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## **Joint Stakeholders Submission for the Universal Periodic Review of Sri Lanka**

### **Submission by :**

In 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)  
Society for Development and Community Empowerment  
Association Burkinabé pour la Survie de l'Enfance  
Solidarité Internationale pour l'Afrique (SIA)  
Society for Development and Community Empowerment (SDCE)  
Association Mauritanienne Pour la Promotion du Droit  
Association Pour les Victimes du Monde  
Kenya Comunity Develepment Group KCDG  
Association Congolaise pour le Développement Agricole  
Association ABC TAMIL OLI (Seine-Sain-Denis)  
Association Culturelle des Tamouls en France (A.C.T.F.). (Paris)  
Association Jeunesse Etudiante Tamoule (J.E.T.). (93)  
Association Thendral (94470 Boissy-Saint-Léger)

#### NGOs With out ECOSOC Status

Association Internationale Contre les Disparitions forcées  
Gouvernement en Exil du Tamil Eelam  
ASSOCIATION DES ANONYMES ET PERSÉCUTES DU GÉNOCIDE TAMOULE  
ASSOCIATION DES FEMMES SOLIDAIRES DU MONDE  
Global Tamil Movement (France)  
Association Le Collectif La Paix au Sri Lanka (France)  
Association pour le Droit de l'Homme et le Développement Durable.(92700)  
Association internationale des Droits de l'Homme de Bourgogne. (AIDHB 58000)  
Association Mondiale des Droits de l'Homme (A.M.D.H) (Suisse).  
Association international des Droits de l'Homme (France)

**Related to:** Sri Lanka

**UPR Session:** 42<sup>nd</sup> session of UPR, January 2023

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### **SUMMARY**

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Sri Lanka accepted the vast majority of the recommendations following its UPR in 2012 and in 2017, but has failed to implement most of them. The international community accepted the full implementation of LLRC Action Plan and National Human Rights Action Plan (NHRAP) as welcoming steps towards addressing the grave human rights violations during the war and post war period, despite Eelam Tamils continue to suffering from Sri Lankan Military occupation of Tamils Land.

Although it's been Thirteen years since the war ended in 2009, still the scars of the three decade old war is very much alive.

The year 2009 saw the conclusion of a 30-year long civil conflict which resulted in a legacy of human rights abuses. A comprehensive account of serious violations and abuses of human rights and related crimes covering the period from 21 February 2002 to 15 November 2011 was released in September 2015, following the OHCHR Investigation on Sri Lanka which was mandated by the Human Rights Council in March 2014.<sup>1</sup>

This report was released in the context of a changing political climate in Sri Lanka, following the presidential election of Maithripala Sirisena in January 2015, a transition further consolidated following parliamentary elections later that year. Following the publication of the aforementioned report and as part of an ambitious reform agenda, the Government of Sri Lanka (GoSL) co-sponsored resolution 30/1 at the UN Human Rights Council in September 2015 mandating reconciliation and transitional justice mechanisms.

At present Sri Lanka is undergoing a process of transitional justice, with the GoSL pledging to implement four mechanisms to facilitate transition; namely, an Office of Missing persons; an office for reparations; a special judicial mechanism; and a commission on truth, justice, reconciliation and non-recurrence. Nevertheless, an effective implementation of these mechanisms is yet to be realized as the entire process is currently in its primary stages, which has meant that little or no change has been felt by war-affected communities in the North and East of the country.

Since the government has failed to fully implement any of the pledged promises of the Resolution 30/1 cosponsored by the GoSL at the 30<sup>th</sup> Sessions UN Human Rights Council in 2015, within given period of 18 months; the period of implementation was extended to another two years at the 34<sup>th</sup> Session of the UNHRC in March 2017. Tamil civil society, human rights activists and affected communities vehemently opposed the extension of duration as the past experiences as well as the current statements put out by the President, Prime Minister and other government ministers only proves that justice will not be served to the victims of war crimes and

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crimes against humanity.<sup>ii</sup> Many deem such heinous crimes committed by the State security forces within a short span of six months as genocide.

The Office of the Missing Persons (OMP) which was rushed through Parliament does not consist of a judicial mechanism and it lacks authority to carry out investigations. Right to Information Act will not be applicable when it comes to OMP and therefore, the reason for the formation of such a weak office is to ensure protection of the security forces. This has been clearly stated in the FAQs on OMP of the Secretariat for Coordinating Reconciliation Mechanisms' official website.<sup>iii</sup>

There is reliable information that steps are being taken to repeal the PTA with a proposed Counter Terrorism bill which is deemed as even more severe is yet to be publicly shared. Human rights groups noted that the new piece of law, if adopted, could give the government an opportunity to crush any dissent and any opposition by labelling it as 'terrorism'.<sup>iv</sup>

Therefore, such moves by the State only proves that the draconian legislations such as PTA and ER is very much alive despite assurances given by the government to the international community stating that the PTA is no more in operation.<sup>v</sup>

Apart from the above, there's no steps being taken to resolve the internal displacement of the Tamil communities in the North and East or release the residential and cultivation lands taken over by the military. The GoSL has shown no concern over the heavy military presence in the North and East and therefore, the affected communities continue to suffer.

### **Security of Tamil women and Militarization in the North East**

Tamil Women's rights and security continues to deteriorate in Sri Lanka, especially in the North and East and a culture of impunity has been entrenched within the State structure. The war created a climate of insecurity, which was attributable in part to decades of militarization and the resulting breakdown of democratic norms and the rule of law.

It has been 13 years since the end of the genocide war in Sri Lanka but justice is still not done for the Eelam Tamils who were brutally killed and disappeared enforceability in the north and east part of Sri Lanka. Tamil Elderly mothers, Tamil mothers of children, Tamil young children and vulnerable women are facing various unspeakable sufferings. They face day to day interrogations and detentions by the government intelligence officers.

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Numerous studies have shown that war-torn countries around the world often find that after the end of the war drug use is implicitly imposed on the community, forcing young people to become addicted to drugs without allowing them to think positively. Such activities are being carried out in the North East with the support of the Government of Sri Lanka.

“As a result, 88,000 female-headed households in the Tamil homeland have been severely affected,” said Vasuki, a social worker. Before the war, women who were somehow dependent on men were forced to lose their working fathers, husbands and brothers. On the other hand, women with disabilities without a male partner are left to seek help even for basic necessities without any government assistance. Women led joint families are forced into a continuing dilemma of working beyond their means for basic needs such as education and food in an environment where they are enduring all this and focusing on a good life for their descendants.

Drugs are being smuggled in indirectly by the Sri Lankan government among university students and youth. The military and police are heavily involved in drug trafficking. The women who take care of all the work for the family have no time to save their children from drug addictions, no money, no security and no help at all. That is why female-led families in the North East are living in almost absolute poverty. They have been living in a state of struggle since the war.

Data shows that more and more men living in a housing scheme in the village of Navarkuli in Jaffna are addicted to drugs. Coping with the affected men and their families is a huge challenge for women.

There was a young female-led family at the very poverty line affected by the war. The woman's husband is a drug addict who is always at the police station because of his addiction. He was addicted to heroin and had no money to buy the drugs.

He tied his two children with rope and dropped them in a well in order to get money for his wife to buy drugs. He didn't know what he was doing because of extreme intoxication. In another situation, a young man who lived on his elderly mother's pension (which was their only income) drunk acid instead of alcohol. This was because he was so overly addicted - he didn't have enough money at the time - that he wanted to take an alternative, drinking acid, in spite of it being highly dangerous. Sadly, he soon died. Women have no choice whether to work for basic needs or help their men to overcome form drug addiction or to bail them out of the police station. They have no choice but to left with extreme depression of being forced to beg for their daily expenses. Women are yet despite trying to reform their family men in the area, the men are still unable to get out of that addiction without any government and not much assistance. There are only a few rehabilitation centres in the North-

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East.

A boy who has been using drugs since the age of nine is now 12 and has been completely addicted to using it continuously for three years. He was chained together to avoid escaping and prevent from committing suicide in a female-led rehabilitation centre. The boy escaped and went back to where he got the drugs. The woman who manages the charity finds it difficult to rehabilitate hundreds of youngsters like that boy without proper help and support.

Women in leadership positions like her face the great challenge of continuing their service without any financial assistance as the government does not regard Tamils as its own nationals. A member of the Jaffna Nallur Municipal Council, a teacher and a leader of the women wing of a political party, a social worker, said that only with sufficient financial resources would it be possible to rescue the young generation trapped in such a planned cultural genocide and rehabilitate the drug-addicted community.

Similarly, in a report studying the experiences of Tamil women in the post-war period, it was discovered that many women who leave the home for income generating activities or, even basic daily activities, routinely face sexual harassment and abuse, in part due to the pervasive military presence. They elaborated that the reduction in women's agency following the disappearance of the LTTE, which categorically prohibited sexual and gender-based violence against women, put women at a higher risk of sexual and gender-based violence both by security forces as well as within the community. This has in turn fuelled extreme insecurity amongst women, increased rates of teenage marriage and pregnancy, and escalated coerced and opportunistic transactional sex work. Reports of violence and harassment against women have been levelled against security forces on a consistent basis. Within the community, reports suggest that men face increased economic and social disempowerment as a result of a highly militarized and controlled environment. Many men resort to alcohol to deal with their frustration, which compounds the problem of rampant sexual and gender-based violence against women within the communities. Additionally, the breakdown in social networks of some men, particularly those who were held in detention for long periods of time, has contributed to their propensity to engage in intra-community sexual and gender-based violence.<sup>vi</sup>

Following her visit to Sri Lanka, Rita Izsák-Ndiaye, UN Special Rapporteur on minority issues, stated that the Tamil women in the North and East continue to suffer from the scars of the conflict, either as war widows, families of the disappeared, or as former combatants. The number of female-headed households is high, and it comes with particular vulnerabilities and social stigma which makes

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basic survival difficult and renders them exposed to further exploitation. There is a dire need for targeted psychosocial assistance for these women, as well as ensuring that their voices are systematically heard and reflected justice process. Women who are displaced also face particular challenges. She added that the war affected communities in the northern and eastern parts of the country, where majority of the Tamils are concerned highly about militarization, release of prisoners and issues of land return frequently and prominently featured.<sup>vii</sup>

Military involvement in economic activities and trade have reduced the opportunities for income and employment of war affected communities in the North and East, which includes construction work cultivation and trade.

In the current context too people continue to fear military presence and it is negatively felt in many spheres of life, often affecting their livelihood. Worrying allegations of intimidation and harassment were also have been recorded. With the Army's ethnic make-up being almost entirely Sinhalese, and its disproportionately heavy presence in the Northern province, the military is seen as an occupational force, which is believed to continue stigmatizing the Tamils as militants.

UN Rapporteur for Minority Issues also stated that while a proper mapping exercise takes place of all the lands currently occupied by the military, lands currently not in use or whose use cannot be adequately justified for military purposes must be returned without delay to their rightful owners in a condition that is usable.<sup>viii</sup>

Protracted displacement has also led to many conflicts, including between and within minority groups, also due to tensions between host communities and those displaced. Steps must be taken to address and resolve these conflicts.

Following are some of the issues in detail:

### **Gender based violence and sexual crimes against Eelam Tamil Women**

There has been a significant increase in violence against women and children in war affected areas in the North and East. School children, especially female children are unable to return home safely without facing various forms of sexual harassments. According to the Police Report released in 2015, a total of 135 female children under the age of 16 were sexually abused in the North and East. <sup>ix</sup>Incidents of women being attacked and murdered are increasing. An expecting young mother of seven months was raped and murdered in the Jaffna district at beginning of this year.<sup>x</sup> Reasons for such increase in sexual crimes is the absence of law and order, failure by the police to take action to produce the perpetrator before the court and lack of protection for victims and witnesses. In addition, unavailability of State sponsored safe houses for women in the in the North and East and lack of documentation and

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data on incidents of gender based violence and sexual crimes in order to raise wider awareness are also contributing factors for such increase. Although Sri Lanka has ratified CEDAW, no action has been taken to propose a draft legislation in line with its international obligations. Therefore, the State must draft a legislation comprising CEDAW General Recommendation 19 and Resolution 1325 in order to eliminate violence against women.

It is noteworthy here that the government, which has set up drug control centres and special administrators for them in areas where the majority sinhala population lives and has not made any arrangements in the Tamil homeland, as drug supply and its usage are very high in north and east part of country overall, despite that fact, Tamil families in the North East do not want to send their family members to Sinhala areas to rehabilitate them due to racism.

The charity organisations are only able to provide limited care without adequate care facilities, safety equipment and technical facilities for the affected families and treatment for drug-addicted children and adolescents. So women who work in public office and NGO's like Vasuki could do more to the society if they get substantial financial help.

Recently, the Governor of the Northern Province, Jeevan Thiyakarajah, made a highly reprehensible remark about the female-headed families living in the suburbs of Jaffna peninsula. He said that women are engaging in illegal activities to overcome from poverty of their family. There were huge backlash in the northern medias over his comment. The tragedies caused by the war and the recent corona epidemic have completely devastated the lives of many women, widows and women-led families who are economically and educationally behind for their livelihoods, in the war torn Northeast. Sharing such opinions in the media by a senior government official who does not take any actions to solve these kind of problems will fuel further harassment on women. This is just an example of how the Srilankan government treats Tamils as lower class citizens.

The courage and determination of the women who are protesting every day demanding justice and release of kidnapped their parents, children should be spoken of here. Many women have lost their lives while struggling to find their loved ones amidst threats from Sri Lankan intelligent officers. Their fight against the Srilankan government and the paramilitary's enforced disappearances continue without any financial support from anyone to manage their family lives and the fight for justice. Women are at the forefront of fight against enforced disappearances in eight districts in northern and eastern Sri Lanka. In the midst of the intervention of the military, police and military intelligence officers to bring justice to themselves and their community by standing for them. In the North and East, there are very few

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public voluntary organisations to help such people. Therefore, research should be done to identify those who are economically struggling and to help them directly by providing them with permanent income earning career opportunities to strengthen their morals.

Due to the coronavirus pandemic, the government decided to make all studies virtual. Not every family had a device or even internet connection or could not afford to buy the devices. This meant that not all children received an equal education. Because of this some students are behind in studies after and during the pandemic. Unfortunately, most of the inadequate studies were in places where people are in poverty. The government did not take any action despite knowing about the situation. Even if there are enough technical equipment, there are also voluntary teachers who want to step forward to come to teach the students through online learning in rural areas. Any seminars or educational courses such as life skills and women empowerment are only available in the cities. If we are able to bring the learning and education into rural areas like villages small towns, we can empower many girls and women who are thought not to be significant in society.

Resettlement is not carried out fully in the North and East and Military occupation  
Resettlement has not taken place fully in military occupied areas. Areas such as Keppapilavu, Mullikulam is fully occupied by the military and the people of the said areas have been resettled in so called development villages in forest areas. Movements of security forces and intelligence have increased in the said areas. Similarly, the people who were resettled in areas like Valavai and Mavittapuram of the Vallikamam North are living amidst military camps. Nearly 100 families who were living in temporary shelters in Jaffna were resettled in a different area called Nallinakapuram (Reconciliation Village) created by the military. There's heavy military presence in the area. A total of 4835 persons of 1224 families are living in temporary camps in the Jaffna district. A further total of 28,492 persons of 7123 families are living with friends and relatives. The Navy refused permission for 184 families of Iranatheevu Island in Kilinochchi to resettle in their land. Apart from the above there are hundreds of acres of private and public land which is under the control of the military. The military has taken over 39 acres of private land belonging to 23 persons in Neduntheevu. Further, in the same area they have taken over 05 acres of land belonging to government departments and public and also occupied 20 building belonging to government organizations and public. There are 12 fresh water wells in the Sarapiddy area and the Navy alone is utilizing these wells. 72,000 liters of water is being used for their consumption as they draw water 6 times per day in a bowser that holds 12,000 liters.



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The residential and agricultural lands must be returned to their rightful owners without any further delay and compensation must be paid to the people who have suffered long. Security forces utilizing water resources that belong to the public too must be stopped immediately.

### Militarization

Military presence can be seen and felt in the people's daily lives in the North and East. The military interference in economic activities, educational activities, cultural events, family events has become a common occurrence.<sup>xi</sup> The military runs a total of 22 business centres in the Mannar district. The State contracts for infrastructure work in the North and East are being taken by the forces and they involved such construction work. As a result local construction workers, contractors and the local governments too are affected. A total of 588 preschool teachers are receiving their salaries from the Civil Security Forces under the Military. Militarization not only affects daily lives of the people but also it's a hindrance to their independence. Therefore, we emphasize the importance of demilitarization.

Given the above facts, CHRD sees that the Government of Sri Lanka has no intention of releasing occupied lands in the North and East anytime soon. Therefore, based on the Vienna Declaration as well as Durban Declaration and Programme of Action and also having observed that successive Governments have failed to abide by the Geneva Convention and other applicable norms of humanitarian law; Tamil civil society and affected communities feel the only lasting solution to this prolonging issue would be that the relevant agencies within the UN system must call on the Government of Sri Lanka to let the Tamil people of the island to exercise its inalienable right to self-determination.

### **RECOMMENDATIONS**

- Take immediate measures to demilitarize North and East and hand over lands (occupied by the military for over 35 years) to their rightful owners without any further delay. Also the Tamil people of the North East must be given access to their residential and agricultural lands to engage in economic and livelihood activities
- The government of Sri Lanka must draft a legislation comprising CEDAW General Recommendation 19 and Resolution 1325 which stress on the elimination of violence against women.
- Continue the gradual release to the civilian populations of the remaining large acres of land currently held by the military in the Northern and Eastern

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province.

- Continue and step up psychosocial assistance programs to victims of the conflict according to their needs.
- Human Rights Council Members to pass a resolution recognizing Tamil Genocide by Sri Lankan unitary State and to recognize Tamil Rights to Self-determination.
- Human Rights Council Members to support a request to the United Nations Security Council to carry out an investigation into the Genocide and the war crimes and crimes against humanity perpetrated during the final phase of the war between the Sri Lankan Armed Forces and the LTTE, and during the aftermath of the conflict.
- The Human Rights council members who were the sponsors of the Resolutions on Sri Lanka for past 13 years, to take the initiative to propose a second resolution under Agenda 4 of the Human Rights Council, to appoint a special rapporteur to monitor and investigate into human rights abuses and the ongoing crackdown against the Tamil nation:
  - a. to monitor and investigate human rights violations, forward urgent appeals and letters to Sri Lanka on alleged human rights violations;
  - b. to undertake a country visit to the Sri Lanka North region to engage with relevant stakeholders;
  - c. to submit reports to the General Assembly and the Human Rights Council on the human rights situation in the north and east of Sri Lanka
  - d. to engages publicly on issues of concern, including press releases.
- We need a special session at the Human Rights Council on Sri Lanka to refer Sri Lanka to the International Criminal Court by the Security Council.
- We ask Human Rights council members to create a commission of inquiry on the violations against Eelam Tamils by occupying Sri Lankan security forces.
- Strengthening Human rights Council member states' support to Tamil Human Rights Defenders (HRDs) and Tamil Victims in North and East of Sri Lanka, through supporting Tamil HRDs', encouraging their participation into international human rights mechanisms by backing them financially and assisting them technically.
- Recognize the genocide resolution passed unanimously in the Northern Provincial Council of Sri Lanka on 10th February in 2015.

To the 4th committee members of General Assembly

- To recognize that Tamil Territories are not Governing by Tamils

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<sup>i</sup> <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>

<sup>ii</sup> <http://www.thesundayleader.lk/2017/01/22/international-judges-dilemma-ctf-report-and-political-stance/>

<sup>iii</sup> OMP: the Facts, <http://www.scrm.gov.lk/faq-omp>

<sup>iv</sup> <http://www.thesundayleader.lk/2016/11/13/alarm-bells-ring-over-proposed-counter-terrorism-act/>

<sup>v</sup> SRI LANKA: PTA NO LONGER OPERATIONAL- SCRM CHIEF MANO TITTAWELLA. <http://srilankabrief.org/2017/03/sri-lanka-pta-no-longer-operational-scrm-chief-mano-tittawella/>

<sup>vi</sup> Tamil Women in Post-War Sri Lanka, *supra* note 14, at 5. See, e.g., Our Struggles, Our Stories, *supra* note 23, at 43-64. Tamil Women in Post-War Sri Lanka, *supra* note 14, at 2.

<sup>vii</sup> <https://lk.one.un.org/news/full-statement-by-rita-izsak-ndiaye-un-special-rapporteur-on-minority-issues-at-the-conclusion-of-her-official-visit/>

<sup>viii</sup> Full Statement by Rita Izsák-Ndiaye, UN Special Rapporteur on minority issues, at the conclusion of her official visit to Sri Lanka

<sup>ix</sup> Distribution of Grave Crime Abstract for the Year (2015) by police Division, Sri-Lanka Police,

[http://www.police.lk/images/others/crime\\_trends/2015/distribution\\_of\\_grave\\_crime\\_abstract\\_for\\_the\\_year\\_2015.pdf](http://www.police.lk/images/others/crime_trends/2015/distribution_of_grave_crime_abstract_for_the_year_2015.pdf)

(the total was calculated by the reporters)

<sup>x</sup> Pregnant woman found dead in Kayts, Times Online, 24 January 2017,

<http://www.sundaytimes.lk/article/1015698/pregnant-woman-found-dead-in-kayts>

<sup>xi</sup> Civil Military Coordination Jaffna, <http://www.cimicjaffna.com/cimicnewsmenuMain.php>