

Justice denied in draft US Resolution: No man should be judge in his own case!

Dear Friends

According to news reports, some UNHRC member countries including US, UK, Montenegro and Macedonia are going to discuss, on Monday 21st September, with relevant stakeholders on a preliminary draft resolution on Sri Lanka – titled “Promoting reconciliation, accountability and human rights in Sri Lanka”. (News: <http://www.thesundayleader.lk/2015/09/20/sri-lanka-resolution-china-russia-may-align-with-us/>)

At this initial stage, **we need to have some common position:**

1. **Tamils don't have any faith on any Sri Lankan government led judicial process.** Our demand is “*an international accountability process via setting up an ad-hoc international tribunal.*”

2. However, **the draft resolution calls for a domestic judicial process** with the involvement of “international investigators, prosecutors and judges”.

This proposed **domestic court cannot be called as “hybrid court”**. For any hybrid mechanism, the hybrid court must be established through an international treaty. The hybrid courts in Sierra Leone (SCSL), Lebanon (STL), and Cambodia (ECCC) – were established through agreements between concerned countries and UN Secretary General, under the oversight of the Security Council.

Without an international treaty, without a proper Constitution, without relevant laws to deal with international crimes – “a mechanism with simple combination of domestic and foreign judges” is doomed to be failure.

3. **An important recommendation** in High Commissioner's report (A/HRC/30/61) **is missing** in the proposed draft resolution - " Invite OHCHR to establish a full-fledged country presence to monitor the human rights situation, advise on implementation of the High Commissioner's recommendations and of all HRC resolutions, and provide technical assistance" - It is not mentioned directly in the proposed draft resolution. It is not acceptable for Tamils.

4. The **only positive proposal** in the draft resolution is: "calls for an oral report on the progress of recommendations listed in the OHCHR Investigation report on Sri Lanka and the human rights situation in the island by High Commissioner Zeid one year from now, in September 2016, at the Human Rights Council's 33rd Session. The resolution calls for a comprehensive report on progress “followed by discussion on the implementation of the present resolution” in March 2017, at the council's 34th session."

We need to read it with the last recommendation in High Commissioner's report i.e.: "Continue to monitor human rights developments and progress towards accountability and reconciliation through the Human Rights Council;**Should there be insufficient progress**, the Human Rights Council should consider **further international action** to ensure accountability for international crimes."

“The arc of the moral universe is long, but it bends towards justice.”

— ***Martin Luther King Jr.***

With regards

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