

Dublin Tribunal Follows Up on
Genocide and International Complicity
The People's Tribunal on Sri Lanka-Session II



The Charge: The Sri Lankan State and its accomplices are accused of the crime of genocide against the Eelam Tamils.

Introduction

The Sri Lankan government's own figures indicate that out of the 429,059 Tamils living in the Vanni at the start of the offensive in October 2008 only 282,380 remained by the time the government military operations concluded on May 19, 2009. An official UN report submitted by a panel appointed by the UN general secretary acknowledge that the final weeks of the Sri Lankan military operations have left an estimated 70,000 Tamil people unaccounted for. Although the precise number of casualties are still not known, there is no doubt that a *substantial part*, a part that is *significant enough to have an effect on the group as a whole* perished during the military operations on the Tamil administered Vanni in 2009.

It is clear that what happened during these few weeks in 2009 are not isolated acts of war crimes, but are part of a coordinated plan whose different components aim at the *physical destruction in whole or in part* of the Tamil people. Further, since the end of the war the entire Tamil region in the north and east has been heavily militarised to allow the implementation of major structural changes. This includes large scale land acquisition and state sponsored Sinhala colonisation, the destruction of Tamil cultural heritage and a coercive imposition of a Sinhala Buddhist identity on the region, forced transfers and control of the population and deprivation of livelihood. In order to allow the implementation of this process a permanent state of fear is maintained through daily abductions, rapes and killings, draconian surveillance and repression of freedom of expression.

This is the context in which we, as concerned non-Tamils, prepare this accusations document for the distinguished panel of judges to examine. Our submission is that in Sri Lanka we are confronted with an **ongoing** genocidal process against the Tamil people who inhabit the North and East of the island, who identify themselves as 'Eelam Tamils'. It therefore falls upon the Tribunal not only to decide whether genocide has taken place and determine who the perpetrators are but also whether the genocidal process is still continuing. If the Tribunal decides that indeed the genocidal process is still continuing then the onus is on the panel of judges to recommend practical measures that can stop this process. For this reason we have divided his text into two parts, the first describing the accusations and the second dealing with issues concerning possible actions to stop the genocidal process.

Part 1: Accusations

1. In the island of Sri Lanka a Genocide is being committed against the Tamil people in the north and east of the island. The process of the Genocide has occurred in stages and is ongoing.

2. The Sri Lankan state and its armed forces are guilty of carrying out the crime of Genocide against the Tamil people.

The multifaceted offensive that is carried out by the Sri Lankan state, aimed at dislodging the people from their land, demonstrate the *intent to destroy the foundations of national life* of the Tamil people in the north and east. The genocidal intent of the Sri Lankan state is based on the motive of ensuring Sinhala rule over the Tamil homeland in the island.

3. The British state is guilty of being complicit in the crime of genocide against the Tamil people.

During their colonial rule the British regarded the island of Ceylon as an important strategic post to maintain control over the sea routes and their Indian Raj. The militarily crucial deep sea harbour in Trincomallee (which Lord Nelson called the finest harbour in the world) was situated in the Tamil inhabited eastern part of the island. Due to their geographical proximity, Ceylon and India enjoyed close and strong cultural and political ties. The historical connection between India and the Ceylon was manifested through the existing relationship between the Tamils living in the island and the South Indian Tamil population. For the British these factors threatened their objective to develop the island into a strategic asset.

In the above context, the British foresaw the necessity to enhance the geographical separation that this military post had by virtue of being an island by creating a unified structural entity with a unique identity that would separate the people in the island from the people of India. The Sinhalese were the 'chosen people' to achieve this important task. In 1833, the British created a unitary structure by forcibly amalgamating the traditional Tamil homelands with the Sinhala areas thus laying the basis for a Sinhala dominated unitary state system. Subsequently through their work in the fields of historiography, archaeology and anthropology the British constructed a new 'Sinhala Buddhist Aryan' national identity which would see India as an 'invader' and the Tamils as the '*descendants of the invaders*'. In sharp contrast to its brutal treatment of the Indian people across the water the British awarded universal suffrage in the island coupling it with an island wide census to instil the Sinhala identity with a majoritarian consciousness. Despite the repeated demands by the Tamils for constitutional safeguards that would preserve their collective rights as a nation, the British transferred the power to the Sinhala elite leaving the Tamils at the hands of the newly created Sinhala dominated state that regarded them as an 'alien threat.'

The unitary state structure and the Sinhala Buddhist chauvinism became the two fundamental components which laid the basis for the genocidal process against the Tamil people in the North and East of the island. In implementing their strategic policies the British acted with *reckless disregard for the probability that genocide would result from their actions* and created the motive for the Sinhalese to commit the genocide.

4. The USA is guilty of being complicit in the crime of Genocide against the Tamil people.

After the second World War, the USA replaced Britain as the dominant power in the region. In partnership with Britain the USA maintained and developed the commitment to support and fortify the unitary structure in the island. The USA's involvement deepened as the Genocidal process was challenged during the 70's and the 80's when the Tamils expressed their resistance with the political demand for self-determination, for Tamil Eelam. As this undermined the unitary state structure, the USA became pro-actively complicit in the Genocidal process in the island by providing the military and political support, *with the knowledge that it would be used* to continue the the said process. During the internationally backed peace process - that started in February 2002 - the USA with the assistance of the UK, deliberately took a series of calculated measures to alter the balance of power between the Sinhala State and the de-facto Tamil administration and succeed in destroying the negotiations process that had provided succour to the victims of the genocidal process. These US/UK measures created the conditions for the war to start and ensured its continuation until the Tamil resistance was physically exterminated – with genocidal results. With the elimination of the political/physical force that had hitherto shown the capability to halt the actions of the Sri Lankan State and its principle backers, the genocidal process was restarted and is proceeding with unprecedented tempo. Thereby, the USA *borrowed the criminality* of the Sri Lankan state, which is the principal perpetrator, and shared with it the intent to destroy the national foundations of the Tamil people. The motive of the US is to gain control over the island as a strategic asset in their global military power projection.

5. The Indian state is guilty of being complicit in the crime of Genocide against the Tamil people.

In the late 1980's India intervened against the LTTE, in order to gain control over the Tamil population as a strategic asset, resulting in the death of 12.000 Tamil people. In the 90's India, as a **junior** partner, formed a strategic alliance with the US, and then on, increasingly subordinated its strategic policy approach towards Sri Lanka under the US war paradigm, becoming complicit in the genocidal process against the Tamil people.

Part 2: Issues concerning possible actions to stop the genocidal process.

With the tribunal we need to break the – at best – ill conceived approaches towards genocide prevention. We do not want to conduct a mere scientific analysis of genocide while it is still continuing without laying the emphasis on how to actually stop it. We do not want it to be a futile lesson on how to 'prevent future genocides'. We want to practically take steps to halt, or at least obstruct the ongoing genocidal process that is taking place right now. In fact, only then can we lay the basis to stop genocides in the future. Whether it be Rwanda or Guatemala, the decisive role of that external factors have made has not been satisfactorily exposed.

The approaches being promoted by the West for the prevention of genocide can be – speaking in general terms – divided into two extremes: One approach is for Western State Institutions and NGO's to implement programs for educating the populations in far off lands that extremist politics will lead to war and crimes like genocide and that it is in their self interest to respect human rights. The other is Western backed military intervention by external forces ostensibly to stop the 'uncivilised hordes' from killing each other. Both approaches identify the causes for genocide in the region where it occurs and also point to it as place where it has to be stopped - by the saviours who come from the outside bringing the light of civilisation to these dark places. The problem is that - today – the main causes for genocide are rarely to be found locally, and the driving forces behind it are most likely to be far away from the places where the atrocities occur. If what we say is true, it follows, that as the decisive political shifts are taking place far away from where the Genocide occurs, these are also the places where the possibilities for its prevention are to be found.

The fundamental problem of the two approaches offered by the West is that – first and foremost – they are merely political tools to serve the interests of those who are propagating them. Which is why, invariably, they are pointing away from their propagators. The motivation behind these approaches are driven by the general military/economic/political aims of the powers that promote them, and not by the need to prevent Genocide.

In the case of the Sri Lankan conflict, the Genocide prevention occurred quite differently. In diametric opposition to the external approaches which effectively hide the external factors while solely focussing on changing the local factor, in Sri Lanka the genocide was successfully halted by the actions of a power from within the island effecting change in the external factors. The LTTE managed to defeat the US promoted military paradigm which was based on the premise that through the intensification of the conflict the numerically larger Sinhala community would overpower the Tamil people's democratic voice by military force and thereby gain complete control of the North and East of the island – thus securing a stable unitary structure which could serve US interests in the region. After trying several times to use their military achievements to engage in peace talks it was only at the end of the 90's that the international and local conditions were conducive to the LTTE's peace initiative. This was the outcome of a twofold struggle that the Tamils had to fight against internal and – more important - external factors. Having achieved military parity with the Sri Lankan state by establishing itself as a conventional force with the capability to fend off attacks on the territory under its control, the LTTE, not only forced the Sri Lankan regime into a ceasefire but did so by defeating the international forces that were backing a military solution to the conflict. This meant, the US promoted 'military solution' lost its credibility among the ruling circles in Sri Lanka. Apart

from the heavy casualties on Sinhala soldiers, the unbearable strain on the economy resulting from the military conflict, moved the war weary Sinhalese in the direction of the peace process promoted by Germany and Europe - which offered a negotiated constitutional arrangement and economic prosperity if the Sinhalese leaders reciprocated the unilateral cease-fire of the LTTE and decided to take part in the internationally mediated peace talks that the Tamils were offering. It is inconceivable that an internationally backed peace process could have started the way it did, if there was not a power block in the West which was willing to give a credible alternative to the Sinhalese outside of the military paradigm that it had followed ever since the British constructed it. The decision of the LTTE to offer peace talks to the Sinhalese was based on the confidence, that Europe would grab the chance provided to them after being freed – at least temporarily – from the dominance of the US-British axis by the LTTE and that it would stick to its progressive role it was playing until then.

The EU was not driven by strategic military concerns, but on the contrary saw the military paradigm that determined US policy in Sri Lanka as an example of a general policy based on conquest through force. This policy undermined the ability of countries like Germany to compete on the basis of economic prowess rather than on military power. This is why the Sri Lankan peace process was such an important test for so many German and European policy makers, whether their approach could successfully compete with the US military line. The peace process, in fact, gave a chance for the first time for the Tamils and the Sinhalese to share sovereignty outside the military based paradigm imposed on both by the British/US axis.

The peace building approach by the EU just before and during the peace process has to be seen in this light. It was seemingly directed at the Sinhalese by promoting educational programs, etc. to strengthen a democratic political base specially in the Sinhala community in order to stabilise the peace process. Clearly, the EU had a political motivation in their competition with the general US policy. These actions of the EU with regard to Sri Lanka were indeed aimed at keeping the US at bay and giving the Sinhalese the opportunity to decide independently of US pressure. Unfortunately for the Tamils the ill-conceived approach of the EU to tackle the external factors by trying only to change the local factors had to fail.

In contrast to their attempts to democratically oppose the Sinhala chauvinist forces within the island, which several EU countries correctly promoted through their assistance programs, they completely avoided mobilising political forces within their own populations – against the US push for war in the island - which would have been the main task of genocide prevention in the case of Sri Lanka. This approach meant that the US/British position triumphed without any real political opposition. The fact that the EU position fell in line with the US with minimal opposition to be seen in the public domain had an immediate effect on the balance of power between those pro and anti-war tendencies within Sinhala society and rendered all pro-peace efforts of the EU within the island useless. The EU ban of the LTTE (under massive pressure from the USA and UK) signalled to the Sinhala society that the co-chairs were united in their commitment to destroy the peace process. At this point the credibility of international support for negotiations vanished with the US/British military paradigm re-asserting itself. The Sinhala chauvinist pro-war tendencies, which during the peace process were seen as extremists by the Sinhala masses were immeasurably strengthened by the changes in the external situation – creating the local conditions suitable to start the war.

The EU with their unwillingness to openly confront the external factors promoting the genocidal war against the Tamils, squandered the unique opportunity that was handed to them by the LTTE to assert themselves against the US by standing firmly with the accepted principles of the peace process – like according both negotiating partners parity of status - so that a negotiated settlement could be arrived at.

Today, the consequences of the EU's reluctance can be clearly seen. In 2009 the genocidal process came to light in a dramatic way with over 70,000 Tamils slaughtered during the last weeks of the war. But the genocidal process has not yet been successfully completed. This process is being continued with the overt and covert backing of the same external forces that made possible for the Mullivaikkal massacre to occur. To bring it to a halt a solution has to be found with those forces that were countering the external efforts to continue the genocide and with those from within the EU and other national and international institutions who did not go the last important step in their efforts to find a peaceful solution.

Therefore, we would like to request the panel of judges to take the following assessments into consideration when deliberating the recommendations:

1. The mechanism for Genocide that the British set up and the US maintained and enhanced was opposed during the peace process by the EU. Without the intervention from the EU the peace process would have not happened.
2. By enabling the peace process and the negotiations between the Sinhalese and the Tamils the EU provided an escape from the military strategic paradigm promoted by the British and the US.
3. Mullivaikal is the consequence of the EU and others inability to stop the US from pushing through their war agenda. This provides a moral imperative to the EU and others to take measures to stop the ongoing genocide.
4. Those individuals within the EU, its member states and within the UN who failed in their efforts for a peaceful solution of the conflict should be encouraged to publicly make a stand against the ongoing structural genocide in order to bring about the appropriate changes of the policies within these bodies for a common approach.

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