



General Assembly

Distr.: General
15 June 2021

English only

Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by African Development Association, 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.

[31 May 2021]

* Issued as received, in the language(s) of submission only.



The criminalisation of memory and history of Eelam Tamils in Sri Lanka

In 2015, the Sri Lankan government promised the international community that it would fulfil a number of measures and reforms to strengthen the transitional justice program. However, a majority of these promises remain unfulfilled to date. An obstacle that continues to prevent constructive transitional justice from materialising in Sri Lanka is the persistence of criminalisation or prohibition of the Eelam Tamils' freedom to remember the dead and assert their history.

Memory and History

Memory incorporates knowledge, beliefs, and emotions conveyed and received in social interaction, in processes of socialization, and in the cultural practices of a group. Memories are instrumental in giving a cultural identity to humans, and this context can be identified as a memory culture. It can be an imagined identity, similar to Benedict Anderson's idea of "imagined communities."

Eelam Tamils unite to remember their dead through a number of ways, in particular through the burying the dead, hanging the Tamil flag, and commemorating Hero's Day, also known as "Maveerar Naal" every 27th of November, and Mullivaikkal Day on 18 May. For them, these are not criminal acts; they are signs of civil resistance and basic acts of grief and trying to come to terms with what was a huge loss.

There are two narratives that are going on in Sri Lanka at the moment: one is that of the Sri Lankan government, where the dead are commemorated, and past is tamed through the re-inscription of memories. The other narrative is the Eelam Tamils', where any form of memory of the dead is associated with the glorification of terrorism. The Tamils are told that they should simply move on from the past.

Government of Sri Lanka

While ascribing a historical value to certain sites and thus archiving them in a nationalist memory discourse, the Sri Lankan state also started erecting memorial sites that have become major tourist attractions in the post-war milieu. Examples include the Puthukkudiyiruppu Victory Monument near the Nanthikadal lagoon where the LTTE leader met his demise. Other important examples are the Elephant Pass War Memorial and the Kilinochchi War Memorial. Public memorials sites are key to nationalizing memories.

As such, Sri Lanka's killing fields have become new revenue fields, fertile grounds for foreign investment, domestic development, and governmental support. In this nationalist task, the pre-war atrocities committed by the Sri Lankan Army, its military aggression, and its historical role in creating fissures within the Sinhalese and Tamil communities and endorsing violence levelled against Tamils are wilfully obfuscated and obliterated.

Yet, since the end of the bloody Sri Lankan armed struggle in 2009, the Government of Sri Lanka criminalises all acts of remembering the Tamil victims who had died and continues to censor any form of such memorialisation, whether on the island or on the internet.

Eelam Tamils

The Tamil people's demands for freedom to commemorate their dead and disappeared, wanting justice, wanting to identify where the bodies of their children have gone, wanting to sue the war criminals, wanting reparation in the UN –are basic demands or principles of transitional justice. In any country where there has been a genocide, for example, Rwanda, a country has to have a period of reconciliation, and that reconciliation cannot be based on the narrative of the victors of a conflict. For that, both sides need to have some kind of mutual respect, which is not possible under the same administration which oversaw the Mullivaikkal atrocities.

Before the defeat of the LTTE, there were cemeteries with headstones for LTTE members who had died and a lot of that is to do with the imagery that the dead are going back into the earth. Since 2009, thousands of tombstones dedicated to the memory of fallen LTTE cadres—thus an archive of memories of Tamil nationalism—has been turned to nothing but lands of debris. LTTE war cemetery in Kopai is a notable example, all the tombstones and graveyards had been bulldozed to the ground.

In January 2021, the authorities bulldozed one of the sculptures commemorating Mullaivaikkal at the Jaffna University. Although Mullaivaikkal is a place, for Eelam Tamils, it is a symbol for atrocity, because when the authorities said to civilians that they should remain in the allegedly safe No-fire zones, they were shelled.

The Sri Lankan government has proven repeatedly its failure to understand the collective trauma, that is the grief of the families of those who were trapped in the final weeks of the conflict, where around 300,000 ended up being cornered into a hellhole, known as Mullivaikkal and then massacred. The Sri Lankan authorities and the international community must understand why the banned Tamil commemoration events are not political acts but are at the heart of Eelam Tamils' identity.

The erasure of Tamil memory and history is a political issue, but also one of cultural genocide because it is all part of erasing the Tamil identity in terms of language, commemoration, culture, our own history. Cultural genocide is trying to destroy a people by taking away their history, their identity and their methods of collective organisation and expression in order to completely subsume them and marginalise them and negate their identity in terms of the prevailing state. It is all part of a very conscious plan which is the unity of the Sri Lankan state and, until everyone accepts Tamil people's right to commemorate the dead, in the way that they wish to and to have the symbols that they wish to have, they cannot move on.

In terms of reconciliation, there are thousands of people who await justice for their families who have been disappeared or have been murdered. Sri Lanka has the second-highest number of enforced disappearances in the world, with a backlog of between 60,000 and 100,000 disappearances since the late 1980s, according to last year's report by the United Nations Working Group on Enforced or Involuntary Disappearances.

Yet, as mentioned in the OISL Report 2015, Sri Lankan army officials are threatening mothers of the disappeared to sign and agree that the disappeared relative is dead. This is so that death certificates are handed to the grieving mothers and for the army to falsely claim to the UN that they did not kill the disappeared. How can the families of the disappeared take the case to the ICC if they do not have the names or at least, the identify of those who have taken the children away? There should be an attempt to permit all of these people to give as much information as possible.

In order to ensure basic reconciliation, the state has to let the grieved people mourn their dead and move on. For that to happen peacefully, the government must stop criminalising their attempts.

Recommendations

We propose some recommendations that need to be implemented by the UNHRC and the Sri Lankan government so that it can ensure reconciliation and uphold basic human rights promulgated in its own constitution and within international law:

- the Government of Sri Lanka should lift all bans on and remove Sri Lankan military presence at Tamil commemoration events, and thereby, permit Eelam Tamils to peacefully commemorate and grieve the losses of their relatives
- the UNHRC should appoint a Special Rapporteur to deal with Sri Lankan international human rights violations
- the Human Rights commissioner should appoint an independent panel to work on the enforced disappearance and should refer the matter to General Assembly.

- Council Members to have a new Resolution under Agenda 4 to appoint a special Rapporteur to monitor and investigate ongoing human rights violations and repression against the Tamil people.
- a) Monitor and investigate human rights violations, transmits urgent appeals and letters to Sri Lanka on alleged violations of human rights;
- b) Undertakes country visit to Sri Lanka and to the region and engage with relevant stakeholders;
- c) Submit reports to the General Assembly and Human Rights Council on the situation of human rights in the North and East of Sri Lanka; and
- d) Engages publicly on issues of concern, including through press releases.

Gouvernement en Exil du Tamil Eelam, GLOBAL TAMIL MOUVEMENT, Centre Bishop Rayappu Joseph pour la Justice et la paix, ASSOCIATION DES ANONYMES ET PERSÉCUTES DU GÉNOCIDE TAMOULE, NGO(s) without consultative status, also share the views expressed in this statement.