



Internationalized mechanism is the only way forward in Sri Lanka

(Washington D.C., February 27, 2020) Sri Lanka's Foreign Minister Dinesh Gunawardena's statement at the UN Human Rights Council ("UNHRC"), declaring Sri Lanka's decision to withdraw from co-sponsorship of Resolution 40/1 (2019), confirmed yet again that Sri Lanka lacks political will to implement a credible accountability process to address allegations of war crimes, crimes against humanity, and genocide. The country's most recent rejection of the hybrid justice mechanism, which the government committed to create in UNHRC Resolution 30/1 (2015), is just another repudiation in a sordid history of backtracking on even basic Tamil rights-based demands since independence in 1948. In addition to this rollback, the government merely promised to establish a Commission of Inquiry to review its previous, internationally criticized Commissions of Inquiry. This is confirmation, in its own words, that it will not deliver a meaningful accountability process in the absence of strong and sustained international pressure.

Many Tamils supported the UNHRC's scrutiny of Sri Lanka, despite their longstanding doubts caused by Sri Lanka's persistent failures to address atrocity crimes. For five years, Tamil victims and survivors, both from the North-East and the diaspora, engaged in the UNHRC process through advocacy in Geneva. Although Sri Lanka's progress in achieving any of the promises encapsulated in the UNHRC Resolutions was dismal, the international community continued to support Sri Lanka, and their lacklustre response further emboldened Sri Lanka in its non-compliance.

Now is the time for the UNHRC and UN Member States to show courage and solidarity with the Tamil people, who remain the most conflict-affected group on the island, by designing and operationalizing creative responses to end impunity. The international community has taken steps towards accountability for victims and survivors of atrocity crimes in Darfur, Myanmar, and Syria. While waiting for their day in court, these victims and survivors of other 21st century state-sponsored atrocity crimes, unlike Tamils, can look to international mechanisms for justice. Sri Lanka has yet to be referred to the International Criminal Court like Darfur, and there is so far no independent investigative evidence-gathering mechanism as exists for the Rohingya people and Syrians. The current government of Sri Lanka has now fully closed the small window that may have existed for domestic contributions to accountability.

The UNHRC and UN Member States must utilize and innovate tools to address Tamil grievances, as they have done for other victims and survivors. PEARL urges the Council to establish an independent investigative mechanism ("IIM"), which it did for Myanmar in 2018, to collect evidence of atrocity crimes and prepare files for future criminal prosecutions. We also call on the UNHRC to mandate a Special Rapporteur on the situation of human rights in Sri Lanka to monitor ongoing human rights violations, investigate past patterns of violence, assess the government's progress in accountability processes, engage with victims and survivors, and periodically report back to the Council.



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Furthermore, given the UN's self-identified "[systemic failure](#)" to protect the Tamil people, it is necessary for the international community to ensure justice is served. Sri Lanka is clearly unwilling to investigate and prosecute atrocity crimes against the Tamil people. The UN Security Council should take decisive action and refer the situation in Sri Lanka, as it did for Darfur and Libya, to the International Criminal Court or establish an ad hoc international criminal tribunal to focus specifically on atrocity crimes on the island. Recognizing the Sri Lankan state's responsibility for atrocity crimes is also key. As such, PEARL urges UN Member States to demonstrate their leadership and commitment to justice by filing suit against Sri Lanka for violating the Genocide Convention and the Convention Against Torture. Over a decade since the end of the war, the international community must step forward--not back--to achieve justice for Tamil victims and survivors. The risk of recurrence is too high to let impunity prevail in Sri Lanka.