

## Resolution: Sri Lanka's Genocide Against Tamils

**This resolution provides an overview of the evidence demonstrating successive Sri Lankan governments' genocide against Tamils, and respectfully requests the ongoing United Nations Office of the High Commissioner for Human Rights Investigation on Sri Lanka (OISL) to investigate the claim of genocide and recommend appropriate investigations and prosecutions by the International Criminal Court.**

The Convention on the Prevention and Punishment of Genocide (Genocide Convention) was adopted by the United Nations General Assembly on 9<sup>th</sup> December, 1948, and acceded to by Sri Lanka in 1950, and provides:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Although the OISL investigation is a time-bound effort focused on February 2002 – November 2011, Sri Lanka's genocide against Tamils began with the island's independence. Since then, Tamils across Sri Lanka, particularly in the historical Tamil homeland of the NorthEast, have been subject to gross and systematic human rights violations, culminating in the mass atrocities committed in 2009. Sri Lanka's historic violations include over 60 years of state-sponsored anti-Tamil pogroms, massacres, sexual violence, and acts of cultural and linguistic destruction perpetrated by the state. These atrocities have been perpetrated with the intent to destroy the Tamil people, and therefore constitute genocide.

This Council is of opinion that during the period extending from 1948, when the Citizenship Act was passed to strip citizenship from a segment of the Tamil community and render them stateless, and continuing through the present day, successive Sri Lankan governments have perpetrated genocide against Tamils. Extensive evidence demonstrates that acts have been committed that constitute four of the five enumerated genocidal acts in the Genocide Convention:

### 1. KILLING MEMBERS OF THE GROUP

#### **Historical Genocide**

A series of anti-Tamil pogroms, fueled in part by fabricated rumors about Tamil violence against Sinhalese, began with the passage of the Sinhala Only Act, or the Official Language Act,

in 1956. On June 5, 1956, at the urging of Sinhalese nationalists, a Sinhalese mob attacked Tamil demonstrators peacefully protesting the Sinhala Only policy, and pillaged Tamil businesses in Colombo. When the news reached Gal Oya, from June 11–16, Sinhalese mobs, who were galvanized by false rumors about Tamil-initiated violence, killed around 150 Tamils, injured about 100 more, and destroyed many Tamil-owned properties. Although police were present during the riot, they passively chose not to intervene and stop the violence; their presence and inaction illustrates the government's intent to destroy the Tamil people in whole or in part.

Nonviolent, Gandhian-style protests by Tamils increased over the next two years. In May 1958, Buddhist monks and other Sinhala nationalists organized anti-Tamil pogroms throughout Sri Lanka from May 22–27 in the North Central Province, Colombo, Central Province, along the west coast, and eventually the Northern and Eastern Provinces. The Prime Minister spread false rumors about Tamil-initiated atrocities to incite violence against Tamils in the Sinhalese dominated areas. Estimates indicate that 300 Tamils were killed, over 1,000 were injured, and 200 women were raped in the 1958 pogrom.

In Jaffna in January 1974, a massive gathering at the Jaffna esplanade was engrossed in the speech of a Muslim Tamil scholar, late Professor Naina Mohamed, on the last day of the International Association of Tamil Research Conference. The Sri Lanka police unleashed a brutal attack on the passive gathering, which led to the wanton death of 9 Tamils. This Council notes that the memorandum submitted by the late Tamil United Front (TUF) Leader to visiting heads of states during the Commonwealth Conference held in Colombo in September 1974 placed on record important instances of serious human rights violations committed against Tamils on the island since independence in 1948.

From August 12–20, 1977, Tamils were attacked on the train from Jaffna to Colombo, through the country from Anuradhapura to Colombo, and in the Hill Country. Again, false rumors about Tamil violence against Sinhalese contributed to the rioting. About 300 Tamils were killed, over 1,000 were injured, and 25,000 were displaced. These pogrom occurred less than one month after J.R. Jayewardene took office as prime minister. Jayewardene said the deaths were regrettable but a natural reaction to support for separatism. Whilst the 1977 pogrom raged and the Tamil people were reeling from the slaughter, Prime Minister Jayewardene rose in Parliament on 18 August and arrogantly issued a challenge to Tamils: “if you want to fight, let there be a fight; if it is peace, let there be peace.” (Hansard, Vol. 23, No. 2, Col: 246.) Jayewardene's victim-blaming furthers the argument that the government intended to commit genocide in response to the increasingly popular Tamil resistance.

The most horrific anti-Tamil pogroms, known as “Black July,” occurred July 23–30, 1983, and involved state-sponsored Sinhalese mobs attacking Tamils and destroying their properties across the country, beginning in Colombo. Towards the end of the week, false rumors that the LTTE infiltrated Colombo resulted in massacres of Tamils by Sinhalese mobs who wanted to be sure there was no LTTE presence. The mobs targeted and located Tamils using voter registration lists, damning evidence of the government's instigation of these attacks. Over 3,000 Tamils were killed, 500 women were raped, 8,000 homes and 5,000 businesses were destroyed, and about 500,000 Tamils fled the country. In addition, as part of this pogrom, over 37 Tamil political prisoners detained at Welikada Prison were killed by Sinhalese prisoners on

July 25. The survivors say that the prison officers facilitated these murders by letting the Sinhalese prisoners have their keys.

Just prior to Black July, on July 11, President Jayawardene was quoted in a newspaper, saying: “I am not worried about the opinion of the Tamil people. ... now we cannot think of them, not about their lives or their opinion ... Really if I starve the Tamils out, the Sinhala people will be happy.” (J.R. Jayawardene, President of Sri Lanka, Daily Telegraph, July 1983.) This statement by the head of state clearly indicates the government’s intent to destroy the Tamil people through killings, causing serious bodily or mental harm, and deliberately inflicting on the Tamil people the conditions of life calculated to bring about their physical destruction.

This Council notes that the spread of false rumors to incite violence against a group is a hallmark of genocides throughout history, such as in Nazi Germany, Rwanda, and the former Yugoslavia. The Sri Lankan government has used false rumors as one tool in organizing Sinhalese mobs to commit genocide against Tamils.

Black July is marked as the beginning of war in Sri Lanka. This Council notes that the ethnic conflict had already begun, however. Both overt and covert acts of state terrorism by successive government regimes, often pursuant to the draconian Prevention of Terrorism Act, translated into systematic and widespread extrajudicial killings of Tamils. The atrocities against Tamils included over 50 separate massacres of civilians before 2008 and the targeted assassinations of political, civil and community leaders; enforced disappearances; torture; use of sexual violence as a tactic of war; severe restrictions or bans on food and basic medicine; and forced displacement, including coastal communities from the NorthEast Provinces.

The Vanni genocide of 2008-09 had previously been rehearsed in the Eastern Province. On 28 August 2006, the Sri Lankan military began a multi-pronged offensive against the LTTE-administered region stretching from Sampoor to Vaharai. Heavy shelling forced civilians to displace towards Vaharai. The UN reported that the Sri Lankan government first restricted international aid agencies and journalists from entering the area, and then completely barred food and medical supplies from reaching the IDPs. Presumed safe areas such as schools and hospitals came under heavy gunfire, according to the UN and Human Rights Watch. Thousands of Tamils died, either due to shelling or gunfire, or as a result of their untreated wounds or starvation. On 19 January 2007, the Sri Lankan military entered Vaharai with little resistance and began the process of colonizing the entire region.

During the war, government military forces engaged in deliberate aerial, artillery, and naval bombardment of civilian areas and also used prohibited weapons and ammunitions, such as cluster bombs. According to UN estimates, 60–100,000 Tamil civilians were killed over the course of the 27-year-long war. The large scale and severe nature of the genocide also forced many Tamils to flee the NorthEast Provinces and seek refuge in Tamil Nadu and Western countries.

## Recent Genocide<sup>1</sup>

The Sri Lankan government intentionally corralled Tamils into the so-called No Fire Zones in 2009, in a calculated and deliberate attempt to destroy as many Tamils as possible. According to the U.N. Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, the Sri Lankan government: "[S]helled on a large scale in three consecutive No Fire Zones, where it had encouraged the civilian population to concentrate, even after indicating that it would cease the use of heavy weapons. It shelled the United Nations hub, food distribution lines and near the International Committee of the Red Cross (ICRC) ships that were coming to pick up the wounded and their relatives from the beaches. It shelled in spite of its knowledge of the impact, provided by its own intelligence systems and through notification by the United Nations, the ICRC and others. Most civilian casualties in the final phases of the war were caused by Government shelling."

Callum Macrae, director of award-winning documentaries about Sri Lanka with UK's Channel 4, reported on "evidence that the attacks killing civilians were accurately targeted."

At the end of January 2009, government forces were killing approximately thirty-three Tamil people each day, with these casualties increasing to 116 people per day by April 2009. According to the Permanent People's Tribunal on Sri Lanka, this toll surged, "with an average of 1,000 civilians killed each day until May 19, 2009." In a submission to the Lessons Learnt and Reconciliation Commission, the Bishop of the Mannar Catholic Diocese, Rt. Rev. Dr. Rayappu Joseph, stated that according to the Government Secretariats, the population in the Vanni region in early October 2008 was 429,059. However, only 282,380 people emerged from the Vanni into government-controlled areas, according to UN OCHA 2009 statistics. Thus, over 146,679 people in the Vanni are not accounted for after the 2009 atrocities.

The U.N. Panel of Experts also reported on an elite unit within the Special Task Force (STF) of the police that was directly under the command of Defense Secretary Gotabaya Rajapaksa. The Experts found that the unit was implicated in organizing "white van" operations in which individuals were abducted, tortured, and often "disappeared."

Callum Macrae also reported that evidence exists "depicting the systematic and cold-blooded execution of bound, naked prisoners—and which also suggests sexual assault of naked female fighters." At least 200 deceased and mutilated bodies, primarily of Tamil women and young girls, were observed by the employee of an international agency at the mortuary of a government hospital in February and March 2009.

## 2. CAUSING SERIOUS BODILY OR MENTAL HARM TO MEMBERS OF THE GROUP

### Historical Genocide

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<sup>1</sup> Significant portions of this resolution's analysis of the recent and ongoing genocide are from "The Legal Case of the Tamil Genocide," UNROW Human Rights Impact Litigation Clinic, *Human Rights Brief*, 6 January 2015, available at <http://hrbrief.org/2015/01/the-legal-case-of-the-tamil-genocide/>

In 1979, then-President Jayewardene passed the Prevention of Terrorism Act, which gave security forces broad powers to search, arrest, and detain suspects. The Prevention of Terrorism Act has been used to detain, torture, and even murder many Tamil civilians. Jayewardene also passed a constitutional amendment barring MPs who support separatism from Parliament, which effectively eliminated MPs from the Tamil United Liberation Front (TULF) from politics at the time. (6th Amendment, August 1983.) By curtailing Tamils' right to free speech and free expression, Sri Lanka has violated the Tamils' right to self-determination.

The governments of Sri Lanka also committed acts of cultural genocide, beginning on June 5, 1956, when the S.W.R.D. Bandaranaike government passed the Sinhala Only Act, or the Official Language Act, which replaced English with Sinhala, spoken by 70% of the population at the time, as the sole official language. This act failed to officially recognize Tamil in any capacity. In the first republican constitution of 1972, Buddhism was privileged "at the foremost place" among religions in the constitutions. Although the term "cultural genocide" does not appear in Genocide Convention, it was included in the initial draft, and international criminal tribunals have found acts of cultural and linguistic destruction to constitute acts of genocide. The Sinhala Only Act and the privileging of Buddhism undermine the Tamil people's language and religion, predominantly Hindu.

Nearly ten years later, from May 31–June 2, 1981, policemen and paramilitaries organized a pogrom during which they killed 4 Tamils selected at random, destroyed TULF's headquarters, the residence of the Jaffna MP, and burned the Jaffna library. Over 97,000 books and culturally and historically important and irreplaceable documents were destroyed in this heinous act of cultural genocide. High ranking security officers and cabinet ministers were in Jaffna when security forces destroyed Tamil life and property, further illustrating the state's support of these acts. The government targeted the Jaffna library to destroy part of the Tamil people's culture and cause them serious mental harm.

On 5 September 1990, the Sri Lanka Army took 158 Tamils from the Vantharamoolai IDP camp. Five days later, on 10 September, the Sri Lanka Army took 184 Tamils, including 38 children under age 10, from Sathurukkondaan and two nearby villages. There was only one witness who survived, who reported that all the detained had been massacred. Despite various commissions of inquiry, the fate of these people is still unknown.

This Council notes that all historical and more recent genocidal acts have caused serious mental harm to Tamils, as successive Sinhalese-dominated governments have committed gross and systematic human rights violations against the Tamil people. The International Law Commission interpreted the mental harm standard to mean that "the bodily harm or the mental harm inflicted on members of a group must be of such a serious nature as to threaten its destruction in whole or in part." Thus, the acts of physical, cultural, and linguistic violence against Tamils are tantamount to genocide under the mental harm standard because extensive destruction of the Tamil culture and language threatens the Tamil people's survival on the island.

## **Recent Genocide**

The U.N. Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka found credible allegations that security forces committed rape and sexual violence against Tamil civilians while screening those leaving areas of conflict and in IDP camps. Yasmin Sooka, one of the experts who contributed to the Secretary-General's U.N. report, released her own report in March 2014, concluding that "[a]bduction, arbitrary detention, torture, rape and sexual violence have increased in the post-war period . . . . These widespread and systematic violations by the Sri Lankan security forces occur in a manner that indicates a coordinated, systematic plan approved by the highest levels of government." The report found "a pattern of targeting Tamils for abduction and arbitrary detention unconnected to a lawful purpose, involving widespread acts of torture and rape." This report was based on forty sworn statements from witnesses who testified regarding their experiences of abduction, torture, and sexual violence by Sri Lankan security forces between May 2009 and February 2014. The report "paints a chilling picture of the continuation of the conflict against the ethnic Tamil Community with the purpose of sowing terror and destabilising community members who remain in the country." The report identified "a practice of rape and sexual violence that has become institutionalized and entrenched in the Sri Lankan security forces." Survivors reported being raped by uniformed male officers from the Sri Lankan military.

A Human Rights Watch report released in February 2013 also documented seventy-five cases of politically motivated sexual assaults of primarily Tamil detainees. Human Rights Watch found "disturbing patterns, strongly suggesting that [sexual violence] was a widespread and systematic practice," and concluded that rape was a key element of more wide-ranging torture "intended to . . . instill terror in individuals and the broader Tamil population." The report stated that "[s]exual violence, as with other serious abuses committed by Sri Lankan security forces, was committed against a backdrop of deeply entrenched impunity."

Further, systematic attacks on hospitals during the 2009 military campaign caused serious bodily and mental harm to Tamils. Human Rights Watch documented at least thirty such attacks on permanent and makeshift hospitals in the combat area after December 2008. The destructive campaign has caused permanent mental effects on those who survived. Investigators with the U.S. Centers for Disease Control and Prevention (CDC), United Nations Children's Fund (UNICEF), and Sri Lanka Ministry of Healthcare and Nutrition conducted a health survey of Jaffna District residents between July and September 2009. They found that the "prevalence of PTSD (13%), anxiety (48.5%), and depression (41.8%) symptoms among currently displaced Jaffna residents is more comparable with post-war Kosovars and Afghans." As noted by the Permanent Peoples' Tribunal on Sri Lanka, "continuous displacement and endless trauma caused by protracted war had a devastating impact" on mental health among Tamils. Further, the government hitherto has continued to impose restrictions on psychosocial support services in Tamil areas, which intentionally exacerbates serious mental harm.

3. DELIBERATELY INFLICTING ON THE GROUP CONDITIONS OF LIFE CALCULATED TO BRING ABOUT ITS PHYSICAL DESTRUCTION IN WHOLE OR IN PART

**Historical Genocide**

Following the passage of the Sinhala Only Act, thousands of Tamil civil servants resigned due to a lack of fluency in Sinhala, and by 1970, the civil service was almost entirely Sinhalese. During this time, it was difficult, if not impossible, for Tamils to access government services due to the language barrier.

During the 1970s, university admissions were standardized to benefit Sinhalese students at the expense of Tamils. Gaining admission to university became increasingly difficult for Tamil students, whose numbers consequently declined at the tertiary level.

The UN noted that “If a state systematically denies to members of a certain group its *elementary means of existence* enjoyed by other sections of the population, it condemns such persons to a wretched existence maintained by illicit or clandestine activities and public charity.” The Sinhala Only Act made it prohibitively difficult for Tamils—many of whom were civil servants—to retain or gain employment or access government services, thus denying Tamils their elementary means of existence. Similarly, the standardization scheme introduced in 1970 discriminated against Tamil students seeking university entrance, putting them at a disadvantage for access to employment.

Moreover, according to international criminal jurisprudence from the International Criminal Tribunal for Rwanda, the term “physical destruction” “should be construed as the methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction,” which would “include, *inter alia*, subjecting a group of people to a subsistence diet, systematic expulsion from homes and the reduction of essential medical services below minimum requirement”. By pushing Tamils out of the workforce and rendering them financially insecure, the Sinhala Only Act and university admissions standardization ultimately aimed to destroy the Tamil group at least in part via a “slow death genocide.”

This Council further notes that during the war, the government imposed prolonged blockades against humanitarian aid and embargos on necessary goods, preventing basic goods and supplies from reaching the NorthEast.

## **Recent Genocide**

A military blockade against Tamil areas has been in place since 1990, except for ceasefire periods, which has contributed to the historical impoverishment and isolation of the Tamil community. The blockade has prevented ordinary items such as basic medicine, school books, cement, gasoline, candles, and chocolate from entering Tamil areas. During certain periods of the ethnic conflict, the military adopted a harsher stance, and blocked all humanitarian aid intended for civilians.

The U.N. Panel of Experts Report found that the government deliberately understated the Tamil population size “as part of a strategy to limit the supplies going into the Vanni.” The Panel of Experts Report continued, noting that “[a] senior Government official subsequently admitted that the estimates were reduced to this end. The low numbers also indicate that the Government conflated civilians with LTTE in the final stages of the war.” According to the International

Crimes Evidence Project, the government's refusal of "adequate food and medical supplies into the Vanni despite being aware of the devastating effect it would have on civilians, ... could have amounted to inhumane acts or persecution, or both." Such intentional starvation demonstrates the government's deliberate infliction of deadly conditions calculated to bring about the physical destruction of Tamils.

Callum Macrae also found evidence of "the deliberate denial of adequate humanitarian supplies of food and medicine to civilians trapped in those grotesquely misnamed No Fire Zones. To justify this policy, the government systematically underestimated the number of civilians trapped in the zones. At the end of April 2009, for example, President Rajapaksa told CNN that 'there are only about 5,000 . . . even 10,000' civilians left in the zones." According to UN figures, however, more than 125,000 civilians were stuck in these zones. President Rajapaksa endorsed the inaccurate figures as a means to "justify what almost certainly constitutes a war crime—a crime that left thousands of civilians catastrophically short of food and water—and allowed hundreds to die unnecessarily in makeshift hospitals because of desperate shortages of supplies including blood and anesthetics." Amnesty International's Asia director, Sam Zafiri, reportedly stated that the Sri Lankan government's policy of obstructing aid was deliberate and illegal, noting that "[i]nternational law bans medieval sieges—you can't subject a population to hunger, famine or plague as a means of military victory." Today, the Tamil community "shows clear signs of continuing deterioration in terms of health, food and social security." In the North-East areas, the malnutrition level has reached fifty percent, "corresponding also with the alarming poverty rate measured at [fifty-eight percent]" in those regions.

The systematic expulsion of victims from their homes is another means of inflicting conditions of life calculated to bring about the physical destruction of a group, as stated by the international criminal tribunals. The Sri Lankan government used this practice extensively against Tamils, confiscating Tamils' private lands. In May 2013, 1,474 northern Tamils filed a petition against the government's confiscation of their land, stating that 6,381 acres were appropriated to build another Army base in Jaffna. The majority of these individuals were refused permission to return to their lands and forced to remain in the "welfare villages," which enabled the government to claim that the owners of these lands are "unidentifiable."

Even five years after the end of the war, Sri Lanka announced a defense budget of \$1.95 billion for 2014 (twelve percent of the overall 2014 state budget). The Sri Lankan military's current reach includes police powers throughout the country, with search and detention authority. In Tamil-speaking areas, the Sri Lankan military is "increasing its economic role, controlling land and seemingly establishing itself as a permanent, occupying presence." The heavy militarization of the NorthEast has led to the drastic increase in Sinhalese settlers, land grabs, construction of Buddhist temples, conversion of village names and street signs from Tamil to Sinhalese, and unrestricted Sinhalese enterprise, all of which threaten to permanently alter the local demography and exacerbate ethnic tensions, as noted by the International Crisis Group. Evidence related to the "escalation of militarisation, colonisation and forcible imposition of Sinhala Buddhist culture" in Tamil areas contributed to a finding of genocide by the Permanent Peoples' Tribunal on Sri Lanka, an independent, international organization that has examined human rights violations around the world.

#### 4. IMPOSING MEASURES INTENDED TO PREVENT BIRTHS WITHIN THE GROUP

##### **Historical Genocide**

As early as the 1990s, there have been reported incidents of forced sterilization of the Up-Country Tamils. Doctors would promise Rs. 500 to young and poor Tamil plantation workers, who would take a lorry to a makeshift clinic where they were forcibly sterilized via tubal ligation without consent. The government operated this program under the guise of family planning, but its aim was to prevent births amongst Tamils, thus changing the demographics of the Central Province. After the implementation of such forced sterilization programs, the growth rate of the Tamil population in the region fell drastically compared to other communities. Trends dating back to 5–10 years before these acts of forced sterilization also indicate closures of childcare centers following increased forcible sterilization measures, as the number of children below age 5 decreased too much. Women were almost always sterilized before the age of 26 years, which is ostensibly against Sri Lankan law. Thus, while the situation for Tamils deteriorated in the NorthEast due to the war, the government continued its genocide against Tamils by forcibly sterilizing the Up-Country Tamils.

##### **Recent Genocide**

Doctors aligned with the Sri Lankan government performed abortions on Tamil women without their consent. In May 2007, a confidential cable from the United States Embassy in Colombo stated, “Father Bernard also told us of an EPDP [Eelam People’s Democratic Party, a pro-government paramilitary organization] medical doctor named Dr. Sinnathambi, who performs forced abortions, often under the guise of a regular check-up, on Tamil women suspected of being aligned with the LTTE.”

Further, in August 2013, government health workers forced mothers to accept surgically implanted birth control in the Tamil villages of Veravil, Keranchi, and Valaipaddu in Kilinochchi in the Northern Province. When the women objected, the nurses said that if they did not agree to the contraceptive, they could be denied treatment at the hospital in the future. A Ministry of Health Department report from the Northern Province in 2012 found an unjustifiably higher rate of birth control implants—thirty times higher—in Tamil women in Mullaitivu, compared to the much more densely populated Jaffna. According to the Home for Human Rights (HHR), more than eighty percent of Tamil women in central Sri Lanka were offered a lump sum payment in return for their ability to reproduce. After receiving this payment—typically 500 rupees—women underwent surgical sterilization. This amount of money is significant, especially for these who are predominantly plantation workers. The population of this Tamil group has dropped annually since 1996 by five percent, whereas the population of the country overall has grown by fourteen percent. In contrast, police and Army officers have been encouraged to have a third child through payment of 100,000 rupees from the government. The police and Army are overwhelmingly Sinhalese, and thus those taking advantage of this offer are Sinhalese. “This systematic pattern of authority-sanctioned coerced sterilizations may amount to an intentional destruction . . . of the Tamil estate population,” as stated by the Home for Human Rights.

**And also noted:**

### **Sri Lanka's Institutionalized Impunity**

This Council notes that President Maithripala Sirisena was acting defense minister in May 2009, during the peak of the government's attacks against Tamils. This conclusively demonstrates the need for justice and accountability for the Tamil genocide to be driven and carried out by the international community. Tamils have no hope for justice in any domestic Sri Lankan mechanism, whether conducted by the Rajapaksa regime, Sirisena regime, or its successor.

This Council further notes that Lt.-Gen. Sarath Fonseka was President Rajapakse's Army Commander during the later stages of the war, and is currently President Sirisena's advisor on defense matters. Fonseka told international media: "I strongly believe that this country belongs to the Sinhalese but there are minority communities and we treat them like our people. We being the majority of the country, 75%, we will never give in and we have the right to protect this country....We are also a strong nation ... They can live in this country with us. But they must not try to, under the pretext of being a minority, demand undue things." (National Post, 23 September 2008.) Fonseka's rhetoric embodies the sentiment of Sinhala nationalist chauvinism that has been a hallmark of Sri Lankan politics since its independence. Sinhala nationalism serves to institutionalize impunity for genocide against Tamils, and prevent any meaningful political solution.

Further, an internal message from the then-United States Ambassador in Colombo, Patricia Butenis, said one of the reasons there was such little progress towards a genuine Sri Lankan inquiry into the 2009 killings was that the president and the former army commander, Sarath Fonseka, were largely responsible. "There are no examples we know of a regime undertaking wholesale investigations of its own troops or senior officials for war crimes while that regime or government remained in power," Butenis noted. "In Sri Lanka this is further complicated by the fact that responsibility for many alleged crimes rests with the country's senior civilian and military leadership, including President Rajapaksa and his brothers and opposition candidate General Fonseka." (Wikileaks Cables: 'Sri Lankan president responsible for massacre of Tamils,' as quoted in The Guardian, 1 December 2010.) Butenis's analysis that no regime will investigate its own leaders remains equally true under Sirisena's administration, given his role in the military leadership in 2009 and Fonseka's continued position of privilege.

This Council further notes that countless Presidential Commissions established under different regimes to investigate human rights violations have not led to prosecutions of perpetrators or justice. (Amnesty International, Sri Lanka: Twenty Years of Make-Believe. Sri Lanka's Commissions of Inquiry, 11 June 2009.)

### **Resolved that,**

The obligation to prevent and punish genocide under the Genocide Convention is not a matter of political choice or calculation, but one of binding customary international law. This Council urges OISL to comprehensively investigate and report on the charge of genocide in its

submission to the UN Human Rights Council in March 2015. The UN Security Council should refer the situation in Sri Lanka to the International Criminal Court for prosecutions based on war crimes, crimes against humanity, and genocide. Alternatively or concurrently, domestic courts in countries that may exercise universal jurisdiction over the alleged events and perpetrators, including but not limited to the United States, should prosecute these crimes.<sup>2</sup>

To this day, Tamils in the NorthEast suffer from Sri Lanka's ongoing genocide. In some areas of the NorthEast, there is 1 soldier for every 3 Tamils; this level of militarization is utterly unjustifiable, given that war ostensibly ended over 5 years ago. In Tamil-speaking areas, the Sri Lankan military has exponentially increased its role in Tamils' daily life, expanded the amount of land it controls, and is establishing itself as a permanent, occupying presence. There has been no change in the oppressive level of militarization in the NorthEast with the election of Maithripala Sirisena. The extreme level of militarization uniquely affects Tamil women. There are approximately 90,000 female-headed households in the NorthEast after the end of the armed conflict. These women are especially vulnerable to sexual violence due to the military's predatory practices. This Council urgently calls upon the international community to create conditions suitable and sustainable to protect the Tamils of the NorthEast Provinces in Sri Lanka from genocide.

The case of genocide in Sri Lanka is unique among genocides in history because it occurred over several decades and under different governments before intensifying into a no-holds-barred war for nearly three decades and culminating in the mass atrocities of 2009. It is accordingly vital that Sri Lanka's historic violations against Tamils, in addition to the 2009 attacks, are addressed through an international mechanism in order to combat Sri Lanka's institutionalized impunity. This international intervention, coupled with action to promote the respect of human rights, is necessary to ensure a sustainable future for self-determination, peace, and justice, in Sri Lanka and for the Tamil people.

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<sup>2</sup> "The Legal Case of the Tamil Genocide," UNROW Human Rights Impact Litigation Clinic, *Human Rights Brief*, 6 January 2015, available at <http://hrbrief.org/2015/01/the-legal-case-of-the-tamil-genocide/>