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பாராளுமன்றம்

PARLIAMENT

Tamil National People's Front
(All Ceylon Tamil Congress)
No: 43, 3rd Cross Street,
Jaffna
25 February 2022

Heads of Missions in Geneva of
the Core Group on Sri Lanka

Your Excellencies,

Resolution 46/1 on Sri Lanka passed at the 46th session of the UNHRC

We refer to the joint letter dated 15 January 2021 and our letters dated 24 February 2021, and 8 September 2021, all of which are attached herewith for your convenience.

Before the said resolution was passed and when its “zero” draft was released, we pointed out that we were disappointed with the resolution in that it does not even meet the basic expectations of the Tamil victims, especially in relation to international accountability for grave violations of international humanitarian law and human rights law. We further pointed out that the resolution's framing of issues was highly problematic and failed to locate them in the political context accurately and we went on to state the following: -

1. We pointed out that Operative Paragraph 6 of the resolution stagnates accountability at the UNHRC in Geneva. It in effect it gives further time to Sri Lanka by calling for a) strengthen the Office of the High Commissioner on Human Rights work in relation to the consolidation, preservation and analysis of evidence in relation to the violations that took place and b) to explore strategies for accountability. The High Commissioner has been asked to report back to the Council on these measures at the 51st session, 18 months from the passage of the resolution - 18 months during which time the victims will be further alienated from any real prospects for justice and accountability.
2. As we indicated in our letter dated 15 January 2021, as highlighted by the OHCHR in its January 2021 report and by the joint letter issued by former UN officials and independent experts including two former UN High Commissioners for Human Rights, we reiterate that the core group which includes two members of the UN Security Council must initiate steps to table a resolution in the UN Security Council to refer Sri Lanka to the International Criminal Court to inquire into all crimes committed, including the crime of genocide against the Tamil people. We pointed out that the matter being brought to the UNSC in itself would bring attention and urgency to Sri Lanka's chronic evasion of accountability and hence we urged that the core group signal their intention to bring forth a resolution to the UNSC for ICC referral without further delay.

3. We also urged that consequent to efforts taken at the UNSC to refer Sri Lanka to the ICC that a resolution is presented to the UN General Assembly providing for an independent mechanism of evidence collection that would assist a future ICC referral.
4. We asked that the resolution be amended to include the appointment of a Special Rapporteur to report on ongoing violations in Sri Lanka and the establishment of OHCHR field offices in the North and East.
5. We pointed out that the resolution fails to recognise that the Government continues to use the military and government departments to expropriate the lands of Tamil people in the North-East under guise of security, development, archaeological research and conservation, and fails to recognise lack of progress over release of land held by the Sri Lankan Armed Forces in the last four years. It fails to take note of the fact that the occupational presence of the Sri Lankan Armed Forces in the Tamil speaking North-East particularly in the backdrop of no security sector reforms having been undertaken and where these very same armed forces are so pervasively accused of the gravest crimes known to international law.
6. We also pointed out our concern that the resolution gives credence to the Office of Missing Persons and the Office of Reparations. Both these institutions are flawed in their original design and purpose but have been further undermined by the present Government which appointed individuals who have a history of blocking efforts at accountability.
7. We also categorically stated that we refuse to accept the 13th amendment to Sri Lanka's present constitution even as a starting point to the resolution of the Tamil National Question. Given the repeated failures of successive Governments both during the war and post-war to meet the political aspirations of the Tamil nation, namely, the enactment of a new constitution that recognises Sri Lanka as pluri-national federal state comprising of the Sinhala Nation and the Tamil Nation, both sovereign in their own right and exercising each of its right to self determination. We further called for Tamil People as a Nation be given an opportunity to exercise its right to self-determination and freely determine its political status. The refusal of the 13th amendment is further underlined by the historic political rally took place on the 30th January, 2022 with the massive crowd rarely seen, since the MULLIVAAIKAAL Genocide in 2009, endorsing the KITTU POONGA DECLARATION that rejected the unitary State concept and the 13th amendment as not been even a starting point for negotiations and instead emphasizing the right to self-determination and the recognition of the Tamil Nationhood within a federal structure.

One year has lapsed since the passing of resolution 46/1 on Sri Lanka. In these 12 months, every single warning that we alluded to have been proved to be true. In addition, innocent Tamil political prisoners continue to languish in jail without charge and without trial, even after key ministers including the minister of Justice proclaiming that the law under which these prisoners have been detained under, The Prevention of Terrorism Act (PTA), is unjust and needs to be at the very least amended. The government has recently tabled an amendment to the PTA in parliament, however none of the amendments will result in any material change to the plight of any detainees under the law. Further, the proposed amendments make it absolutely clear that the Government is not at all serious in bringing Sri Lankan laws in line with international standards but are rather only interested in paying lip service to such standards conveniently timed to shield itself from criticisms that could emanate from the UNHRC sessions. We insist that the repeal of the PTA is the only sure way of preventing further grave injustices.



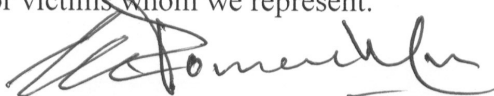
The land grabbing by the Government in the North and East to pursue its agenda of Sinhalization and Buddhisization of the Tamil Homeland has become far worse. The Government, through the Mahaveli Development Authority, Forest Department, Wildlife Department and Archaeology Department have accelerated their confiscation of lands under the various guises and is subsequently reallocating them for Sinhala colonisation schemes to change the demography of the area and make the Tamils a minority in their own Homeland.

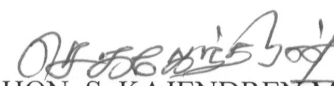
In the field of fishing, which forms the backbone of the Tamil people's economy, the Government, through the Navy encourages Sinhala fishermen from areas outside the North and East to fish in the North and East waters using illegal and banned methods. This practice has been further extended to fishermen from South India who are also allowed by the Navy to encroach into the North and East waters to the complete detriment of the local Tamil fishermen. The encroaching Indian fishermen have been destroying the fishing equipment of the local Tamil fishermen in the process. This policy of the government and the Navy is deliberately pauperising the local Tamil fishermen.

Development works that have been undertaken by the Government in the North and the East have also been used to further disadvantage the local Tamil population and instead provide strategic advantages to outside Sinhalese. The most striking example of this practice can be seen in the Myliddy Fisheries Harbour. The latter was developed in 2018 purportedly to improve the facilities provided to the local fishing population. However, since the development work has been partially completed, none of the local Tamil fishermen are allowed to anchor their boats in the Harbour and instead it is only used by Sinhala fishermen who don't belong to the North or the East but who encroach into such waters for a lucrative catch.

It is the lived 74 years collective experience of the Tamil people that any further delay in not taking steps to have Sri Lanka referred to the ICC and steps being taken to formally recognise the Tamils as a distinct Nation and its inalienable right to self-determination, will only further alienate the Tamil people from prospects of achieving accountability and a just political solution that upholds their rights under international law.

We hope that you pay attention to the position articulated in this letter and our previous letters. We wish to reiterate that resolution 46/1 cannot be sustained in the name of accountability and justice for victims whom we represent.


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