

## **Tamil Civil Society Forum**

### **Opinion on the Appropriateness of the Northern Provincial Council Passing a Resolution on Genocide**

The Tamil Civil Society Forum issues this statement to state its position on the question of the appropriateness of the Northern Provincial Council passing a resolution identifying the crimes that were committed and those that continue to be committed against the Tamil people as amounting to the crime of Genocide. We release this statement having sought advice from lawyers competent to comment on International Law, where such advice was required and relevant.

1. The UN Genocide Convention of 1948 aims to prevent and punish the commission of Genocide defined as the destruction of a national, ethnical, racial or religious group (Article 2 of the Convention) in whole or part. Genocide is also a *jus cogens* norm of Customary International Law. It cannot be disputed that Tamils fit within the definition of either a 'national' or 'ethnic' group or both.
2. Genocide is a crime recognized in the Rome Statute of the International Criminal Court (Article 6) along with other categories of crimes such as War Crimes (Article 8) and Crimes Against Humanity (Article 7). Any investigation that inquires into the atrocities, that were perpetrated (and those that continue to be perpetrated) against Tamils needs to investigate all three categories of crimes identified above, including Genocide. Tamils and their representatives have a right to ask for the UN Office of the High Commissioner for Human Rights inquiry team on Sri Lanka (OISL) to investigate the crime of genocide in addition to an investigation into war crimes and crime against humanity. Requesting an investigation into genocide serves to ensure that all possible violations of international law are appropriately identified and explored. Needless to say such a request does not prejudice OISL's investigation into other crimes including war crimes and crimes against humanity. Neither the UN Secretary General's Panel of Experts report's silence on the crime of Genocide nor the text of the UN Human Rights Council March 2014 resolution prevent the OISL from investigating the crime of genocide.
3. Tamils and their representatives have the right to form a legal opinion that the atrocities that were committed (and continue to be perpetrated) against them amounts to Genocide. There are sufficient, reasonable grounds to form such a legal opinion, such that this is not a spurious claim. Tamils and their representatives also have a concomitant right to seek the intervention of the International Community to prevent and protect them from the commission of Genocide. The right to state and claim the above stems from their right to freedom of speech and expression enshrined in international human rights law. Prevention and protection from Genocide are also duties that stem from

- the UN Genocide Convention and the emerging doctrine of the Responsibility to Protect. The self-characterization and identification of the crime to which they were subjected to, by the victim group, in no way prejudices an impartial inquiry into those crimes by any body that is empowered to do so. Hence, the identification of the crime that befell them as constituting genocide by Tamils in no way prejudices OISL's inquiry into the same.
4. Further, there are innumerable examples of democratically elected bodies passing resolutions recognizing the commission of Genocide. The following are some examples:
    - a) In August 2014 the Iraqi Parliament passed a resolution stating that ISIS's actions in Northern Iraq amounted to Genocide.
    - b) In August 2014 the Pakistani Parliament passed a resolution stating that the Israeli attack on Gaza amounted to Genocide.
    - c) President Abbas in his address to the UN General Assembly in September 2014 claimed that Israeli attacks on Gaza amounted to genocide. This was despite the fact that a Commission of Inquiry had been set up by the UN Human Rights Council to inquire into the violations by both sides in that conflict.
    - d) A number of Parliaments around the world have passed resolutions recognising the Armenian Genocide including the European Parliament.
  5. Tamils and their elected representatives have to articulate their positions with clarity and with the best interests of the Tamils in mind. They have the moral right to contribute and lead the discourse through which their issues could be addressed. Hence we are of the opinion that there are no cogent moral or legal reasons for the NPC to refrain from passing a resolution that: a) recognizes the past and present commission of Genocide against the Tamils, b) calls for an international investigation into Genocide, and c) requests international intervention to protect the Tamils from Genocide.

Tamil Civil Society Forum  
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