structure of the Sri Lankan state. The civilian authorities that operated under the LTTE's aegis held, in all meaningful aspects, functions of state agencies.<sup>34</sup> Rather than being an aspirational political document, therefore, in most respects the ISGA merely acknowledged the existing state of affairs.

28. Accordingly, the Agreement to Establish the ISGA arguably held status as customary constitutional law. Its Preamble founds the document within the international order, committing the Authority to "the principles of the rule of law, the human rights and equality of all persons, and the right of self-determination of Peoples."<sup>35</sup> It furthermore roots itself in a democratic consensus, noting that the "Tamil people mandated their elected representatives to establish an independent, sovereign, secular State for the Tamil people in the elections subsequent to the Vaddukodai Resolution of 1976."<sup>36</sup> The Preamble recognizes the LTTE's "effective territorial control and jurisdiction over the majority of the NorthEast area of the island of Sri Lanka", and that the Tamil people had mandated the LTTE to be their sole representatives.

The ISGA furthermore asserted powers of election,<sup>37</sup> taxation,<sup>38</sup> delimited separation of powers,<sup>39</sup> and regulated internal and external trade.<sup>40</sup> Paragraph 22, on the Settlement of Disputes, mandated arbitrators to "ensure the parity of status of the LTTE and the GOSL" (or government of Sri Lanka).

Therefore, Tamil Eelam fulfilled the four criteria of the Montevideo Convention for statehood: a permanent population, a defined territory, government, and the capacity to enter into relations with other states.

29. Such modalities of interaction between Tamil Eelam and Sri Lanka may have been tense and short-lived, but they were made possible on the basis of accepted "parity of status" between the CFA parties. This phrase meant lifting the proscription against the LTTE, thereby expressing acknowledgement of the LTTE's authority "to represent the Tamil nation as legal representatives on a status of parity".<sup>41</sup>

30. Following the LTTE's defeat, amid a dire security situation within Sri Lanka in 2009-2010, referenda were held in 10 other countries, hosting populations of Eelam Tamils, on the question: "I aspire for the formation of the independent and sovereign state of Tamil Eelam in the north and east territory of the island of Sri Lanka on the basis that the Tamils in the island of Sri Lanka make a distinct nation, have a traditional homeland and have the right of self-determination." Each non-binding, independently-supervised referendum returned over 99% in favour.<sup>42</sup>

### C. Remedies

31. We observe, therefore, that the exercise of Eelam Tamil self-determination has attempted the routes of electoral expression, and as a last resort, rebellion. That rebellion attempted both secession, and an autonomous model of federalism. Post-conflict democratic means have utilized a non-binding public consultation favouring independence.

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<sup>34</sup> See N. Malathy, *A Fleeting Moment in My Country* (Clarity 2012); Kristian Stokke, "Building the Tamil Eelam State: Emerging State Institutions and Forms of Governance in LTTE-controlled Areas in Sri Lanka" (Department of Sociology and Human Geography, University of Oslo 2006)

<sup>35</sup> In Balasingham 504

<sup>36</sup> Ibid

<sup>37</sup> ISGA Agreement para. 3

<sup>38</sup> Ibid para. 9.1

<sup>39</sup> Ibid para. 10

<sup>40</sup> Ibid para. 12

<sup>41</sup> Balasingham 373

<sup>42</sup> Results were reported by TamilNet between 11 May 2009 and 22 April 2010. Each of the ten consultations (Norway, France, Canada, Switzerland, Germany, Netherlands, the United Kingdom, Denmark, Italy, and Australia) was independently conducted and supervised.



32. We recall General Assembly Resolution 2625 (XXV):

Every State has the duty to promote, through joint and separate action, realization of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle...

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Therefore, the Government of Sri Lanka has the responsibility to uphold the exercise of the right of self-determination, and if it fails to do so, the international community must ensure peace and stability by upholding its exercise instead.

33. General Assembly Resolution 2625 (XXV) binds UN member states to:

refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

We note that the dismantling of the autonomous region of Tamil Eelam, a *de facto* state, was accomplished through grave violations of international law and human-rights abuses, and that such violations and abuses continue against the Eelam Tamil people at present.

34. Such acts merit an international investigation into war crimes and crimes against humanity, as part of a comprehensive international transitional-justice mechanism. They furthermore bear special investigation under the Genocide Convention, to which Sri Lanka (formerly Ceylon) is a long-standing party, as part of that mechanism.

We note that Paragraphs 18 and 19 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law prescribe reparations adequate to the crimes committed:

18. In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

19. Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

In this case, therefore, restitution includes restoring members of the Eelam Tamil nation to a situation of the enjoyment of the human right of self-determination.

35. Particularly given the Government of Sri Lanka's stated intent to violate Resolution 30/1, but independently of it, we request that the Secretary-General rectify the bleak injustices of history by instituting a special criminal tribunal to investigate war crimes, crimes against humanity, and genocide that we allege were perpetrated against Eelam Tamils by Sri Lankan personnel.

36. We are encouraged to recall that the independence of East Timor was ultimately gained through peaceful and democratic means, implemented in part through the good offices of the Secretary-General. We assert that the people of Tamil Eelam also hold the rights of self-determination, to territorial integrity and unity, and to permanent sovereignty over their wealth and natural resources.

37. We request the Secretary-General's aid in the promotion of a democratic and equitable international order, under Resolution 68/175, by facilitating a binding public consultation to ascertain the will of the Eelam Tamil people, who consider themselves to constitute a nation, in accordance with both the UN Charter and the International Covenant on Civil and Political Rights.

38. We request, furthermore, an appropriate United Nations mission in Tamil Eelam to enable effective implementation of the popular consultation.

39. We request the Secretary-General to report the result of the popular consultation to the Security Council and the General Assembly, as well as to inform the Government of Sri Lanka and the Eelam Tamil people.

40. We assert our nationhood, and our claim to our homeland, through the free exercise of our right of self-determination. Our thirst is for the birth of Tamil Eelam.

**Thanks to the Universal Declaration of Human Rights, and States' commitments to its principles, the dignity of millions has been uplifted, untold human suffering prevented and the foundations for a most just world have been laid.**

While its promise is yet to be fulfilled, the very fact that it has stood the test of time is testament to the enduring universality of its perennial values of equality, justice and human dignity.

The anniversary is a chance for the world to celebrate the gift of the Universal Declaration and to help reaffirm the enduring human rights principles and standards it has helped establish.

- **Human rights are relevant for all of us, every day.** Human rights include our rights to freedom from fear and from want, freedom to speak up, rights to health and education ; and to enjoy the benefits of measures to advance economic and social justice.
- **Ours is a shared humanity rooted in these universal values.** We are interconnected. These human rights that we have in common, solidarity with each other and fulfilment of human rights responsibilities are what bind us together on our shared planet.
- **Equality, justice and freedom prevent violence and sustain peace.** Respect for human rights, and sound, impartial rule of law to resolve disputes are at the core of development and peace.
- **Whenever and wherever humanity's values are abandoned, we all are at greater risk.** We are at a crossroads. Attacks on human rights by people who want to profit from hatred and exploitation erode freedom and equality locally and globally. This can be, must be, resisted.
- **We need to stand up for our rights and those of others.** Each of us can stand up. We can take action in our own daily lives, to uphold the rights that protect us all and thereby promote the kinship of all human beings.

## **Recommendations**

### **To the Human Rights council**

We urges the Human Rights Council to call for refer to the ICC for an independent international investigation into allegations of Genocide against Tamils committed in the final stages of the armed conflict by the Sri Lankan armed forces.

This is an essential step to ensuring accountability in Sri Lanka and justice for victims and their families. This appeal coincides with a global action by our NGOs Network to focus worldwide attention on the continuing impunity in Sri Lanka.

We urges the Human Rights Council to call on the UN Secretary-General to establish an independent international investigation leading to recommendations for accountability of all violations of international human rights and humanitarian law that occurred during the final stages of the armed conflict.

The Council should also call on Sri Lanka to take the following measures to protect human rights:

- Stop harassment, intimidation and attacks against human rights defenders, journalists and other peaceful critics exposing past or present abuses.
- Ensure the independence of key justice institutions in Sri Lanka necessary to protect human rights and combat impunity; initiate reforms to bring domestic institutions into line with international standards, including by establishing an effective witness protection scheme.
- Demilitarize the north and east, especially by removing troops and camps, ending the military footprint in governance and economic areas, release military occupied lands and redistribute military controlled common lands and farms in ways that benefit women;
- Stop the Colonization of Tamils Homeland
- Initiate an independent international investigation into the genocide of Eelam Tamils on the island to bring perpetrators of the crime of genocide to justice.

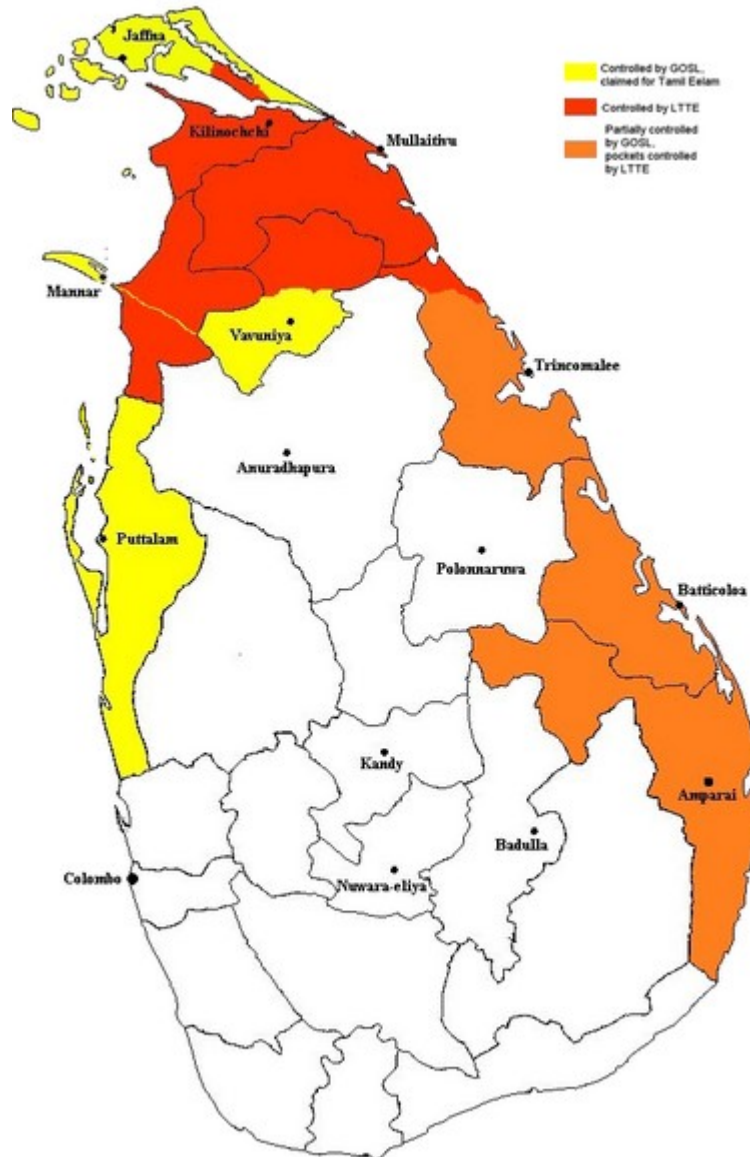
### **To the International community :**

Conduct a UN sponsored referendum to ascertain the political aspiration of Eelam Tamils, both in the homeland and the diaspora, with a free and sovereign state of Tamil Eelam as an explicit option, as it is the democratic mean to bring about a lasting solution to the conflict on the island.

The International Community should bear in mind the deaths of lakhs of Eelam Tamils in the hands of Sinhala government and 19 Tamils, including Muthukumar, who gave away their lives to fire; and therefore, work for the Tamil Eelam. The international community has to realize the deceptions and conspiracies of the Sri Lankan government.

Thanks

## Appendix: Distribution of territorial control, circa 2005



*Source: Office of Strategic Affairs, Ministry of Defence, Sri Lanka*

## Appeal Supported by:

NGOs Special consultative status with UN ECOSOC

### **Association Bharathi Centre Culturel Franco Tamoule**

Association des Etudiants Tamoule de France (France)  
Association Tourner La Page (France)  
Association LE PONT (93300 Aubervilliers)  
Association Tamil Uzhagam (78310 Maurepas)  
Association Thendral (94470 Boissy-Saint-Léger)  
Association ABC TAMIL OLI (Seine-Sain-Denis)  
Association Culturelle des Tamouls en France (A.C.T.F.). (Paris)  
Northern Citizen Community Board (Pakistan)  
Society for Development and Community Empowerment  
Association Burkinabé pour la Survie de l'Enfance  
Solidarité Internationale pour l'Afrique (SIA) (Mali)  
Society for Development and Community Empowerment (SDCE)  
Association Mauritanienne Pour la Promotion du Droit  
Association Pour les Victimes du Monde (Cameroun)  
Kenya Comunity Develepment Group KCDG  
Association Congolaise pour le Développement Agricole  
ONG Cercles Nationaux de Réflexion sur la Jeunesse (France)  
Hape Development & Welfare Association (Pakistan)  
Coordination des Associations et des Particuliers pour la Liberté de Conscience (France)  
Agence Pour les Droits de l'Homme (Suisse)  
Association des Jeunes pour l'Agriculture du Mali (Mali)

### NGOs Without ECOSOC Status

Association Le Collectif La Paix au Sri Lanka (France)  
Association pour le Droit de l'Homme et le Développement Durable. (France)  
Association internationale des Droits de l'Homme de Bourgogne. (AIDHB) France  
Association Jeunesse Etudiante Tamoule (J.E.T.). France  
L'Association Mondiale des Droits de l'Homme (A.M.D.H) (Suisse).  
Association international des Droits de l'Homme (France)  
Tamil Movement Suisse  
Collectif des Droits Humains France  
May 17 Movement Tamil Nadu  
Marumalarchi Dravida Munnetra Kazhagam-MDMK Tamil Nadu  
Naam Tamilar Tamil Nadu  
Naam Tamilar France  
Naam Tamilar Suisse  
Naam Tamilar UK  
Naam Tamilar Norway  
Naam Tamilar Hollande  
Thamizhaga Ilaigarnar Munnani Tamil Nadu  
Thamizhaga Uzhavar Munnani Tamil Nadu  
Cauvery Rights Retrieval Committee Tamil Nadu  
Thamizh Thesiya Periyakkam Tamil Nadu  
People's Union for Civil Liberties Tamil Nadu  
Thamizh Thesiya Periyakkam Tamil Nadu  
Federation of Students – Youths for Tamil Rights Tamil Nadu  
Association des Jeunes Musulman contre le Genocide Tamil Nadu  
Tamil Kalaikoodam LTD Tamil Nadu  
Green Tamilnadu Party Tamil Nadu  
Tamil Nadu Vanigar Sangankalin Peravai Tamil Nadu  
Cauvery Protection Movement Tamil Nadu  
Naam Tamilar Katchi  
Tamilaga Vaalvurimai Katchi  
TN Liberation Movement  
People of Karaikudi  
Tamilan TV



Tamilnadu vanigar sangangalin Peravai

Activist and Intellectuals

Prof. Paul Newman, Bangalore University professor  
Mr MG Deva Sahayam, IAS(Retired) , Chairman, People parliament for unity and development  
Mr vallaiyan Tamilnadu vanigar sangangalin Peravai  
Mr Dawning Jeeva ., B.Eng., MS., ( Co-Ordinator Naam Tamilar Katchi)  
Mr . Seeman , Chief Coordinator , Naam Tamilar Katchi  
Mr. Velmurugan , Founder - President , Thamilaga Vaalvurimai Katchi  
Mr V. Bharathi , general secretary , Tamilnadu Liberation Movement  
Mr Vetri maran , film director and founder of the gross root film company  
Mr Aazhi Senthilnathan, Chief co Ordinator, Thannatchi Thamizhagam  
Mr Pe, Maniarasan , Thalaivar , Thamil Thesiya Periyakkam  
Mr Maarimuthu, President , Thamilaga Ilagnar Munnani  
Mr Mr Gowthaman, convener , Federation of studnets and youth for Tamil rights  
Mr P . Maniarasan , convener , Cauvery rights retrieval committee  
Mr Arumugam , president , Thamilaga Ulavar Munnani  
Mr Ingaersol Selvaraj, Engineer, Norway  
Mr Venkatesh Narayanan - Tamil Activist and Banker.  
Mr Venkatesh Narayanan - Tamil Activist and Banker, Chennai  
S.Vinodkumar BE CSE. Arumbakkam - Chennai Human Rights Activist  
Mr David Dasan MBA., Chennai .  
Mr. Shravan Kumar Gururajan B.E., P.G.Dip., Human Rights Activist  
Mr. G. Tamilmaran Human Rights Activist  
Mr. Sundar Gopalakrishnan Human Rights Activist  
Mr SHANMUGAM VIJAYAN Human Rights Activist  
Dr.Krishnan Soniya M.B.B.S Human Rights Activist  
Dr.Krishnan Reshma M.B.B.S Human Rights Activist  
Dr.Amjath Althaf - M.B.B.S Human Rights Activist  
Dr.Jayasri Chinaraj M.B.B.S Human Rights Activist  
Mr Sivaraj Dharuman Human Rights Activist  
Mr P.CHAKRAVARTHY B.E Human Rights Activist  
Mr Rupkumarbalaji (B.Tech IT) Human Rights Activist  
Mr M.kumaresan Human Rights Activist  
Dr.Mohammed Habeeb M.B.B.S Human Rights Activist  
Mr. Muthukumar Raju Human Rights Activist  
Mr. Sudhakaran Ganesan Human Rights Activist  
Mr. Ramkumar Muruganantham Social Political Activist  
Dr Siva Kumar, Chennai  
Director. Vetri Maaran  
Mr . Aazhi Senthilnathan  
Dr Thiru.  
Mr . Devasahayam IAS,  
Mr Nelson  
Prof. Aravind.  
Prof. Arun  
Adv. Sathish  
Umar kayan- People Against Genocide.  
Tamil Maaran - Manager  
DC Consultants UN Kaveri Doc  
Pon Chandran - UN Kaveri Doc  
Dawning Jeeva, Environmentalist, kaveri UN Doc  
Shravan , Human Rights Activist - kaveri UN Doc

+ 270 000 Human Rights Activist from Europe and Tamil Nadu

Et plus de 3000 Associations du monde entier.