



General Assembly

Distr.: General
25 February 2022

English only

Human Rights Council

Forty-ninth session

28 February–1 April 2022

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Written statement* submitted by ASSOCIATION CULTURELLE DES TAMOULS EN 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.

[7 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Eelam Tamil: Struggle For Truth And Justice For Enforced Disappearances

With a backlog of 120,000 to 130,000 alleged Enforced disappearances in Sri Lanka since the late 1980s, there is no shortage of examples of frustrated justice. Most Eelam Tamils know someone who has lost a family member to enforced disappearance. Sri Lankan authorities have failed to end enforced disappearances, and failed to undertake criminal investigations into complaints or identify the whereabouts or fate of the victim. They have failed to protect witnesses and families seeking truth and justice, and failed to prosecute perpetrators.

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. This number is very low because most Tamils victims of Enforced disappearances don't make any complain because of Military occupations and Military intimidations.

Tamils suspected of links to the Liberation Tigers of Tamil Eelam (LTTE) were forcibly disappeared massively by Sri Lankan genocidal police, military and paramilitary operatives in the course of the armed conflict between 1983 and 2009, a pattern that continued for several years after the conflict ended.

Human rights defenders, staff of humanitarian aid organizations, prominent community leaders, Tamil women, Tamil school girls also fell victim to disappearances by Sri Lankan security forces. Sri Lankan security forces used such as kidnappings and abductions of businessmen for the purpose of extorting ransom – Human Rights organizations has received reports from witnesses, families of victims and even former security personnel, which suggest that Sri Lankan authorities or officials were systematically involved in these violations against Eelam Tamils.

The Prevention of Terrorism Act (PTA) has contributed to the prevalence systematically of enforced disappearances of Eelam Tamils in Sri Lanka. It allows for extended administrative detention as well as incommunicado and secret detention, practices that dramatically increase risks to detainees. The failure of Sri Lankan authorities to guarantee those arrested access to legal counsel from the point of arrest and during interrogation has exacerbated the risk of abuse.

Institutionalization of enforced disappearance through the practice of arbitrarily detaining individuals, holding them incommunicado and restricting information about their fate and whereabouts, including civilians, surrendering LTTE and their family members – potentially triggers criminal responsibility under international law which would extend not only to individuals who committed prohibited acts but also to their military commanders and civilian superiors.

Enforced disappearance and abductions have varied in time, scale and intensity at various points before, during and since the end of Sri Lanka's armed conflict, but there is credible evidence that they have in some cases been widespread and systematic and thus, if proven in a court of law, may amount to crimes against humanity and crimes of Genocide.

Despite daunting obstacles, Eelam Tamils family members of the disappeared have persisted in their efforts to seek remedies for the harm they have endured. They have testified before Sri Lankan commissions of inquiry; they have filed habeas corpus petitions in court; they have participated in protests for over 1820 days, formed alliances with other victims, written letters to officials, submitted cases to the UN Special Procedures, and reached out to the media; some have even travelled to Geneva to make their case at the UN Human Rights Council.

The tireless calls of Tamil women who feature in this briefing, for truth, justice and reparations for their own families and for other families of the disappeared have pushed the Sri Lankan state to acknowledge the seriousness of their claims, and to take initial legislative steps to address them. But much remains to be done. None of them have received truth or justice, or indeed assistance from the authorities to navigate daily life without a much needed

breadwinner despite their very public struggles. And for each of the women featured in this briefing, there are countless others who continue to suffer in isolation and anonymity.

Still, the determined activism of families of the disappeared has had some results. In May 2016, Sri Lanka's Parliament ratified the International Convention for the Protection of All Persons from Enforced Disappearance. A bill to implement the Convention by criminalising enforced disappearance in the Sri Lankan Penal Code was tabled in parliament on 9 February 2017; it has yet to be debated. If enacted the law would be a positive step in holding perpetrators to account.

In August 2016 Sri Lankan Genocidal Government establishing the Office on Missing Persons was another eye wash of international community, Eelam Tamils who are victims of Genocide don't have any faith Sri Lankan domestic mechanisms and the failure to consult with victims and civil society and to address legitimate concerns that have been raised regarding the credibility's of Domestic mechanisms by the victims family.

These include an attempt to introduce legislation to limit access to counsel until after police record a detainee's statement, and draft legislation intended to replace the PTA that raises serious human rights concerns.

In January 2017, Sri Lanka's Consultation Task Force on Reconciliation Mechanisms released its comprehensive final report to the President. The Task force was mandated to conduct public consultations on the design of mechanisms to advance truth, justice, reparation and non-recurrence. It received over 7,000 submissions from throughout Sri Lanka, many of them from family members of the from south. Tamils from north and east refused to participate.

Tamils pointed to the need for witness protection and legal safeguards against arbitrary arrest and detention and other practices that increase the risk of enforced disappearances as high priorities, along effective reparation, including urgent interim measures to provide social, psychological and economic support for families of the disappeared, even as they emphasized their continuing struggle for truth and justice.

The detailed findings of the Task Force make clear that it is the victims of human rights violations, namely the family members seeking answers, who can best identify what they need and expect from these mechanisms, and what they require most urgently.

For last 4 years many of family of victims were forced to receive death certificate and also forced to sign document that they received reparation funds, instead they don't get any single rupees. And the same time they don't want reparation but they want to know what happened to their loves ones.

Preclude the application of amnesties, immunities and other measures of impunity to persons suspected of committing crimes under international law;

Formally acknowledge and prioritize the findings and recommendations of the Consultation Task Force;

Provide effective protection to persons who file complaints of enforced disappearance before the courts and the proposed mechanism, as well as to families of the disappeared person, witnesses and lawyers representing them ;

Repeal the Prevention of Terrorism Act (PTA) and end its use immediately; abolish Sri Lanka's system of administrative detention and ensure that any future legislation meant to replace the PTA meets international standards;

Release all individuals held under the PTA or other forms of arbitrary or secret detention unless they are charged with recognizable criminal offences and remanded in custody by an independent, regularly constituted court.

Remind the Government of Sri Lanka of its obligations towards the victims and their families as well as the international community and reconsider its position on unilaterally breaking the consensus in the Council bearing new resolution under Agenda 4 and name a country specific special rapporteur;

The referral of the situation in Sri Lanka to the International Criminal Court

To the Special rapporteurs and treaty bodies experts.

Please help us to ensure to human rights defenders in Sri Lanka to carry out their legitimate works in safe and enabling environment without fear of threats, acts of intimidation or reprisals to the witnesses and their families seeking truth and justice and not to failed to prosecute wrongdoers.

It is well known that the victims of Genocide in Sri Lanka are Tamils in the hands of Sinhala Government and its security Forces. However, the Victims of Genocide, War Crimes, and other Crimes against Humanity, naming words, Tamils has been consciously, omitted and never mentioned in any of the Resolutions of HRG and other UN reports.

We therefor request your to investigate this omission and to mention the appropriate word of "TAMILS (name of the ethnic group)" wherever it's needful.

To the 4th committee members of General Assembly

To recognize that Tamil Territories are not Governing by Tamils

We strongly recommend you to bring the resolution to the Right to Self-determination of Eelam Tamils through hearing of statements from Tamil elected representatives, petitioners and dispatches visiting missions.

And organise to monitoring the political, social, economic and educative situation in the Territories under Sri Lankan military occupation.

GLOBAL TAMIL MOUVEMENT, ASSOCIATION DES FEMMES SOLIDAIRES DU MONDE, NGO(s) without consultative status, also share the views expressed in this statement.