

**Ontario Centre for Policy Research - Canada**  
**London Initiative - United Kingdom**  
“Human Rights and Public Policy matters”

January 18, 2021

Heads of Missions

Missions of the 47 Member States represented in the UN Human Rights Council

Your Excellencies,

**Re: Call for practical and resolute actions at the 46<sup>th</sup> Session of UNHRC**

We are Public Policy and Human Rights researchers from Ontario Centre for Policy Research and London Initiative based in Canada and the United Kingdom. We write this letter to evaluate matters leading to the Human Rights situation in Sri Lanka at the 46<sup>th</sup> session of UNHRC in a practical manner.

The Sri Lankan government successfully eliminated the world's most ruthless and deadliest terrorist organization, the Liberation Tigers of Tamil Eelam (LTTE) and their senior leadership. It has been recognized and also highly praised by all Sri Lankans regardless of their ethnic origin. It is important to note that after ending the armed conflict on May 18, 2009, sustainable peace has been achieved in Sri Lanka. There are no suicide bombings by the LTTE and killings of innocent civilians in any part of the country. All Sri Lankans are now enjoying peace. Sri Lanka's government has also invested heavily in mega development projects in war-torn North and East provinces Sri Lanka. Sri Lanka's government also needs further financial assistance from the international community to support its reconciliation efforts.

The allegations against Sri Lankan forces must be viewed from at the legal aspects of the conflict. The Sri Lankan conflict is correctly categorized as a Non-international Armed Conflict. Any analysis of the legal issues, including human rights, is appurtenant that conflict should be categorized accordingly. Therefore, a policy on collateral damage must be considered.

Further, we also have recognized that the last phase of the conflict was part of a clear and understandable mission to target, capture, or kill Velupillai Prabhakaran, the LTTE leader. Like Saddam Hussein (Iraq) or Osama bin Laden (Afghanistan, killed in Pakistan), he was a legitimate military target.

Further, the International Humanitarian Law declared that armed organizations such as the LTTE are Belligerents because of (1) the existence of an armed conflict; (2) occupying a significant part of the national territory; (3) the Armed Group exercising sovereignty on that part of the territory. Therefore, LTTE is responsible for international crimes they have committed.

We want to reiterate that there is no military or political advantage to the Government of Sri Lanka (GoSL) or the Sri Lankan forces in killing civilians or shelling hospitals indiscriminately. But from the LTTE's perspective, the killing of civilians was an acknowledged part of their strategy.

Our research found that Sri Lanka's army operations, in broad terms, were proportionate in the circumstances. Therefore, as discussed above, the allegation as sought by the LTTE and their proxy organizations and other parties for international crimes; genocide, crimes against humanity and war crimes do not substantiate against Sri Lankan forces.

The Panel of Expert — POE and Investigation on Sri Lanka — the OISL report has numerous deficiencies and is filled with factual inaccuracies. The POE and OISL reports ignored the fundamental legal principles or utilized the ad-hoc nature of cherry-picking evidence in deriving a recommendation. Therefore, it is necessary to revisit resolution 30/1 and subsequent resolutions 34/1 and 40/1 and their applicability at the 46<sup>th</sup> council meeting.

UNHRC action on Sri Lanka is also required to focus on LTTE terrorism financing mechanisms and dismantle LTTE's global finance network in order to secure long-term and sustainable peace in Sri Lanka. This mechanism shall integrate with the UN Global Counter-Terrorism Strategy.

The Sri Lankan government withdrew from the UN Human Rights Council Resolution 30/1 and the subsequent resolution 34/1 and 40/1 to protect Human Rights for all ethnic groups in Sri Lanka. We have recognized that the Sri Lankan government's commitment to achieving sustainable peace, through an inclusive, domestically designed and executed reconciliation and accountability process, including the appropriate adaptation of existing mechanisms, is in line with the government's policy framework.

Sri Lanka has taken meaningful steps to address accountability, human rights and reconciliation in Sri Lanka. For example, rehabilitating 12,000 LTTE cadre (restorative justice), completion of demining of North and East and resettlement of internally displaced. The natural reconciliation process has begun with all Sri Lankans as a result of sustainable peace achieved. Our recent findings confirmed that fifty-nine (59%) percent of Tamils have moved to Sinhalese dominated areas in the Southern part of the country and live peacefully. Further, a recent Fact Finding Mission (FMM) report released by the Home Office, United Kingdom, has stated that Tamils are not specifically targeted and do not suffer persecution just for being a Tamil.

UNHRC governing principles are not allowed to override the public interest of sovereign nations. Currently, Sri Lanka's government has received a two-thirds majority in the parliament, and the current president has led the war against the LTTE; a former defense secretary has also received sixty percent (60%) of popular votes. Therefore, UNHRC has to consider current political development in Sri Lanka.

We would also like to note that during the last eleven years, the UNHRC and the pro-LTTE diaspora and others, who suggested a retributive justice mechanism, and even co-sponsored with GoSL for achieving accountability, have terribly failed.

The LTTE, proxy organizations and others are continually attempting to destabilize Sri Lanka through retributive justice mechanisms, proposing International Independent Investigation Mechanism (IIIM). The IIIM mechanism will impede the reconciliation process and should be rejected. Recent election results show evidence that Sri Lankans overwhelmingly refused any sort of international interference with domestic affairs.

The armed conflict between the LTTE and the democratically elected GoSL cannot be compared to Syria or Myanmar conflicts. Therefore, any suggestions to cookie-cutter solutions for the accountability process must be rejected.

We request the following:

1. *Recognize* the defeat of the LTTE as achieving sustainable peace in Sri Lanka;
2. *Accept* failure in achieving accountability using retributive justice mechanisms such as international investigation mechanisms (IIIM) (proposed), International Tribunal in Sri Lanka, due to lack of understanding of complex domestic social and political context;
3. *Recognize* fifty-nine percent (59%) of Tamils are living peacefully with the Sinhalese in South Part of Sri Lanka and any international intervention will injure natural reconciliation and ethnic harmony;
4. *Accept* Sri Lankans; Sinhalese—Buddhists/Christians, Tamils—Hindus/Christians, Muslims —Islam, are in favour with ***Restorative Justice*** achieving accountability and reconciliation;
5. *Reject* the any resolution based on retributive justice achieving accountability, since it will be another failure;
6. *Reject* any proposal for international interventions for domestic affairs of Sri Lanka;
7. *Support* GoSL and coordinate with the Office of the High Commissioner for Human Rights (OHCHR) to develop a domestic mechanism to achieve accountability and reconciliation;
8. *Investigate* methods and practices of LTTE's terrorism financing and in all its forms and manifestations were activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity, the security of State and attempt destabilizing legitimately constituted Government of Sri Lanka under the UN Global Counter-Terrorism Strategy (A/RES/60/288);

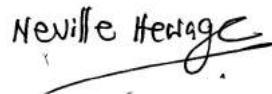
9. *Reaffirm* also that terrorism cannot and should not be associated with any ethnic group in Sri Lanka;
10. *Provide* financial and technical assistance to GoSL to achieve accountability and reconciliation within the framework discussed in items 1 to 9.

We request that the UNHRC shall support a domestically developed accountability and reconciliation process and recognize the danger of any international intervention seriously damage ethnic harmony and reconciliation process in Sri Lanka.

Further, justice for all can be achieved by **Restorative Justice mechanisms** while understanding the complex social fabric, political and economic aspects of Sri Lanka.

**Annex:** Report of the Post Conflict Accountability and Reconciliation (ARSL) on Sri Lanka

**Signatories,**

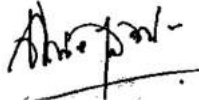


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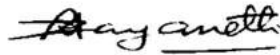
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