

Thirteen years after the height of the genocide against Tamil people by the Government of Sri Lanka during 2009, the Tamils are still under military occupation which is aiding and abetting state sponsored colonization, Sinhalization, Buddhistization and a protracted Tamil genocide:



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National Council of Canadian Tamils (NCCT) is a not-for-profit organization built by delegates elected from all across Canada. The NCCT focuses on providing a unified democratic voice for Tamil Canadians in Canada and advocates for the voiceless Tamils in the island of Sri Lanka.

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## **Introduction:**

Since 1948, Tamil people in the island of Sri Lanka have been undergoing genocidal onslaught by successive Governments of Sri Lanka. At the heights of the genocide in 1958, 1972, 1983 and continuously until 2009, and thereafter until to date are a manifestation of the on-going genocide against Tamil people. Since 2009, the UNHRC has brought many resolutions on Sri Lanka for human rights violations. The Sri Lankan government continues to evade accountability and there is no progress after 13 years since the end of the civil war that constituted the worst atrocity committed against Tamil people.

In the last resolution adopted on March 23, 2021 (A/HRC/RES/46/1), the member countries of UNHRC want further investigation conducted on Sri Lanka to collect, consolidate, analyze and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka, to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction.

## **Historical context:**

According to archaeological evidence, the Tamil people have the most extended history on the island of Sri Lanka. They are indigenous to the island with a long history, having a culturally and linguistically distinct identity, and thus by UN definition, they constitute a nation. When the British arrived on the island in 1795, Tamil people lived in the North and East of the island while the Sinhalese people occupied the south of the island ruled as separate Kingdoms. The British captured the entire island, joined these two nations in 1833, and ruled the island called Ceylon for their administrative convenience.

Ever since the British left the island in 1948, successive Sri Lankan governments led by Sinhalese Nation from the south have systematically destroyed the Tamil Nation. Tamil people have been continuously and intentionally targeted for annihilation for over seven decades, which constitutes genocide. Successive Sri Lankan Governments were mainly elected based on Sinhala Buddhist supremacist propaganda, which led to periodic pogroms against Tamil people, including rape, sexual humiliation, enforced disappearances, mass murder, torture, and destruction of Tamil-owned property and business on the island. Successive Sinhalese-led

governments instigated these major pogroms in 1956, 1958, 1961, 1977, 1983, and more frequently after that. From 1983, the Tamil genocide continued with aerial bombardments of Tamil villages and towns, which rose to a crescendo resulting in a genocidal onslaught leading up to May 18, 2009. The Government of Sri Lanka urged the Tamil People fleeing the Sri Lanka army's shelling to go into designated "No Fire Zones." After herding the tens of thousands of innocent Tamil children, women, and men into the "No Fire Zone," the Sri Lanka troops, mainly composed of Sinhalese, used internationally banned chemical weapons and multi-barrel rocket launchers to attack them. Until today, there has been no accountability or justice for the massacre of innocent Tamil people, numbering over 70,000 by U.N. accounts. Trophy video footage taken by the Sri Lanka army personal show murder an mayhem unleashed upon unarmed Tamil civilians by the Sri Lanka army.

Furthermore, Tamil people continue to suffer structural genocide even today, resulting in Tamil people fleeing Sri Lanka seeking refuge elsewhere. Many of them are languishing in detention centers in India, Malaysia, Indonesia, Thailand and many other countries for over three decades. Over 1.5 million Tamil people (25% of the original population) have fled the island as refugees.

Despite the overwhelming weight of evidence, successive Sri Lankan governments adamantly denied killing anyone! They have also used all diplomatic channels to continue to deny their culpability in the genocide using their embassies and expatriate community members loyal to them. While those denials compound the grief of the remaining survivors of the genocide, the Sri Lanka Governments continue to prevent the remembrance of the victims' memories and cause continuing trauma and pain not only within the island but also overseas as well, including Canada. While Tamil people commemorate May 18th as "Tamil Genocide Remembrance Day" worldwide, the Sri Lanka government continues to celebrate May 18th as "Victory Day," continuing to inflict psychological war on the survivors. The occupying army also prevents Tamil people on the island from remembering their loved ones killed by Sri Lanka armed forces.

The Prime Ministers and Presidents of Sri Lanka claimed that there would not be any foreign judges or international involvement in the investigation of War crimes, contrary to the promises made in the UNHRC resolution that their governments pledged and co-sponsored. While Land grabs, Militarization, Colonization, Sexual violence continues on at an accelerated pace, there is no reasonable improvement in the Release of Political prisoners. It is also important to note that the current President Gotabaya Rajapakse, yet to resign, was the Defence Secretary, serving near the top of the chain of command at the height of the Tamil Genocide in 2009. His brother, Mahinda Rajapakse, who just resigned as Prime Minister, and served as the President and Commander of all the forces in the war against the Tamil people in 2009. Both individuals are credibly accused of serious allegations of war crimes and crimes against humanity.

The UNHRC gave 18 months for implementing the HRC Resolution 30/1 and then HRC Resolution 34/1, and then 40/1 gave further extensions of two years to implement the resolution. After foot-dragging for five years with extensions, none of the four transitional justice mechanisms that the Sri Lankan Government pledged has been implemented. Continuous reports detailing severe ongoing human rights violations, including widespread torture, suggest that Sri Lanka's culture of impunity has not been addressed. This inaction bears testimony to the fact that the Sri Lankan State is unwilling to deal with the past crimes or on-going violations and restore genuine justice to the Tamil victims.

As you read this report, many factual evidences have been provided clearly proving Tamil Genocide by Sri Lanka. In order for the victims and families to heal from the trauma and to bring about justice, it is of great importance that UNHRC investigate the genocide against Tamil

people.

**Current context:**

The financial and political instability have caused severe hardship to all The people. Sri Lankan governments overspent on armed forces for many decades to commit genocide against the Tamil people. Fifteen percent of the GDP is spent on armed forces even after the armed resistance was silenced in 2009.

On the other side, justice for the crime of genocide committed against Tamil people are still elusive. The families of the 146,596 Tamils who are still unaccounted for have not got any answers. The Tamil lands are still being taken by the Military, armed forces, and administrative divisions of ministries. Buddhist monks with the assistance of police and security forces are trying to replace the Tamil people's places of worship by Buddhist temples.

According to the United Nations Panel of Experts Report on Sri Lanka, the war in the island state of Sri Lanka ended amidst the backdrop of over 40,000 Tamil civilian deaths caused by the indiscriminate bombings of civilian "safe zones," hospitals and humanitarian operations. Thirteen years after the formal end of the war on May 18, 2009 the Tamil people living in the North-East of the country continue to endure violations of human rights and protracted genocide.

Through a sophisticated and protracted program, the Sri Lankan state continues to enact policies, coupled with the mass killings of members of the Tamil nation, that aim at the destruction of the essential foundations of Tamil life in the North-East. The Tamils have endured not only well documented examples of violent persecution with the consequence of physical genocide but also a slower and deliberate scheme aimed at destroying their culture and livelihood. The protracted genocide of the Tamils today is carried out through a brutal military occupation and a deliberate program of Sinhala settlements.

Today, the military occupation of the Tamil homeland in the North-East of the island is the most blatant symptom of the ongoing genocide. The military controls all aspects of individual, social and professional life. A strong sign of the military's ubiquitous presence is that the military is engaged in running commercial enterprises in the occupied Tamil homeland such as barber saloons, bars, restaurants, hotels, and tourist services.

The military occupation of the Tamil homeland is coupled with a deliberate program of state sponsored settlements in the North-East with the aim of changing the demographic makeup of the Tamil homeland. The Sri Lankan government is now waging a colonization war against the Tamil nation by establishing Sinhalese settlements in traditional Tamil areas. For example, a Sinhalese settlement at Kokkulaay will—along with previously established settlements—sever the Tamil areas in the east of the island from those in the north and therefore dismantling the territorial integrity of the Tamil homeland. Other settlements and military bases aim to cut off the Jaffna peninsula from the Tamil areas on the mainland.

The military perpetuates the continued displacement of tens of thousands of Tamils by seizing large areas of public and private Tamil lands to build military bases. The growing involvement of

the military and the unequal treatment of Tamils in agricultural and commercial activities have placed further obstacles on the difficult road to economic recovery for Tamils.

The deliberate program of military occupation and colonization is a tried and tested method for the Sri Lankan state. In the 1970's when Tamils constituted the majority inhabiting the eastern parts of the island, the government changed the demographic makeup of the east through a deliberate program of militarization and Sinhala settlements. Similarly, today vast tracts of the Tamil speaking north are now being changed with Sinhala signboards, streets renamed in Sinhala, and monuments erected to honor Sinhala war criminals. Religious institutions like Temples, Mosques and Churches are under threat of destruction or forced relocation to make room for Buddhist shrines for the new Sinhala settlers.

Political solutions to the Tamil national question have been put on the back burner. The focus of the current and yet to form interim government seems to be an economic crisis rather than a long term strategy by solving the long standing issue of acceptance of a Tamil nation and its right to self-determination.

### **The Case of Tamil Genocide in Sri Lanka:**

In the Convention on the Prevention and Punishments of the Crime of Genocide (Genocide Convention), Article II states that:

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- killing members of the group;
- causing serious bodily or mental harm to members of the group;
- deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part;
- imposing measures intended to prevent births within the group;
- [and] forcibly transferring children of the group to another group.

There are two parts to the definition of the crime of Genocide: Mental element and physical element.

The physical element includes the acts outlined above.

The mental element is outlined in the definition as the "intent to destroy, in whole or in part, a national, ethnic, racial, or religious group."

The Tribunal for the former Yugoslavia held by The International Criminal Tribunal (ICTY) stated that "intent" could be proven without explicit evidence. Intent can be established based on

"... facts and circumstances, such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the

repetition of destructive and discriminatory acts.”

### **The Systematic Discrimination and Violence Constitutes Genocide:**

We will be exploring the physical and mental elements of genocide as laid out in the definition outlined in the Genocide Convention. Four out of the five pillars of genocide are applied below to Tamil Genocide.

#### **A) Physical Element**

##### **i) Killing members of the group**

During the 1983 anti-Tamil pogrom, also referred to as Black July, Tamil people were targeted using voter lists and other methods. Survivor stories bring to light the many ways in which the mobs were identifying Tamil civilians. In fear of being killed, many Tamil people who were fluent in Sinhala attempted to hide their Tamil identity. However, some words were specifically more difficult for Tamil people to pronounce and were used to identify them.

The Secretary-General's Panel of Experts on Accountability in Sri Lanka Report from March 2011 provides many examples in which the acts committed by the Sri Lankan government forces violate international humanitarian law and human rights laws.

In contrast to the government's propaganda of a "humanitarian rescue operation with zero civilian casualties," the conflict's final stage was anything but that. Below we outline a few examples outlined in the report.

- From September 2008 to May 2009, the Sri Lanka Army advanced into Vanni with heavy shelling, resulting in many civilians' deaths. There were 330,000 civilians trapped in the thin stretch of land.
- Intimidation of media outlets and media personnel who criticized the government continued in the form of "white van abductions" that resulted in the deaths and disappearances of reporters.
- After notifying civilians to move to "Safe Zones," identified by the government, these locations were shelled using heavy weaponry.
- UN hub, food distribution lines located close to the International Committee of the Red Cross (ICRC) ships were shelled.
- These bombings took place even when the government forces knew the locations because the UN and ICRC notified them.
- Although government officials were notified of hospitals' locations, all hospitals in the Vanni region were bombed, in which some were attacked multiple times.
- Underestimating (intentionally) the number of civilians trapped in the Vanni region further added to the suffering as it prevented the civilians from receiving the necessary food, medicine needed to survive.

##### **ii) Causing serious bodily or mental harm to members of the group**

Human Rights Watch found credible evidence of rape, torture and enforced disappearances in the camps to which civilians fled. According to a report released by human rights lawyer Yasmin Sooka in March 2014, "Abduction, arbitrary detention, torture, rape and sexual violence have increased in the post-war period (Sooka, 2014, p6)." Based on medical and psychiatric records, 40 victims have reported being subjected to rape and sexual violence by Sri Lankan security forces. All events took place between 2009 and 2014.

The continuing intimidation, threats, abductions, torture, sexual violence and rape creates an environment of fear for Tamil people living in the North and East. Rape and sexual violence are forms of physical and psychological destruction of Tamil men and women. Although sexual assaults continue to be reported to authorities, justice and accountability are often minimal and/or absent. Victims and witnesses continue to be intimidated, regardless of the introduction of the Witness Protection Act. This Act is not entrusted to a different division, but the witnesses are expected to be protected by the same perpetrators of the abuse.

Government forces continue to defy the Rule of Law and act with impunity and perpetrate violence against innocent Tamil people, including former cadres and their families. According to the STOP report released by the International Truth and Justice Project (ITJP) in 2016, following the election in 2015, many torture camps continue to operate throughout the country. Some are located close to army camps, police stations and other secret locations. Many sexual violence cases are linked to "white van abductions," in which specific individuals are targeted because of their past affiliations and kept in solitary confinement, tortured and raped. The release of these victims is also conducted secretly for a large ransom payment. Families are threatened and harassed if they report the abductions or try to seek justice. The Human Rights Watch has documented several cases of sexual violence against Tamil men and women by the Sri Lankan Security Forces between 2006 and 2013. Their 2013 report recorded 75 cases of rape, sexual violence, and other forms of torture. The report further states that sexual violence was used severely by the Sri Lankan Security Forces during interrogations of LTTE cadres.

Based on an investigation carried out by The U.S. Centers for Disease Control and Prevention (CD), UNICEF and Sri Lanka's Ministry of Healthcare and Nutrition, many displaced residents of the Jaffna District showed more extensive cases of PTSD, anxiety and depression (Husain et al., 2011, p. 522). These findings can be compared with those of post-war victims in Kosovo and Afghanistan (Husain et al., 2011, p. 522).

### **iii) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part**

Intentionally under-reporting the number of civilians trapped in the war zone by government officials, including the President, caused great suffering to the Tamil people. The denial of adequate food and medical supplies enough for the civilians trapped in the Vanni region is evidence of inflicting conditions on the Tamil people that will bring physical destruction.

According to the International Criminal Tribunal, strategies to destroy a group include methods that do not cause immediate death, such as those mentioned above. Furthermore, "withholding sufficient living accommodations" is also a strategy used for the physical destruction of the Tamil people in whole or in part. Many Tamil civilians fleeing the conflict ended up in camps. Many remained in these camps for 2-3 years. Menik farm, a camp located in Vavuniya, had up to 250,000 civilians living under poor conditions and lack of access to food and medical supplies.

Many Tamil civilians returning to their homes after the war were told that their private lands now belong to the Sri Lankan government. Over 6,000 acres of land were confiscated from Tamil people, and their owners were forced to remain in the camps. The occupying Sri Lanka Army has built new resorts and businesses on lands previously home to local Tamil people displaced by the war. A report released by the Oakland Institute states, "The army officially runs luxury resorts and golf courses that have been built on land illegally seized from now-internally displaced Tamils (Mittal, 2015, p. 1–3)." Those who are opposed to military land grabs are being threatened. Recently a Batticaloa land reform director was shot and injured. Those who are protesting for their land to be returned are under security surveillance and continuous harassment.

The increasing Sri Lankan military presence in Tamil-speaking areas in the north and east further destroys Tamil livelihoods and culture. The militarization of these areas has increased Sinhalese settlers in Tamil areas. As a result, the destruction of Tamil religious places of worship was replaced by Buddhist temples. The names of villages and street signs are being changed from Tamil to Sinhala in these areas. The Social Architect, a civil society organization from the North-East, identified 89 Tamil villages that the Sri Lankan state had renamed with Sinhala names. This constitutes the ongoing cultural genocide of the Tamil people. Also, this militarization has fostered fear and intimidation of the Tamil people in the North and East.

Every Sri Lanka Government Department, including the military, the Archaeological Department and the Forest Department, is working to coordinate colonization, militarization, military interference in civilian affairs, land grabs and removing cultural heritage and erasing religious identity.

#### **iv) Imposing measures intended to prevent births within the group**

A 2007 leaked report from the US Embassy in Colombo stated evidence of pro-government paramilitary organization's doctors enforcing abortions on Tamil women who assumed they were getting their regular check-ups (Blake, 2007). Furthermore, the Health Department in the Northern Province noticed a higher rate, 30 times, of birth control implants in Mullaitivu compared to Jaffna. Coercive population control measures were also taken in 2013 in Veravil, Keanchi and Valaipaddu in Kilinochchi in the Northern Province. Women were threatened of being denied future treatments in the hospitals if they refused contraception (The Social Architects, 2013).

There have also been reports of Tamil women working in central Sri Lanka's plantation field being offered payment for surgical sterilization. In contrast, Sri Lankan police and Army officers (majority Sinhalese ethnicity) were provided with 100,000 rupees in incentive to have a third child. This further proves the intention of the government of Sri Lanka to destroy the Tamil people.

#### **v) Forcibly transferring children of the group to another group.**

The surviving Tamils who escaped the "No Fire Zone" in May 2009, were herded into heavily guarded detention centers for a few years. During this time, thousands of Tamil children were taken away from the camps and transferred to the Sinhala areas in the South of the island, never to be seen by the parents again. Parents of these children have been holding continuous road-side vigils for the past four years demanding to know the fate of their children taken away.

The Systematic Discrimination and Violence Constitutes Genocide

## **B) Mental Element**

As previously mentioned, proving intent can be done based on evidence that depicts the systematic targeting of atrocities against members of a particular group.

The examples mentioned above depicting the physical element of genocide constitutes a deliberate intent to destroy the Tamil people in whole or in part.

In addition to those mentioned, many senior officials of the Sri Lankan government have often addressed the Sinhala population with speeches and theories to suppress the Tamil people. One such example is evident in the speech from former President J.R. Jayawardane, following the 1983 riots.

“I am not worried about the opinion of the Tamil people... now we cannot think of them, not about their lives or their opinion... the more you put pressure in the north, the happier the Sinhala people will be here... Really if I starve the Tamils out, the Sinhala people will be happy.”

- President J.R. Jayawardane (1977 – 1988), cited in Daily Telegraph, July 1983.

The genocide of the Tamil people has many similarities compared to other genocides, which proves the intent to destroy the Tamil people in whole or in part.

Similar to Srebrenica, the Vanni region was a significant location to the Tamil nation. The Vanni region provided the Northern and Eastern Provinces' connection to designate the area of the Tamil homeland. During the peace process, the North and Eastern Provinces operated as a de facto state, with Vanni as the LTTE's (Liberation Tigers of Tamil Eelam) administrative center. This region housed an independent police service, political wing, courts and banks, which were unaffiliated with the Sri Lankan state.

Regaining control of Vanni by Sri Lankan government forces, indiscriminately massacring tens of thousands of Tamil people, was intended to dismantle the de facto State of Tamil Nation and deny the Tamil people's right to self-determination.

With over 250,000 people being cornered in a small strip of land, many areas were designated as “No-fire Zones” or “Safe-zones.” Pamphlets were dropped, directing civilians to move to these areas. In 1995, after being designated as a “safe area” by the UN Security council, Srebrenica was attacked, killing over 8 000 Bosniak Muslim men and boys. In 2009, after being designated as “Safe-zones,” thousands of Tamil men, women and children were massacred as bombs dropped in these areas. United Nations' satellite images clearly show the bombings in these designated areas.

Intentionally under-reporting the number of civilians trapped in the conflict region, preventing food and desperately needed medical supplies, further destroying the Tamil people.

Many Tamil people that fled the conflict zone into government-controlled camps remained there for up to three years. This prevented the Tamil people of Vanni from reconstructing their town and re-establish their lives. Upon return, many families were informed the government had acquired their land under the Land Acquisition Act.

In 2003, the Darfur genocide in Sudan saw government forces attempting to conceal their crimes. This continues to be the case in Sri Lanka. Those who criticize the government, journalists, witnesses and family members continue to be intimidated, and many become victims of the “white van” abductions. Furthermore, witnesses have reported that following the conflict, government forces are destroying civilian mass graves in the Vanni region. In an interview to Channel 4 news, a former Sri Lankan soldier provided information of Sri Lankan forces using heavy machinery to destroy mass graves.

The UN has estimated the civilian casualty of the conflict to be around 70,000. However, a recent report released by the International Truth and Justice Project (ITJP) puts the number of civilian casualties and disappearances (in 2009) at 169,796 (International Truth and Justice Project, 2021).

From February 20, 2017, relatives of the disappeared have been protesting, demanding answers to the whereabouts of their husbands, children and siblings. The protest continues today, with women-led marching happening under increased police scrutiny. On January 20, 2020, President Gotabaya Rajapaksa told a UN Resident Coordinator that all the missing are dead (Sri Lanka civil War: Rajapaksa says thousands missing are dead, 2020). Many family members refuse to believe this, as they witnessed their loved ones surrendering to the Sri Lankan armed forces.

### **Conclusion:**

Based on the analysis and evidences presented here, it is clearly proven that the Sri Lankan government had the intent to commit Genocide of the Tamil people. The intent and pattern still exist and if not investigated by an International mechanism, Sri Lanka has a potential to escalate into further violence.

Elected government officials of Australia, Canada, the European Union, the United States of America, the United Kingdom, India and Sri Lanka have made statements declaring that the atrocities committed against Tamil people in Sri Lanka is a Genocide.

In the Northern Provincial Council of Sri Lanka, and state of Tamil Nadu in India have passed resolutions in their respective assemblies calling for justice for the Tamil Genocide. In Canada, the City of Toronto and the City of Brampton have proclaimed May 18th as Tamil Genocide Remembrance Day. In addition, the Toronto District School Board, York Regional District School Board, and Peel District School Board have recognized May 18th as Tamil Genocide Remembrance Day.

Similarly, Canadian government and many other elected members of parliament from different countries, human rights experts, human rights organizations and prominent activists across the world are calling for investigation of the Genocide committed against Tamils.

Tamil people continue to experience PTSD and recent events have contributed to the amplification of PTSD symptoms. Re-experiencing the trauma, having negative thoughts and increased reactivity to stimuli that trigger traumatic memories are prevalent in many survivors. Moreover, this is resulting in the intergenerational trauma, with children experiencing secondary trauma from their parents' experience of genocide.

According to Psychologist, Carol Fredrek, there are 3 stages to recovering from trauma and PTSD: Establishing safety and stability, remembrance and mourning and reconnection (Fredrek,

2018). Remembering and grieving the loss experienced is an essential part to the recovery of the Tamil people. With the continued propaganda by the Sri Lanka government, denying the genocide and denying justice further impedes the grieving process. By investigating and acknowledging the genocide, Tamil people will be able to share their experiences with others and prevent further occurrence elsewhere.

All these developments in the post-war scenario are part of a well-established strategy carried out by successive Sri Lankan governments to make the Tamil nation's claim to self-determination in their traditional homeland untenable. However, only a return to normalcy through an end to the military occupation, state sponsored settlements will foster the permanent conditions of peace in the war-torn island.

Moreover, the Tamils have consistently demanded a political solution to the conflict through peaceful and democratic means based on the principles of Traditional homeland, Tamil nation and right to self-determination. The violent repression of peaceful Tamils politics opened the door to an armed uprising by disgruntled Tamil youth who saw peaceful politics as futile in the face of uncompromising and violent Sri Lankan governments. To avoid a bloody repeat of history the United Nations can fulfill its obligations to promoting global peace by investigating Tamil Genocide.