

# தமிழ் சிவில் சமூக அமையம் Tamil Civil Society Forum

---

Vavuniya  
01 March 2021

Heads of Missions in Geneva  
Core Group on Sri Lanka

Your Excellencies,

## **Zero Draft of the Resolution on Sri Lanka to be tabled at the forthcoming 46<sup>th</sup> session of the UNHRC**

We refer to our joint letter, of which we were a signatory, dated 15 January 2021.

We have perused the zero draft of the resolution proposed by the core group released on 19 February 2021.

We are disappointed with the resolution in that it does not even meet the basic expectations of the Tamil victims in relation to international accountability for grave violations of international humanitarian law and human rights law.

This letter is not intended to provide a response on each of the preambular and operative paragraphs of the zero draft. The resolution's framing of issues is highly problematic and fails to locate them in the political context accurately. For the sake of brevity, we respond to three key areas given their significance: accountability, militarisation and arriving at a political solution.

1. Operative Paragraph 6 of the zero draft of the resolution stagnates accountability at the UNHRC in Geneva. It in effect gives further time to Sri Lanka by calling for the mere "strengthening" of the Office of the High Commissioner on Human Rights to consolidate, preserve and analyse evidence in relation to the violations that took place and to explore "strategies for accountability". There is no new mandate that is being set up by OP6 and it comes nowhere close to the International Independent Mechanism for Myanmar (IIMM) created by the UNHRC or the International Independent Impartial Mechanism for Syria (IIIM) created by the UN General Assembly. The High Commissioner has been asked to report back to the Council on these measures at the 51st session, 18 months after the passage of the proposed resolution - during which the victims will be further alienated from any real prospects for justice and accountability.

2. As we indicated in our letter dated 15 January 2021, as highlighted by the OHCHR in its January 2021 report and by the joint letter issued by former UN officials and independent experts including two former UN High Commissioners for Human Rights, we reiterate that the core group which includes two members of the UN Security Council must initiate steps to table a resolution in the UN Security Council (UNSC) to refer Sri Lanka to the International Criminal Court to inquire into all crimes committed, including the crime of genocide. We are aware of the possibility that such a resolution may be defeated by the exercise of veto powers by certain permanent members in the Council. But in the case of Syria, where such threats of a veto were well known, the resolution was in fact tabled and defeated 14 times. That the matter is brought to the UNSC in itself would bring attention and urgency to Sri Lanka's chronic evasion of accountability and hence we urge that the core group signal their intention to bring forth a resolution to the UNSC for ICC referral without further delay.
3. We also urge that consequent to efforts taken at the UNSC to refer Sri Lanka to the ICC that a resolution is presented to the UN General Assembly providing for an independent mechanism of evidence collection that would assist a future ICC referral.
4. The current resolution should be amended to include the appointment of a Special Rapporteur to report on ongoing violations in Sri Lanka and the establishment of OHCHR field offices in the North and East.
5. We are also concerned with Preambular Paragraph 9 which fails to recognise that the Government continues to use the military and government departments to expropriate the lands of Tamil people in the North-East under guise of security, development, archaeological research and conservation, and fails to recognise lack of progress over release of land held by the Sri Lankan Armed Forces in the last four years. It further fails to take note of the occupational presence of the Sri Lankan Armed Forces in the Tamil speaking North-East.
6. We are also concerned with Operative Paragraph 3 of the resolution which gives credence to the Office of Missing Persons and the Office of Reparations. Both these institutions are flawed in their original design and purpose but have been further undermined by the present Government which has appointed individuals who have a history of blocking even half-hearted efforts attempts to bring justice in relation to certain violations, as identified by the High Commissioner in her report.
7. In relation to Preambular Paragraph 7, while we oppose any attempt to unilaterally dismantle the 13<sup>th</sup> amendment, which in any case been never been fully implemented by successive Sri Lankan Governments, we refuse to accept the

13<sup>th</sup> amendment as even a starting point to the resolution of the Tamil National Question. Given the repeated failures of successive Governments both during the war and post-war to meet the political aspirations of the Tamil nation, we believe that Tamils must be given an opportunity to exercise their right to self-determination and freely determine their political status.

We hope that you pay attention to the position articulated in this letter and our letter dated 15 January 2021. The resolution in its current form cannot be passed in the name of accountability and justice for the Tamil victim community.

(Sgd)

A. Gajenthiran  
General Secretary

(Sgd)

P.N. Singham  
Co-Spokesperson

(Sgd)

Fr. V. Yogeswaran  
Co-Spokesperson