

Related to: Sri Lanka

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Transnational Government of Tamil Eelam's (TGTE) Submission to the UN Universal Periodic Review of Sri Lanka.

ABOUT TRANSNATIONAL GOVERNMENT OF TAMIL EELAM (TGTE):

Transnational Government of Tamil Eelam (TGTE) is a democratically elected Government of a million strong Tamils (from the island of Sri Lanka) living in several countries around the world. TGTE was formed after the mass killing of Tamils by the Sri Lankan Government in 2009.

TGTE thrice held internationally supervised elections among Tamils around the world to elect 132 Members of Parliament. It has two chambers of Parliament - a House of Representatives and a Senate - and a Cabinet. It has held its Parliamentary sittings among other places in the British and French Parliaments.

TGTE is leading a campaign to realize Tamils' political aspirations through peaceful, democratic and diplomatic means. The Constitution of the TGTE mandates that it should realize its political objective only through peaceful means.

BACKGROUND:

Tamils in the island of Sri Lanka faced repeated mass killings in 1958, 1977, and 1983, a long war during which civilians were often targeted and the mass killings in 2009 which prompted UN Secretary General Ban Ki-moon to appoint a Panel of Experts¹ to report on accountability with respect to the final stage of the conflict.

According to UN internal review report on Sri Lanka,² over 70,000 Tamils were killed in six months in early 2009 and Tamil women were sexually assaulted and raped by the Sri Lankan Security forces. There are over 90,000 Tamil war widows and thousands of Tamils disappeared due the conflict.

According to this UN report, the killings and other abuses that took place amount to war crimes and crimes against humanity. Independent experts believe that there are elements of these abuses that constitute an act of genocide.

Members of the Sri Lankan security forces are almost exclusively from the Sinhalese community and the victims are all from the Tamil community. A Buddhist Monk shot and killed a Sri Lankan Prime Minister 1959 for having talks with Tamil political leaders.

Tamils overwhelmingly voted in a Parliamentary election in 1977 to establish an independent and sovereign country called Tamil Eelam. This Parliamentary election was conducted by the Sri Lankan Government.

1) Justice for victims of War Crimes and Crimes Against Humanity is unduly delayed

¹ [Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka : UN Documents : Security Council Report](#)

² [Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka](#)

Getting Justice for victims of war crimes and crimes against humanity received a setback due to the Sri Lankan Government's unwillingness to prosecute civilian and security forces for having committed mass killings and rape of Tamils. According to UN Internal Review Report on Sri Lanka up to 70 thousand Tamils were credibly believed killed in six months in 2009 and scores of Tamil women were sexually assaulted and raped by Sri Lankan Security forces.

The UN Human Rights Council became involved to bring justice for these abuses and Resolution 30/1 was cosponsored by Sri Lanka in the September 2015 Session of the UNHRC. Sri Lanka committed to bring perpetrators to face justice by March 2017, in a hybrid court consisting of foreign judges, prosecutors and investigators. Sri Lanka reneged in its commitment and came to the UNHRC in March 2017 to seek an extension of two years, which was granted. Sri Lanka's President and Prime Minister have already rejected one of the main conditions of the UNHRC Resolution, that of establishing a Hybrid Court with foreign judges, prosecutors, and investigators. Due to Sri Lankan Government unwillingness to bring perpetrators to face justice, Tamil victim's quest for justice is unduly delayed.

2) **Rape Camps and Justice for using Rape as a Weapon of War:**

A recent report by the International Truth and Justice Project (ITJP)³

published details of Sri Lankan Military-run "Rape Camps", where Tamil women are being held as sex slaves. The report states the following: "A senior officer came into the room and was asked to take his pick, like we were meat in a meat market. He looked around and chose me. He took me to another room and raped me." "Two of the women describe being detained in a group in one room, available for any soldier to come and choose from and take to an adjacent room or tent to be raped." 48 of the victims had been detained under the Government of former President Mahinda Rajapaksa and seven of them under the Government of former President Maithripala Sirisena. ITJP has also provided details of six military men including a major and a lieutenant colonel who are alleged perpetrators of rape and torture in the military.⁴ **Error! Hyperlink reference not valid.**

Sri Lanka agreed and promised in its 3rd UPR cycle on 28.11.2017 to take action and bring perpetrators of mass atrocity crimes to justice, but no justice has been forthcoming. As Sri Lanka is unwilling to take action, it is time to ask for Sri Lanka to Ratify the Rome Statute of the International Criminal Court and fully align its legislation with all the obligations under the Rome Statute, including incorporating the Rome Statute definition of crimes and general principles, and adopting provisions enabling cooperation with the Court as recommended by Latvia, Slovakia, Estonia on 28.11.2017. All the countries in the UPR process should recommend this action as the foremost to end entrenched impunity and bring Justice to victims without delay.

3) **Very large Military presence and abuses faced by Tamils:**

According to several independent sources, Tamil areas have a ratio of one soldier for every five civilians, the highest number of soldiers to civilian ratio in the world. Twelve years have passed since the war came to an end but not a single soldier has been brought to justice and the Government is trying to shield the soldiers even from the UN-mandated inquiry. The current President Gotabaya, who was Defence Secretary during the war, when a large number of Tamil women were sexually assaulted and raped, has firmly rejected any UN investigation and publicly committed to protect the Security forces from any punishment.

According to the 2015 UN OHCHR's Investigation on Sri Lanka,⁵ Sri Lankan security forces have committed mass killings and large-scale rape of Tamil women. The same security forces that committed these abuses are still stationed in very large numbers in Tamil areas; among the same women against whom they committed sexual violence. Tamil women have to undergo fear and humiliation to live among the soldiers and to see them walking free and enjoying the

³ <http://www.itjpsl.com/reports/submission-to-cedaw>

⁴ <http://www.jdslanka.org/index.php/news-features/human-rights/669-un-told-of-sri-lanka-military-operating-rape-camps>

⁵ [Report of the OHCHR investigation on Sri Lanka \(OISL\) \(un.org\)](http://www.un.org/report-of-the-ohchr-investigation-on-sri-lanka)

full protection and support of the Government.

The suffering of 90,000 Tamil war widows is continuing, with the widows having to live with the pain of losing their husbands and having to take care of their children with great difficulty and facing threats, intimidation and abuse from the same soldiers who killed their husbands.

The following recommendation were submitted by Switzerland in the UPR process on 28.11.2017:

Strengthen the democratic control of the defence sector, in particular suspend the involvement of members of the armed forces in economic activities, in order to ensure guarantee of property of citizens, as well as their livelihoods

which Sri Lanka agreed to implement and has not taken any action on up to now!

4) Tamils safety in danger:

Since the UN Human Rights Council's decision to give an extension of time to Sri Lanka for the implementation of Resolution 30/1 followed by Res. 40/1 and 46/1, Tamils fear for their safety since the extensions embolden and encourage Sri Lankan security forces to commit human rights abuses against Tamils without any fear and Tamils' safety is in danger. Tens of thousands Sri Lankan Security forces who committed mass killings and sexual violence are still stationed in Tamil areas and live among the victims. There are numerous reports of current abuses against Tamils, including a recent report by UN Special Reporter on torture, cruel, inhuman or degrading treatment or punishment Mr. Juan Mendez. Here is the link for details: http://world.einnews.com/pr_news/369076202/sri-lanka-war-crimes-tamil-leaders-and-victims-jointly-urge-un-not-to-give-extension-and-refer-to-un-general-assembly

5) Plight of the “Disappeared”

Large number of Tamils disappeared before, during and after the war and the Sri Lankan Prime Minister Ranil Wickramasinghe made a statement in 2016 that thousands of Tamils who surrendered to the Sri Lankan Security forces are no longer alive. The Sri Lankan Prime Minister made this statement on January 15th 2016 in Jaffna, when he spoke at a celebration of Thai Pongal, a Hindu festival.⁶ Despite repeated requests by family members of the “disappeared”, the Prime Minister refuses to give details about how these “disappeared” were killed and where their remains are. The relatives have a right to know what happened to the victims, since the relatives are also victims. The denial of the right to know is a violation of Article 7, 9, and 10(1) of the International Covenant on Civil and Political Rights.⁷

6) Tamil Prisoners of War (POW):

An unknown number of Tamil prisoners are in custody, some in detention for over 15 years. They are held primarily under Prevention of Terrorism Act (PTA), which the Sri Lankan Government repeatedly promised to repeal, but is still using to arbitrarily arrest Tamils and others.

7) Military occupation of Tamil Lands:

⁶ [The missing are considered dead says Sri Lankan prime minister | Tamil Guardian](#)

⁷ E.Quinteros and M.C. Almeida de Quintero v Uruguay Doc A/38/40, [Almeida de Quinteros v. Uru., Comm. 107/1981, U.N. Doc. CCPR/C/OP/2, at 11 \(HRC 1982\) \(worldcourts.com\)](#)

A large number of private lands are forcibly occupied by the Sri Lankan Security forces. Using the land for commercial projects like farming, luxury hotels, shops, fishing etc., deprives Tamils livelihood. The above is a deprivation of property without due process. Taking lands belonging to the Tamils on account of their nationality also constitutes a violation of Article 2 of the International Covenant on Civil and Political Rights..

8) Restriction on Freedom of Expression:

The 6th Amendment to Sri Lanka's Constitution criminalizes freedom of speech and conscience, guaranteed in Articles 18 and 19 of the International Covenant on Civil and Political Rights. This Amendment prohibits peaceful exercise of Tamil's right to self-determination in the form of an independent state in accordance with UN General Assembly Resolution 2625 (1970) which is considered customary law. Its use denies Tamil's right to articulate their political aspirations freely and peacefully resulting in Tamils democratic rights being curtailed. Cases in point:

- 1) The European Court of Human Rights in the cases of *Okçuoğlu v. Turkey*, and *Arslan v. Turkey* 8 July 1999 held that convictions for disseminating separatist propaganda violated the guarantee of freedom of expression in the European Convention of Human Rights.
- 2) In the case of *Erdoğdu and Ince v. Turkey* also July 8, 1999, the Court held that convictions for disseminating propaganda against the indivisibility of the state violated the guarantee of freedom of expression in the Convention.
- 3) The Court, in the case of *Association Ekin v. France* held on July 17, 2001 that the banning of a book advocating Basque separatism violated the guarantee of freedom of expression in the Convention.
- 4) In the case of *IsakTepe v. Turkey* the Court on October 21, 2008 held that a charge without a conviction for disseminating separatist propaganda violated the guarantee of freedom of expression in the Convention.

In the 4th cycle it should be re-emphasized that Sri Lanka should fully implement following recommendations by countries during the 28/11/2017 UPR

Fully implement its commitments under Human Rights Council resolution 30/1 and 46/1 Continue making progress in the implementation of the national reconciliation project through the Ministries of National Integration and Reconciliation and of National Coexistence, Dialogue and Official Languages

Ensure safeguards against arbitrary arrest and torture or other cruel, inhuman, or degrading treatment and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Take concrete measures aimed at preventing and punishing the perpetrators of hate speech and incitement of violent attacks against ethnic and religious communities

Ensure that all allegations of arbitrary detention, torture and enforced disappearance are impartially and effectively investigated by an independent body

Establish a comprehensive transitional justice mechanism, including operationalizing of an Office of Missing Persons, a truth-seeking commission, an Office of Reparations, and a judicial mechanism with a special counsel, as committed in 30/1 resolution.

Condemn all acts of intimidation of, or violence against, members of Tamil religious community and bring all perpetrators to justice without delay

Establish a disaggregated database on women heads of households to be used uniformly in welfare and resettlement policies and programmes, including to ensure that women heads of households and internally displaced persons have targeted psychosocial and livelihood assistance, as well as adequate

and durable access to housing

Fully incorporate the Convention on the Elimination of All Forms of Discrimination against Women into Sri Lanka's domestic system. Adopt measures to strengthen the legal framework with the aim of eliminating all forms of discrimination against Tamils speaking people in society, based on ethnicity, gender, caste or any other ground

Strengthen measures to promote the right to equality and non-discrimination against any citizen and/or community, whatever their origin, age, and identity

Enhance participation by women in political and public life and further increase assistance to women heads of households in gaining access to employment and services to improve their socioeconomic conditions

Ensure access of persons with disabilities to education, employment, public transportation, health, and political participation, and eliminate discriminatory laws and regulations

Consider a large-scale transfer of land for civilian use in the northern and eastern provinces of the country

Create a mechanism to ensure that all internally displaced persons, including 66,151 "Old IDPS" and further 37,123 living with host communities, receive a written statement detailing their entitlements and plans for return to their original homes

Ratify the International Convention for the Protection of All Persons from Enforced Disappearance

Especially Sri Lanka should fully implement the following UPR recommendations made on 28/11/2017 by states. Up to now none of these recommendations have been put into action by Sri Lanka.

Ratify the Rome Statute of the International Criminal Court

- Timor-Leste

Ratify the Rome Statute of the International Criminal Court and fully align its legislation with all the obligations under the Rome Statute, including incorporating the Rome Statute definition of crimes and general principles, as well as adopting provisions enabling cooperation with the Court
- Latvia , Slovakia, Estonia

Take all necessary steps to fully commit to end impunity for international crimes by acceding to the Rome Statute of the ICC and to fully align its national legislation with all obligations under the Rome Statute

- Sweden

Repeal the Prevention of Terrorism Act and enforce an immediate moratorium on its use, ensure that the draft Counter-Terrorism Act is compliant with international human rights standards

- Canada

Implement recommendations by relevant treaty bodies such as the Committee on Economic, Social and Cultural Rights, to end military involvement in commercial and other civilian activities

Adopt a national policy on the protection of journalists and human rights defenders to combat intimidation and violence, and to ensure effective investigation of such acts and prosecution of perpetrators

Ratify the Rome Statute of the International Criminal Court as well as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish a National Torture Prevention Mechanism

- Austria

Fully implement the recommendations of the Consultative Task Force on Reconciliation, including to repeal the Prevention of Terrorism Act and replace it with international best practice legislation

- Australia

Grant the request of families of victims to get information on the names and places of detention of detained persons

Accelerate the restitution of lands confiscated by the army and set up a satisfactory compensation system

- France

Continue the protection programmes and policies of the Tamil population so that they can fully enjoy their rights, particularly political economic, social, and cultural rights

- Peru

Take comprehensive measures to ensure that the alleged war crimes and other human rights violations committed during the internal conflict are investigated and prosecuted, with the aim of ending impunity

- Estonia

Continue the process of constitutional reforms, including consideration of a new Bill of Rights that will, amongst others, guarantee the right to life and the right to non-discrimination on any ground

- South Africa

Take all the necessary measures to significantly increase the process of returning occupied private land back to its rightful owners, with a view to also addressing accusations of land-grabbing

- Haiti

Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights

- Poland

Transfer NGO oversight to a civilian institution and protect freedom of expression

- United States

Grant due process rights to all detainees held in both military and police facilities, including those held in administrative detention, disclose all unofficial detention sites, and facilitate effective and independent monitoring of detainees

Conduct impartial investigations and prosecutions against members of the security forces, regardless of rank, implicated in violations of human rights and international humanitarian law, including sexual violence

- Denmark

Publish all reports of previous commissions on enforced disappearances, in particular the Presidential Commission to Investigate Complaints of Missing Persons (PCICMP)- Switzerland

Recommendations to States during 4th Cycle:

1) Take steps to ensure that Tamil victims of War Crimes, Crimes Against Humanity and genocide receive justice without any undue delay.

2) Repeal Constitution's Sixth Amendment, so that Tamils' freedom of expression is restored and Tamils can express their political choice through a Referendum.

3) Close the Rape Camps and charge those military officers.

- 4) Repeal Prevention of Terrorism Act (PTA) and release Tamil prisoners.
- 5) Return the Tamil Lands to Tamils.
- 6) Sri Lankan former Prime Minister Ranil Wickremesinghe should give the details of how the disappeared were killed and the whereabouts of their remains.
- 7) Ensure Tamils' safety by deploying UN Human Rights Monitors.
- 8) Ratify the Rome statute of International Criminal Court retro specifically