

**Committee/Council:** Special Political and Decolonization Committee

**Issue:** The question of the alleged Tamil genocide in Sri Lanka

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**Position:** Co-Chair

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## Introduction

In the past 150 years, millions of people have been tortured, raped, forced to flee their countries or even executed due to mass carnages and the conduct of genocides with the intention of destroying, in whole or in part, a national, ethnical, racial or religious group. The Holocaust, the genocide in Cambodia, the Armenian genocide and the genocide in Rwanda are among the most devastating as well as cruel genocides that the international community has faced during the past century. Surprising as it may seem, on the threshold of the 21st century, it is important to realize that those kind of atrocities have not ceased to exist and continue to plague targeted groups. One of those ethnical groups are the Tamils who reside in Sri Lanka, one of the largest islands in the Indian Ocean. It has been proven through conducted investigations carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2011, that tens of thousands of Tamil civilians were killed between January and May 2009, and in particular the final weeks of the Sri Lankan civil war, when human rights violations and related crimes occurred. Years after these severe events, not a single person has been charged and consequences have not been confronted in any way. Additionally, one UN report deduced that as many as 40,000 Tamils may have died, mostly because of government bombarding. Consequently it is crystal clear that innocent Tamil civilians were the victims of these atrocities performed during the Sri Lankan civil war, whereas it is a solid fact that they died by the thousands, in a way according to which some regard it as nothing less than a genocide. Although this may be true, there has been none official statement by any organization or country so as to consider the aggregation of crimes against the Tamils as a genocide and as long as there is an absence of accountability for the massacres that occurred, there can be no maintainable peace. Justice must be served and this is the reason why further investigations which are a request from the majority of the international community, on whether a genocide has been committed or not are encouraged but unfortunately not yet been conducted in the proper extent.

## Definition of Key-Terms

## War crimes

War crimes and crimes against humanity are among the gravest crimes in international law. At the core of the concept of war crimes is the idea that individuals can be held criminally responsible for the actions of a country or its soldiers. There is no period of limitation for such crimes. In other words, the perpetrators of those crimes can be prosecuted and punished no matter how much time has intervened since the crimes were committed. According to the Geneva Convention in the case of an international armed conflict, any of the following acts committed are considered as war crimes. Willful killing, torture or inhuman treatment, extensive destruction or appropriation of property, willfully depriving a prisoner of war or other protected person of the rights of a fair and regular trial or taking of hostages are some of them. Participation in the formulation or execution of any of the crimes above considers the people interfered criminally responsible for everything done by anyone in the process of carrying out such a plan. Accountability for war crimes is delivered by the International Criminal Court either when countries address to it, or when the UN Security Council sends prosecutions there.

## Genocide

Genocide is considered one of the most severe crimes and falls under the category of war crimes. In accordance with the definition provided by the Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, genocide is the deliberate and methodical attempt with the intention of destroying a national, ethnic, racial or religious group. Any of the following acts committed consist forms of genocide, such as: killing members of the group, causing serious bodily or mental damage to members of the group, deliberately inflicting on the group conditions of life in order to lead to its physical destruction in whole or in part, imposing measures with the intention of preventing births within the group or forcibly transferring children of the group to another group. Moreover, it is affirmed that genocide is a crime under international law whether committed in time of peace or war, regardless of the country where it takes place and it has two phases: one, the destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor. On the other hand, the definition of genocide does not cover enough the needs of identifying such a crime, which is the reason why several problems have occurred regarding the classification of numerous of the above mentioned violations as a genocide. As an illustration, proving intention as well as purpose is extremely difficult and there is also the additional difficulty of establishing how many deaths equal genocide.

## Tamils

The Tamil people are an ethno-linguistic group which resides primarily in the southern state of Tamil Nadu, India, as well as in north-eastern Sri Lanka. In the past centuries they have also immigrated into the Maldives Island. They are people originally from southern India who are speaking Tamil, one of the principal languages of the Dravidian family. Their number reached 57,000,000 in the late 20th, and among them about 3,200,000 speakers were resided in northern and eastern Sri Lanka. Furthermore, they also did inhabit parts of Kerala, Karnataka, and Andhra Pradesh states, all situated in the southernmost third of India.

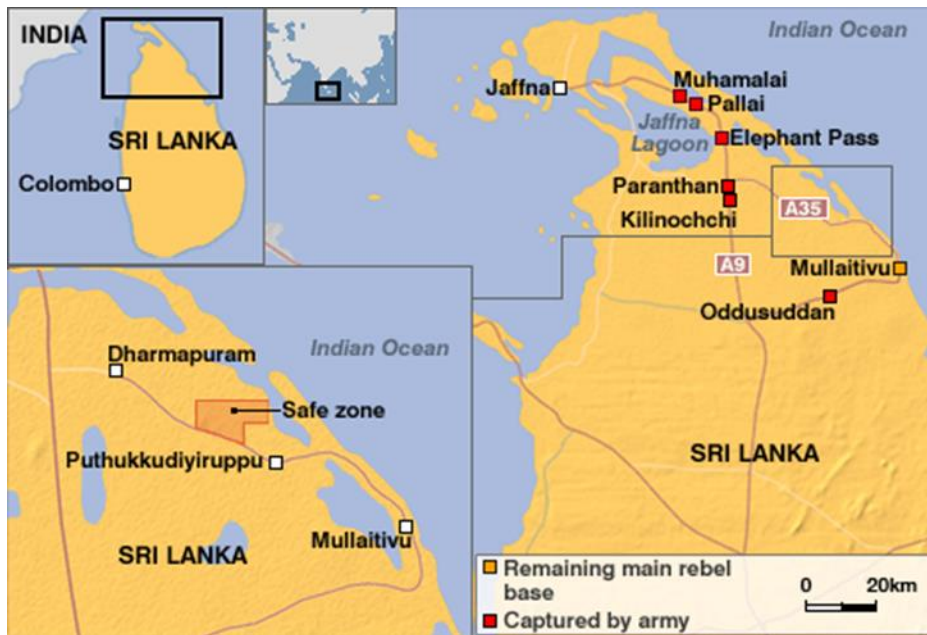
## **Background Information**

### Pre-war conditions

In 1948 the Sri Lankan island gained independence from the British rule that was established in the country until then. During the British colonial era, the British have extensively tried to diffuse the Mahawasma ideology, according to which in order to be an original Sri Lankan habitant it was a predisposition to be a Sinhalese and therefore to be a Buddhist. The above mentioned ideology led to the creation of a belief which stated that Tamils, Muslims and Sinhala Christians could not be included in the Sri Lankan population. Henceforth, the Eelam Tamil identity was more than once gravely undermined so as to underline the domination of the Sri Lankan identity, which did not include the Tamil population. In fact, with the Official Language Act which took place in 1956 by imposing Sinhala as the sole official language of Sri Lanka and denying the Tamil language, and at the same time the realization of affirmative actions in favor of Sinhales, an Indo-Aryan ethnic group native to the island of Sri Lanka, many Tamils interpreted this deliberate marginalization as a proof that they should seek independence and create an Eelam Tamil state. Important is also to realize the condition in which the majority of Tamils were subjected to. Institutional discrimination, employment discrimination, restrictions considering their access to further education, destruction of the cultural heritage of the Eelam Tamils, colonization and militarization in the north-east of the island with the intention of demolishing their territorial integrity, pogroms, abductions, torture, sexual abuses and murders. Consequently, these series of acts against the Tamils favored the emergent of many Tamil nationalist armed groups. Tensions between the two ethnic groups, Tamils and Sinhales, exploded on July 23, 1983, when thirteen Sri Lankan soldiers were killed by the insurgents. As a response, Sinhales burned and destroyed Tamil property, causing more than \$300 million in property damage and organized massive attacks against the Tamils with a 70 percent of the Tamils in Colombo being refugees, and between 2,000 and 3,000 Tamils dead. After those events, Tamil separatist guerilla movements, such as the Liberation Tigers of Tamil Eelam (LTTE), gained impetus.

### Sri Lankan civil war

Hostility between the Buddhist Sinhalese majority and the Hindu Tamil minority led to a long running civil war in Sri Lanka. Both sides used methods which do not abide by the international law and are considered major crimes. The LTTE realized bombing attacks against public buildings, transportation means, Buddhist temples and a variety of many other locations. Moreover, they supported and carried out missions which included recruitment of children, mainly female, suicide bombers, guerilla warfare, and it is known that they took an entire population hostage in order to use them as human shields, protecting themselves and exposing hundreds of thousands of civilians to danger while they displaced them. By 2008, the LTTE had founded a functioning state in the north of the country, with its own civil and financial services, as well as armed forces. On the other hand, by the middle of January 2009 the government created a series of what they called no-fire zones, namely camps, for the internally displaced Tamils who were forced to flee in order to avoid zones of conflict and preserve their own safety. But instead of taking care of the safety of people living in these camps, the government had been bombing them, although according to their policy, they supported a “zero civilian casualties” strategy. In particular, the health care, education and nutrition situation in those camps was far from adequate since aid workers and humanitarian aid agencies were denied or even expelled by the government leaving the people who resided in the camps helpless. Namely, gender-based violence became extremely popular inside the camps, and there were always the posing threat by land mines. Because the Sinhalese government could not cater to the basic needs of the Tamils and the horrible living conditions that were dominant in those camps, many countries decided to cut off or limit their aid funding to the government. Intentional killing of innocent people, attacks targeted on hospitals, starvation, enforced disappearances, and lack of humanitarian aid as well as medical care due to denial by the government consist some elements that could describe the situation. The fighting had been placed to a limited LTTE-controlled land, but the intensity of the civil war was not similarly reduced. Civilians and especially the Tamils were trapped in that region, which was alternatively named “the cage” with the LTTE on the one side who shot anyone attempting to flee the region, and the Sri Lankan army on the other who attacked “the cage” with heavy bombardment. An estimated 80,000 to 100,000 citizens were killed and hundreds of thousands of civilians were forced to flee their region during the conflict. Although by the late 1990s, the LTTE had conquered 70 percent of northern and eastern Tamil areas, in May of 2009, the war ended with the Tamil Tigers being defeated by Sri Lanka’s army after 26 years of civil conflict. According to the United Nations reports in April 115,000 people had been able to escape that war zone, but 50,000 people, the majority of them being Tamils, remained trapped and finally killed. Although the massive attacks which occurred in May against the LTTE signaled the end of the bloody civil war, ethnic division remained present and human rights abuses and violations occurred in a wide range.



Map of the region during the latest stages of the civil conflict (2009)

## Major Countries and Organizations Involved

### Tamil Tigers

The Liberation Tigers of Tamil Eelam or "Tamil Tigers" are a Sri Lankan separatist guerrilla movement which was founded in 1976 and its base was in the northern and eastern parts of Sri Lanka. The LTTE emerged under the leadership of Velupillai Prabhakaran. The Liberation Tigers of Tamil Eelam (LTTE) was one of the many groups which was created with the purpose of fighting for Tamil rights, which were gravely violated back in the days, as well as seeking a separate independent state for the Tamil people in Sri Lanka. Several similar groups made their appearance, having the same intentions as LTTE, but they lost ground as the LTTE killed their leaders and absorbed their trained cadres, as during the first years of their existence, the Tigers were contesting with the other groups for support from the Sri Lankan Tamil population, whereas after a 1983 LTTE attack on Sri Lankan security forces, they dominated as the leading Tamil insurgent group. Since then, the Tamil Tigers participated in the Sri Lankan civil war by conducting an intermittent insurgency against the government. They have organized and realized many cruel, lethal attacks, including more than 200 by suicide bombers, according to the Council on Foreign Relations, which had destructive results in the capital Colombo and elsewhere in the 1990s. By the late 1990s, the LTTE have conquered around 70 percent of northern and eastern Tamil areas. However, on May 2009, the LTTE was massively defeated. During the 1970s, India participated in the training of the LTTE and provided them with arms. Given that India has a significant population of Tamils, it is easy to understand why the population as well as the government offered considerable support for the LTTE movement. During the 1980s,

however, the LTTE began connecting via the creation of alliances with separatist groups in India and as a result, India soon withdrew its support. Although labelled as a terrorist organization by the US, UK, the EU and many others, the LTTE has functioned a civilian government in the north and east of Sri Lanka during the civil war in Sri Lanka. As far as the funding of their actions, the Tigers have mainly financed their operations by conducting bank robberies and drug smuggling, along with other illegal acts. It is also widely believed that ethnic Tamils living in Western Europe and Canada are their main financial sources. Additionally, they have investments in stocks and money markets, real estate and restaurants.

## Timeline of Events

Date	Description of event
1948	The Sri Lankan island gained independence from British rule
1949	Indian Tamil plantation workers were marginalized, which resulted in the start of Sinhalese nationalism against the Tamil minority
1956	The Official Language Act or Sinhala Only Act was enacted and establish the Sinhala language as the only official language of Sri Lanka, which was unfamiliar to the majority of the Tamils
1976	The creation of a separatist guerilla movement in Sri Lanka, the Liberation Tigers of Tamil Eelam( LTTE) or Tamil Tigers
1983	Brutal anti-Tamil hostilities following the assassination of 13 soldiers who belonged to the Sri Lankan army by rebels
1983-2009	Sri Lankan civil war between the government and LTTE
2011	Darusman Report
2012	Resolution passed at the UNHRC concerning mass atrocities committed by the Sri Lankan government
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2014	Resolution passed at the UNHRC, which Sri Lanka co-sponsored
2015	The OHCHR Investigation on Sri Lanka (OISL)

## Relevant UN Treaties, Resolutions and Events

### OHCHR Investigation on Sri Lanka (OISL)

According to the resolution A/HRC/25/1, which was adopted in March 2014 on the context of “Promoting reconciliation, accountability and human rights in Sri Lanka”, the United Nations Human Rights Council requested the UN High Commissioner for Human Rights to conduct a proper investigation as far as the alleged crimes and violations concerned, especially in order to find out whether the Tamil genocide took place or not. The above mentioned alleged abuses were performed by both parties participating in the Sri Lankan civil war. The period that has to be investigated, during which the alleged events and crimes were conducted is from 21 February 2002 until 15 November 2011. Nevertheless, the investigators were able to use events as proof outside the timeframe, since they could provide a better understanding of the situation. The primary goal of the investigations was to exclude the possibility of impunity, ensure accountability, reassure the serving of justice and apply Sri Lanka’s obligations according to international human rights law, customary international law, international humanitarian law, and international criminal law.

### Panel of Experts Report and the UN secretary general Review Panel

The report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka or Darusman Report was a report appointed by the SG of UN, Ban Ki-moon, and had as a purpose to aid him on the matter of accountability concerning the alleged crimes and multiple violations of human rights during the civil war in Sri Lanka, and in particular the final stages of it. The report, which was conducted in 2011, found the allegations credible and predicted that if proven, the events, attacks and assaults that occurred during this specific period of time in Sri Lanka could be considered as war crimes and crimes against humanity, since according to their statements, the behavior of both parties, which participated in the civil war, were a grave violation of international law. The UN report concluded that the Sri Lankan government deliberately and illicitly denied humanitarian supplies, medical aid provided by NGOs and the UN, disregarded international aid, and organized shelling attacks, which targeted hospitals, resulted in an essential number of victims. Inversely, the Tigers were also complicit in the damage caused and the killing of hundreds, by opening fire to civilians who tried to escape the LTTE controlled area.

## Previous Attempts to solve the Issue

The previous government of Sri Lanka refused to cooperate with the OISL investigation and this is the reason why such investigation was not conducted right after the end of the civil war. Additionally, there were no solid proof for the alleged crimes and events since the Sri Lankan government caused a media blackout and imposed restrictions on NGOs and international journalists. The UN conducted the proper investigations so as to find out a clear outcome concerning the “verdict” of the inquiry, after the multiple requests from US led countries, in order for the Sri Lanka Army to face the allegations. Furthermore, they underlined the importance of the fact that the Sri Lanka government should support those investigations. With the new government in power, after the removal of the precedent Rajapaksa government, the investigation was realized on March 2015. The new Sri Lankan President has tried to achieve reconciliation efforts with Sri Lanka’s Tamil minority and he declares that he is committed to the utmost extent to the punishment of war criminals and the equilibration of living conditions inside the country. The findings were based on a “reasonable grounds to believe” standard of proof and over 3,000 written submissions, interviews in 11 countries, photos, videos, and satellite imagery with expert analysis were used. The outcome of this investigation was rather satisfactory because of the absence of estimated deaths, the consideration of some attacks as potential war crimes, by denying the intention of systematic violence targeted to civilian population, and the declaration of numerous bombing attacks as “indiscriminate shelling”, contrary to the 2011 report. Last but not least, the report remains silent as far as the Tamil genocide is concerned, leaving the demands of Tamils representatives and the affected Tamil population unaddressed, in view of the fact that nothing in the report signifies that investigations on allegations about the genocide took place. As a response to the criticism that has been arisen, OHCHR staff as well as the High Commissioner have stated that although they did not conclude that a genocide was committed on the basis of elements which characterize the crime of genocide, they were able to gather but did not exclude the possibility of it, after the results of supplementary investigation upon the matter, especially by the hybrid court, which has as an objective to try war crimes and crimes against humanity that were committed by all parties to the armed conflict, as it is recommended. Therefore, it is apparent that further investigation needs to be done.

## **Possible Solutions**

In contradiction to the adopted resolutions, which one of them was also signed by the Sri Lankan government, international involvement is being repeatedly denied, since the Sri Lanka government has instead insisted on following a domestic-only mechanism. They have additionally rejected the involvement of international judges so as to investigate the alleged atrocities and deliver justice from an objective point of view. Aside from a limited number of symbolic returns of occupied Tamil lands and the release of some political prisoners, there have been no constructive initiatives with the intention of addressing wartime accountability or ceasing the main mentality of impunity that exists. As can be seen, it is a firm belief of the Sri Lankan government that by prolonging this issue and avoiding the ascription of the brutal atrocities which have occurred during the civil conflict, will eventually lead to the eradication of need for justice and accountability, for which there is a



clear absence of political will by the government. Henceforth, it is imperative that the international community increases the tensions imposed on the government in order to enforce the assumption of responsibilities for the crimes committed and keep up with its promises and obligations. The above mentioned acts are not a responsibility that needs to be taken into consideration only by the UNHRC, but we need to find other alternative ways so as to reassure that justice is delivered and the conditions in which the Tamil population resides in are improved, such as but not limited to:

- Demilitarize the Tamil areas
- Eradicate the still existing attacks and violations of rights against the Tamils such as torture, illegal detentions, abductions, rapes etc.
- Address the issue of continuously military presence and surveillance imposed by the government forces
- Conduct further investigations concerning the latest period of Sri Lankan civil war, with the international community present and not by abiding a full-domestic investigation mechanism
- Address the role of the International Court Of Justice for the prosecutions which were considered as war crimes
- Achieve constructive cooperation with the Sri Lankan government
- Deliver accountability for the crimes committed and provide a compensation for the Tamils, which are considered the victims
- Decide whether the total summary of the acts committed during the civil war are considered to be a genocide
- Address the definition of genocide as a whole

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