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Stakeholders Submission for the Universal Periodic Review of Sri Lanka

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"La révolution se fait grâce à l'homme, mais l'homme doit forger jour après jour son esprit révolutionnaire." [Ernesto Che Guevara]

Thousands mobilize in Ezhuka Thamizh in Batticaloa, denounce genocidal 'Sri Lanka'

Thousands of Tamils mobilized in Batticaloa on Friday denouncing the unitary State model of genocidal Sri Lanka currently being envisaged in the constitutional proposals in the South. The SL regime in Colombo has discarded the proposals submitted in open and transparent manner by the Tamils in the North-East, the organizers of the event, Tamil People's Council, said. The entire constitutional process has become a secretive discourse while the notorious Prevention of Terrorism Act is used to muffle the freedom of expression of Eezham Tamils in the North and East, the speakers, including Justice C.V. Wigneswaran, said in their speeches. There should be full-scale demilitarization. The 6th Amendment to the SL Constitution and the draconian PTA should be scrapped for a free and fair constitutional process to take place in the North-East.

Only a transparent process respecting the right to self-determination and the distinct sovereignty of Eezham Tamils and international investigations on crimes that have taken place in the island could ensure a positive future to all the nations and communities in the island, the organizers said.

The event was organized by the TPC, which is a diverse forum across the political parties, professionals, academics and civil society activists. At least 5,000 Tamils took part in the event. The TPC has however failed to win Tamil-speaking Muslim participation in the uprising.

Citing the failure on the part of the SL State and its international backers on delivering international investigations on Tamil genocide, crimes against humanity and war crimes in the island, the uprising named Ezhuka Thamizh, reminded the responsibility of the international community in course correcting the genocidal character of the SL State.

The unitary character of SL constitution will only uphold the genocidal character of the SL State, the organizers said. The talk of 'federal character' is therefore meaningless without a genuine and transparent process on the main equation to the national question, the organizers told urging Tamils across the world to edify the global community.

The uprising has received the backing of grassroots organizations in the district, particularly from the coastal and interior areas of the district.

Delegates from Trincomalee and Ampaa'rai districts also took part in the uprising joining hands with Northern Provincial Council Chief Minister Justice C.V. Wigneswaran, Tamil National Peoples' Front led by Gajendrakumar Ponnambalam, the EPRLF led by Suresh Premachandran and the PLOTE led by Tharmalingam Sidharthan. The appearance of Batticaloa District TNA Parliamentarian S. Viyalendran on the stage sent a sharp message to fellow TNA parliamentarians from the district.

The Ezhuka Thamizh people uprising is the last chance to exert a pungent pressure on the Government for the delivery of Justice regarding people made to disappear, MPC Ananth Sasitharan has called all people to join in the Ezhuka Thamizh, the people's uprising.

In its list of demands, the 'Eluga Thamizh' (Tamils Arise!) rally in Jaffna, Sri Lanka, on Sept 24 included phrases that form the bedrock of Tamil nationalism – 'Tamil nation, sovereignty and the 'right to self-determination.'

This is because the Sri Lanka government and Tamil politicians supporting the regime are deemed ineffective in preventing the Tamils' political power base from eroding, and supporters of the rally believe that nationalism is the bulwark against such attrition.

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The rally was called by the 'Tamil Peoples' Council (TPC), a loose coalition of political parties, civil society organisations and religious bodies co-chaired by the chief minister of the Tamil-majority Northern Provincial Council (NPC) C. V. Wigneswaran.

“Elected representatives cannot deliver the goods unless backed by a peoples’ movement,” Wigneswaran, explaining the purpose of Eluga Thamil. The circumstances that gave rise to Eluga Thamil echoes events in the 1970s. In 1972, Sri Lanka’s Parliament, sitting as a constituent assembly, was debating a new Constitution. The Tamils, who are the minority in Sri Lanka, put forward demands for a Federal Constitution to share power with the majority Sinhalese. The Sinhalese, however, favoured a unitary state that concentrated political power in a central Parliament.

Even after 8 years from the end of the war, Tamil people are not in receipt of proper Justice with regard to, people made disappear, surrendered and the political prisoners. Disappeared's family members are attending courts with regard to people who disappeared and people made to disappear, but there is no any solution from the locale mechanism.

You may be aware of the Fast undertaken by the relatives of those who are Missing and those Political Prisoners in incarceration opposite Vavuniya Police Station. For more than 5 days they have not consumed any water let alone food. Many are quite old had looking for their relatives.

On earlier occasions too I had written on behalf of fasting persons and Your Excellency was pleased to take steps in that regard though nothing concrete came about in the long run.

Current Sri Lankan Government came into power inter alia with the goodwill and franchise of Tamil people. There were considerable expectation when Maithiri Sirisena was elected as President. Generally his Government opined that the PTA must be withdrawn, that Political Prisoners must be given an Amnesty, that immediate steps must be taken to inquire into the fate of Missing persons and so on.

The Office of Missing Persons is presently only in name. It has no teeth. Even if it starts functioning in earnest the Panel of Inquirers cannot take effective steps against Military suspects. They need to forward their views to the Courts, consequently resulting in heavy delay. Many peoples are waiting for a Justice.

Following the presidential and parliamentary elections in 2015, a national unity government was cobbled together, pledging to work according to principles of good governance. Although in the opposition, the Tamil National Alliance (TNA), the largest Tamil parliamentary party, provides the regime support, especially on matters of national reconciliation.

Good governance, however, has not delivered nothing to Tamils, either in protecting their rights or ensuring security. Sections of the Tamil population that believe this is due to the eroding power base of the Tamils were an important element that called for Eluga Thamil.

One of many weapons wielded by successive governments in Sri Lanka to diminish the Tamil political power base has been changing demographics in the Tamil-dominated Northern Province, where Tamils are 88 percent, and in the Eastern Province, where Tamils and Tamil-speaking Muslims are a majority.

Changing demographics were underway by the 1950s, principally through the state-sponsored settlement of Sinhalese – known as colonisation schemes – in areas where Tamils were the numerical majority. It was believed that Sinhala settlers would vote to ensure fewer Tamil legislators would be elected from these areas, thereby reducing Tamil representation in Parliament. It would also give local government control to Sinhalese. Moreover, large pockets of Sinhalese could threaten the physical security of Tamils through riots and pogroms. This strategy continues even today.

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Demographic changes through settlements have been compounded by two other projects. One is using the almost exclusively ethnic Sinhala military to undermine civic life in the Tamil areas. This is by the military holding large areas of land both private and public. Although some land is being returned to Tamils, it is at a much slower rate than desired.

The second strategy is for the military to own businesses, ranging from wayside kiosks to hotels in Jaffna. This has led to frequent complaints by Tamil entrepreneurs that they face unfair competition. Further, militarisation has disempowered civilians from taking charge of their lives.

Holding on to land and running businesses within a militarised environment has led to the continuation of an unstable society with large numbers of internally displaced persons (IDPs) and an unsure future for entrepreneurs who want to invest in the North. These conditions make populations politically apathetic, as well as serves as an important push factor for outward migration. This, in turn, negatively affects the Tamil political power base.

This is why Tamils feel they are not in control of their politics and asserted the right to self-determination at the Eluga Tamil rally.

The Eluga Tamil rally challenged 'Buddhisisation' by emphasising the 'Tamil nation'. Nationalism is certainly controversial, but a mass of people live in northern Sri Lanka are bound by ties of language, culture and shared history. That doesn't deny differences exist within Tamil society based on caste hierarchies, religious differences and patriarchy. But faced with attacks on social coherence by the introduction of cultural symbols they disapprove, Tamils have turned to nationalism as a bulwark.

As in the 1970s, Tamils believe that a way to minimise adverse changes in demographics, social coherence and insecurity is through a Federal Constitution where at least a modicum of control could be retained by Tamils in the North and East with Tamil-speaking Muslims by sharing power.

Recommendations

- a. Sri Lanka should ensure that all religious denominations which act in a lawful and peaceful manner are granted equal treatment under the law, and should ensure that all citizens are able to enjoy the right to FORB irrespective of their religious affiliation
- b. Sri Lanka should either set out through legislation a clear framework for the construction of places of worship and the conduct of religious activities, which robustly enshrines the equal treatment of all religious communities, or it should withdraw the 2008 and 2011 circulars and notify local officials accordingly.
- c. Sri Lanka should desist from introducing restrictions on conversion, the propagation of religion, or any other aspect of the right to FORB, whether in the announced package of measures for the protection of Buddhism or in any other form.
- d. Sri Lanka should establish a statutory inter-religious council with representation from all religious communities, with a remit to investigate complaints against particular religious activities, to promote inter-religious harmony, and to make recommendations to the government.
- e. Sri Lanka should issue a standing invitation to all Special Procedures mandates, including accepting all outstanding requests from Special Procedures.
- f. Sri Lanka should make a strong and concerted effort to end abductions or forcible disappearances, to ensure that perpetrators are brought to justice, and to foster a climate free from fear and conducive to open debate.
- g. Sri Lanka should take significant steps to bring an end to the climate of impunity within the state.

- h. Sri Lanka should ensure the swift and thorough rehabilitation of all IDPs still without proper homes, allocate land in a manner that is fair and equitable, and ensure the access of all IDPs to a livelihood.
- i. Sri Lanka should ensure that the process of promoting national reconciliation should take into account how to protect Sri Lanka's ethnic and religious pluralism.
- j. Sri Lanka should ensure that all religious denominations which act in a lawful and peaceful manner are granted equal treatment under the law.
- k. Sri Lanka should ensure that the perpetrators of all acts of targeted violence against religious communities are brought to justice, and should be commended for training police officers about protecting the right to FORB.
- l. Sri Lanka should ensure that representatives of Muslim communities in the Eastern Province are included in post-war settlement discussions which pertain to these communities.
- m. Sri Lanka should provide for children belonging to minority religions to receive religious education from volunteer teachers or local places of worship, and should foster an environment in schools whereby children belonging to minority religions are treated equally and fairly.
- n. To include the High Commissioner for Human Rights to allow international monitoring of the human rights situation and for the establishment of a field office of the OHCHR in Sri Lanka
- o. Urge the GoSL to stop ongoing state sponsored colonization and militarization and seek strong clarification on the matter as it's hardening the steps to start genuine reconciliation process.
- p. Take adequate measures to establish an international independent investigation mechanism.
- q. Request to provide a comprehensive list of detainees with names, places of detention and charges against them. Request to provide access to detainees by their families, legal counsel and other statutory bodies and individuals. Demand for an immediate fair, transparent and due process for all political prisoners.
- r. To allow for an impartial international investigation on crimes committed by the Sri Lankan government as well as by other parties.
- s. Demand to demilitarize Tamil areas, remove high security zones and to stop immediately government sponsored colonization schemes. To stop the military from interfering with civil matters or heading civil administrations.
- t. Request to facilitate and ensure that people who want to return to their native places are able to do so. Provide compensation, rehabilitation and long term sustainable development opportunities for all affected people.
- u. To provide Northern and Eastern people self-governance mechanisms, language rights, land rights and all other political, human and cultural rights.
- v. Allow for full scope of freedom of the press, freedom of expression and bring to justice the perpetrators of violence against journalists.
- w. Accept the establishment of OHCHR office in North and East of Sri Lanka with monitoring and investigative powers in Sri Lanka.