



# General Assembly

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## Human Rights Council

Thirteenth session

Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by International Educational Development (IED), Inc., a non-governmental organization on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2010]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The Situation of the Tamil People in Sri Lanka<sup>1</sup>**

International Educational Development and the Association of Humanitarian Lawyers again presents to the Council our deep concerns over the plight of the Tamil people in the north and east of Sri Lanka. Of special concern are the hundreds of thousand Tamil civilians who are still internally displaced (IDPs) – some since the Tsunami in 2004 – and persons alleged to be combatants of the Liberation Tiger of Tamil Eelam (LTTE) whose whereabouts are uncertain since being captured by the government forces. We are also concerned that there has been neither adequate follow-up of the Special Session nor any investigation into the credible allegations of serious war crimes committed both throughout the conflict and in its final phase in May 2009.

The International Organization for Migration (IOM) appears to be the only agency with shelter assistance for IDPs who seek to return to their original areas but whose homes and properties have been destroyed or rendered uninhabitable. Due to the volume of IDPs, far more is needed than the IOM can provide. In this regard, the Council should call on the international community as a whole to require that the government of Sri Lanka, which has primary responsibility for them, to do so. If the government refuses to do so, to the continuing detriment of the rights of the Tamil civilians, than the Council should ask the United Nations system and other international actors to do so and the government billed for it.

A major problem for many Tamils is that the government continues to hold huge areas of their land and properties in High Security Zones (HSZ), including farming land and fisheries, making return impossible. Their survival and the survival of other Tamil civilians is more precarious due to severe food shortages. The post-election re-imposition of a ban on night fishing in large areas further burdens food security for Tamil civilians as well as the financial resources of the fishermen.<sup>2</sup> The World Food Programme (WFP) has been providing limited rice, wheat, dried beans, cooking oil and a few other basics, but most IDPs have no funds with which to buy other basic food items. A stipend promised to IDPs has not been provided.

Many Tamil civilians have war-related injuries and diseases related to unhealthy conditions in the internment camps. Medical care for them is also grossly inadequate, and neither the IOM nor the WFP can address this. The International Committee of the Red Cross has a reduced role in the country, and we fear that there is no effective plan to provide for the medical needs of the IDPs or, indeed, any other persons in the North and East of the island.

Regarding LTTE prisoners of war (POWs), we submitted a written statement to the 12th Session of the Council in which we indicated that we forwarded to the relevant mandate holders a video tape that is alleged to be of the government forces shooting naked Tamil combatants point-blank. We asserted it was reasonable to consider that they were naked so as not to be identifiable as POWs. We asked that the circumstances of this be investigated as soon as possible because such summary executions are war crimes. The BBC now reports that the evaluation of the film, by acclaimed experts in the field, indicates that the film is genuine. As a result, Special Rapporteur Alston has called for a war crime probe into that and other incidents. The Council should support that request.

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<sup>1</sup> The Association of Humanitarian Lawyers (AHL) also shares the views expressed in this statement.

<sup>2</sup> Apparently the government is allowing trawlers from India to fish out the waters in the Mannar area at night, when the Tamil fishermen are banned.

On our statement to the 12th Session, we also addressed the situation of currently detained LTTE POWs, as they are all at risk of summary execution, torture and other grave war crimes.<sup>3</sup> It is our understanding that the International Committee of the Red Cross (ICRC) has still not been allowed access to the places where alleged POWs are being held, and we have no information about whether those detained have access to judicial proceedings to challenge their status or the ability to exercise any of other the rights afforded POWs under international humanitarian law standards.<sup>4</sup> Additionally, there is no disclosure by the Sri Lankan authorities of the names, ages or numbers of those being held, as required under humanitarian law norms.

Throughout our long involvement in this conflict, we were very blunt that the geo-political interests of third party States have been a factor, if not the main factor, in the failure to resolve the conflict and prevent the obviously genocidal policies suffered by the Tamil people. Recent hearings in the US Congress, and earlier sessions in the Parliament of the UK confirm these geopolitical interests. Both countries indirectly armed the government forces through “surrogates” (in the US case, through Israel, Pakistan, and the Czech Republic, to name a few) and helped “demonize” the Tamil people through using the “terrorist” label, even though the situation was clearly an armed conflict, with two warring parties and governed by humanitarian law. We also note that the government of Iran also helped arm the Sri Lanka military forces, and Iranian military leaders have made post-election visits to Sri Lanka. China has also supported the Sri Lankan government in its armed conflict. The government of Sri Lanka is playing with a wide and diverse array of States that have contributed to severe if not genocidal policies against the Tamils: we particularly note that both Israel and Iran are involved and wonder at this rather strange alignment. In fact, both governments have pledged to the newly re-elected Rajapakse administration, that they will provide rather substantial military aid. In any case, all States that supplied military assistance to Sri Lanka during the armed conflict did so when the Sri Lankan authorities had been violating the Geneva Conventions for many years, and had openly defended genocidal policies. We and a number of other NGOs, as well as many UN mandate holders, put all States on notice that such aid has legal consequences.

We inform the Council of the views of the former UN spokesperson for Sri Lanka, Gordon Weiss (Australia) who stated that up to 40,000 Tamil civilians had been killed in the final assault against the LTTE-occupied areas, where more than 300,000 Tamil civilian had been trapped. While assigning blame to both sides, Mr. Gordon indicated that the Sri Lanka authorities deliberately underestimated the numbers of civilians or deliberately lied.<sup>5</sup> The High Commissioner recently stated that national investigations into these matters “have not worked so far.”<sup>6</sup> She also indicated that the Secretary-General is committed to holding Sri Lanka to promised compliance. We see no such evidence, as the Secretary-General has not

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<sup>3</sup> The Council’s mandate holders, for example, have repeatedly indicated widespread summary executions and torture taking place in Sri Lanka. It is reasonable to assume that ex-cadres of the LTTE would be subjected to these acts.

<sup>4</sup> Minimum standards for the treatment of POWs are found in The Hague Convention of 1907, Regulations, Articles 4 – 20; Geneva Convention III as a whole (international armed conflicts) and Articles 3 and 130 (civil wars); Protocol Additional I to the Geneva Conventions, Articles 44 and 45; Protocol Additional II, Articles 5 and 6; and the application of the Marten’s Clause and the rule by analogy in general humanitarian law.

<sup>5</sup> E. Campbell, “Hell or High Water”, [interview with Gordon Weiss], ABC News [Australia], 9 February 2010.

<sup>6</sup> “War crimes probe call reiterated”, BBCsinhala.com, 12 February 2010.

supported the recommendations of Rapporteur Alston and did not send any representative to Sri Lanka during the recent elections.<sup>7</sup>

These and other serious human rights issues should be addressed in concerted action by the Council.<sup>8</sup> We hope that Members of the Council are aware that the Sinhala government has not proposed any plans to address the serious grievances of the Tamil people that, of course, were the cause of the long war. The termination of the war did not resolve these grievances, but now is adding additional ones. While more and more Tamils are seeking and receiving asylum, the resolution of the Tamil question is not to drive them all out.

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<sup>7</sup> At time of writing, the Secretary-General has apparently not commented on the arrest of losing Presidential candidate Sarath Fonseka.

<sup>8</sup> At time of writing, the timetable for the 13th Session has not yet circulated, and we do not know if the Council intends to include follow-up to the 11th Special Session. Council Resolution S-11/1 does not address follow-up, but under the circumstances, follow-up is a minimum required action.