



# General Assembly

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## Human Rights Council

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

### **Written statement\* submitted by Association des étudiants tamouls de France, 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.

[22 August 2021]

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



## **International Investigation Into Sri Lanka's Enforced Disappearances Only Chance For Justice for Eelam Tamils victims of Genocide**

We take this opportunity requesting your strong initiatives to deal with the situation in Sri Lanka arising from the issue of enforced disappearances which until now remains fully unexposed and unremedied.

Sri Lanka has the second-highest number of enforced disappearances in the world, with an alleged backlog of between 90,000 and 110,000 disappearances since the late 1980s. Between 2005 and 2015, thousands of people, mostly Eelam Tamils, were forcibly disappeared in state custody. This took place at a time when the current president, Gotabaya Rajapaksa, was defence secretary and his brother, current Prime Minister Mahinda Rajapaksa, was president. To date, Sri Lanka's domestic processes have persistently and manifestly failed thousands of victims and their families, which has further fuelled the demand for an international inquiry by the United Nations.

"Available statistics confirms Sri Lanka holding a second rank in the world record for the war crime of enforced disappearance of persons from 1980 to 2010".[1999 - UN Study]

Disappearances were reported at Internally Displaced Persons" Camps, at surrender screening sites and among those who surrendered to Security Forces at the end of the war in May 2009.

Accurate details as to the number of displaced persons are still not available as they have so far not been collected and compiled by the State Authorities obviously for reasons best known to them. However, it is estimated to be more than 65,000. Human Rights Watch Org. concluded that Sri Lanka has an appalling record of enforced disappearances with more than 20,000 in the 1980s and 1990s." [HRW Report on February 02, 2010]

In this respect, the Mannar Bishop Reverend Rajappoo Joseph submitted to the LLRC Commission that 146,679 persons were unaccounted for following the final stages of war in 2009.

In June 2016, Chandrika Bandaranaike Kumaratunga, a former president of Sri Lanka and head of the government's Office on National Unity and Reconciliation, acknowledged having received at least 65,000 complaints of disappearances since 1995. Tamils suspected of links to the Liberation Tigers of Tamil Eelam (LTTE) were forcibly disappeared by police, military and paramilitary operatives during the armed conflict between 1983 and 2009, a pattern that continued for several years after the conflict ended.

Due to international outcry and local pressure coupled with public mass protests, Sri Lanka was constrained to appoint State Commissions to investigate into the disappearances chaired by Mr. Paranagama in 2013 and Mr. Udagama in 2006. It is to be noted that the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance in 2018 only prompted Sri Lanka to appoint the said commissions willy-nilly.

However, the Commissions functioned with the obvious stand of partiality acting and aiming to shield the perpetrators of the crimes committed by mostly Sri Lankan Security Forces from any liabilities under the judicial mechanism. Even the Office of the Missing Persons [OMP] appointed by the Government in 2016 functioned without any teeth of judicial empowerment and is now lying in a state of limbo.

The following statement of Campaigning for Peace and Justice on July 06, 2016 sums up the position "The Commissioners should not play any role in Sri Lanka's future due to its inaction and refusal to listen".

Families of people forcibly disappeared have persisted in their demands for information about their missing relatives for years. In 2019, the Office on the Missing Persons continued to oversee the carbon dating process for remains excavated from the site of a second mass grave in Mannar, in the Northern Province, and established regional offices in Matara, Mannar, and Jaffna, and issued a report which made recommendations for interim relief and justice.

In January 2020, President Gotabaya Rajapaksa, who was elected to office in November 2019, stated that “missing persons are actually dead”, without providing any basis for this broad-brush conclusion and which was condemned by victim groups, and families of the disappeared. The Sri Lankan government has an obligation to provide truth regarding the enforced disappearance, as outlined in the International Convention for the Protection of All Persons from Enforced Disappearance, which states that every victim – the disappeared person or any individual who has suffered harm as the direct result of an enforced disappearance, has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person.

The statement of mothers from disappeared who are continuing a sit-in-protest in hot sun, dust and rain for more than three years confirms the nil credibility of those Commissions who said “We do not want another Presidential Commission, we will never go to a Presidential Commission, we do not have any trust, we are fed up”. Sri Lanka's cavalier treatment and dismissal of the miseries and pleadings of the disappeared victims is nothing but a flagrant dismissal of accountability and justice which needs to be seriously addressed by the Human Rights Council.

Adding salt to the wounds of the affected victims, Foreign Minister Dinesh Gunawardene by his statement on 10th August 2021 has closed all the doors of justice for anyone raising this matter with the Government when he stated the following:- “We have reports that 100s of persons are not dead and all of the missing are living abroad. Their names are in the lists of persons who allegedly disappeared. It was not possible to trace the missing”.

Enforced disappearance is frequently used as a strategy to spread terror within society and is criminalised under article 7 of the Rome Statute as a crime against humanity. Under international law and standards, allegations of enforced disappearances and extrajudicial killings must be investigated, promptly, thoroughly and impartially. Those responsible must be brought to justice in fair trials, and the victims and their families are entitled to effective remedy and reparation.

In view of the above unbending stand of defiance, discarding and denial of accountability, justice and human rights by Sri Lanka coupled with its entrenched culture of impunity your Honor and your reputed Office carries the solemn duty and responsibility to pass a fitting Resolution to net Sri Lanka with appropriate measures to ensure the dispensation of justice and reparations to the victims. It is learnt that half-hearted efforts are underway in Sri Lanka to pacify the Human Rights Council, United Nations and the International Community which steps are nothing but piecemeal and hotchpotch bits and pieces like the last minute call for talks with Tamil leaders by the Government which as usual ended up as empty promises with nothing on the table.

On next 30th of August 2021, families of the disappeared marked more than 2100 days of protest, demanding an international investigation into the whereabouts of their loved ones. 98 parents of the disappeared have died since the protests began without knowing the fate of their loved ones. Numerous activist and rights organisations have appealed to the international community to refer Sri Lanka to the International Criminal Court (ICC) ahead of the last 46th UNHRC session in Geneva from 22 February to 23 March 2021.

However, Tamil MPs and rights groups have expressed discontent at yet another “disappointing” draft resolution from the Core-Group on Sri Lanka for UNHRC. Criticisms include its failure to acknowledge the recommendations outlined in the UN High Commissioner for Human Rights's report which called on member states to consider “asset freezes and travel bans” on Sri Lankan officials accused of human rights abuses and consider “steps towards the referral of the situation in Sri Lanka to the International Criminal Court”.

We are fully confident and hopeful your High Office with your timely efforts and precious contributions while standing firm against Sri Lanka will lead to the upholding of Accountability, Justice and Rule of Law.

## **Recommendations**

1. International Justice mechanisms should adopt a gender-sensitive approach, including to investigations, exhumations, truth seeking, and reparations.
2. Legislators should create a legal category that does not require the disappeared to be declared dead for their relatives to access benefits, such as inheriting the disappeared person's wealth and assets or allowing spouses to dissolve marriages.
3. Member States should assist beneficiaries in proving their relationship to the disappeared and securing identity documents required for accessing social security benefits, inheritance, and property title, and allow relatives to formalize new relationships.
4. Countries should assist and support victims on their road for Justice, financial support and also let Victims family members to work with international mechanism.
5. Working Group on Enforced or Involuntary Disappearances and Committee on Enforced Disappearances' members should work with Tamil victims' of enforced disappeared family who are totally ignored.
6. Reparations programs should recognize relatives of the disappeared as eligible, including by recognizing equality among all claimants who can prove dependency and violations inflicted during the search for disappeared loved ones.

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The Tamil Canadian Elders for Human Rights Organization, Centre Bishop Rayappu Joseph pour la Justice et la paix, Association Internationale Contre les Disparitions forcées, GLOBAL TAMIL MOUVEMENT, NGO(s) without consultative status, also share the views expressed in this statement.