

The need for the us presence in the UN human rights council with special reference to Sri Lanka

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Abstract

The Trump administration of the United States of America pulled out of the United Nations Human Rights Council in Geneva on the 20th of June, 2018. This was a great blow to the Tamils world over awaiting justice from the UNHRC as it was USA which had proposed five resolution against Sri Lanka. With the election of Joe Biden and Kamala Harris, an immaculate lady sharing Tamil origins, has excited the human rights and democracy loving world. The Eelam Tamils have trod a careful path wondering if the new regime can change their fate. As Sri Lanka continues in its path to deny a meaningful justice redressal mechanism, the Tamils, the people speaking world's oldest living language and spread across the globe look forward to this demcractic regime to change their fate and live with dignity in Sri Lanka.

Keywords: genocide, human rights, UN, resolution, referendum

Introduction

On the 20th of June, 2018, the Trump administration pulled out of the United Nations Human Rights Council, the then US Envoy to the UN, Nikki Haley said, 'it was a "hypocritical" body that "makes a mockery of human rights" ^[1]. This was a great blow to the Tamils world over awaiting justice from the UNHRC as it was USA which had proposed resolution 30/1 ^[2] and 40/1 ^[3] co-sponsored by Sri Lanka. Prior to these two resolutions US had sponsored three resolutions against Sri Lanka from 2012 to 2014 when Mahinda Rajapaksa was the President. The next government agreed to co-sponsor the resolution in October 2015 along with accepting the terms and conditions of the resolution. When the US decided to withdraw from the UNHRC, it was a shock to the Tamils, that there would be a vacuum in seeking redressal mechanisms and accountability to the Tamil Genocide of May 2009. Since its formation in 2006, the Bush administration had kept away from the UNHRC, it was the Obama administration that joined the UNHRC in 2009.

US had for long believed that it was for the UK to sort out issues in South Asia. The US interest in the affairs of South Asia remained limited ^[4]. U.S. assistance to Sri Lanka has totaled more than \$2 billion since Sri Lanka's independence in 1948 till 2015 ^[5]. The resurgence of China as a challenge to US pumped up the US to show more interest in the region.

The victory of Mr. Joe Biden as the 46th President of the oldest democracy and his Vice President Ms. Kamala Harris, an immaculate lady sharing Tamil origins ^[6], has excited the human rights and democracy loving world. The Eelam Tamils have trod a careful path wondering if the new regime can change their fate.

Under the Barrack Obama administration Sri Lanka was nailed with successive resolutions from 2012 onwards at the UNHRC. After the defeat of Mahinda Rajapakse in the Presidential elections of 2015, on October 1st USA co-sponsored resolution 30/1 with the so-called government of good governance led by Ranil Wickremasinghe which promised a political solution to the Tamils as well as adhere

to the agreed upon principles of accountability for the genocide of the Tamils in 2009.

The Sri Lankan governments own, Lessons Learnt and Reconciliation Commission (LLRC) cleared the military of allegations that it deliberately attacked civilians. It said that there had been some violations by troops, although only at an individual level ^[7].

The government of Sri Lanka failed in its task to set up any accountability mechanism other than setting up a non-functional Office of the Missing Persons ^[8] (OMP), the government of good governance never made any headway in delivering justice to the Tamils, especially going back on the setting of a hybrid mechanism ^[9] to try war criminals from the armed forces as well as the political leadership responsible for the carnage against the Tamils.

The first step towards any form of reconciliation must come through truth seeking, accountability, justice and reparations. The hardcore Sinhalese are always in a denial mode when it comes to accepting that their loved regime of the Rajapaksa family coterie which was responsible for the bloody genocide of innocent Tamils. In this light and the absence of a strong UN mechanism towards redressal of Justice, the Tamils look forward to this new regime to usher in changes that would foster democracy in the island and punish the guilty whoever it may be.

The Biden team has promised to host a 'Global Summit for Democracy' ^[10] with an aim to advance human rights and defending against authoritarianism, the Sri Lankan government will be hard pressed to answer some key questions as they have always crushed the sane voices rising to speak up for democracy.

Former US ambassador to the UN and former National Security Advisor, Susana Rice ^[11] was instrumental in seeing through the resolutions against Sri Lanka at the UNHRC in 2012 and 2013.

The visit of Mike Pompeo, the Secretary of State under the Trump administration to Sri Lanka was a disappointment to the Tamils and the human rights activists as Pompeo used the opportunity to only shame China as a predator. Coming to the rescue of China, the Sri Lankan President had

slammed Pompeo and glorified the role of China in ending the 30 years' war and helping the rebuilding of Sri Lanka. The dynamics of the US-Sri Lankan relationship is bound to change under the new regime which will look for a relationship with Sri Lanka based on the performance of the country in terms of promoting human rights and democracy. It is here the Tamils quest for accountability, justice and redressal mechanisms comes into picture.

Many Nations across the world look forward to this new regime to foster the spirit of the Right to self-determination of communities that have been ignored under the Trump regime. The US which positioned itself as a champion of human rights across the world after the II world War, shockingly pulled out of the United Nations Human Rights Council (UNHRC) in January 2020 as it did with the World Health Organization. It is highly speculated that these past mistakes of the Trump regime would be set right by the Biden regime and the first entry point would be to become part of the UNHRC.

With optimism the Tamils world over will look forward towards Biden, Kamala Harris and Susana Rice to seek a political solution to their more than seven decades old ethnic and national problem. The new regime along with India must work out means to provide justice to the victims of the Tamil genocide. It is a tough task given the hardcore stand of the President and Prime Minister of Sri Lanka, as both of them are prime accused in the genocide of the Tamils. On the other hand, Sri Lanka has the backing of China, Russia and Pakistan. India does not have the resolve to book Sri Lanka, given its own domestic compulsions.

The UN failed in its task to prevent the mass carnage of the Tamils as pointed out by its own findings. In November 2012 an internal UN report said that the UN had failed in its mandate to protect civilians in those final months of the civil war ^[12].

Sri Lanka has threatened to pull out of the UNHRC ^[13], it is for the Biden administration to come out with strategies to deal with Sri Lanka outside the boundaries of the UN structure as they are morally duty bound to seek justice on behalf of the Tamils apart from using the Universal jurisdiction ^[14] as pointed out by the UN High Commissioner for Human Rights ^[15], who has urged countries to explore these possibilities. Since 2012 the US had used the Tamil question to bring about three resolutions against Sri Lanka and co-sponsor one to showcase their strength in the Indian Ocean and teach a diplomatic lesson to both Sri Lanka and China. They simply left the UNHRC and the Tamils in lurch when they pulled out of the UNHRC, thus slowing down the process of truth seeking and justice in the island.

It is the earnest hope of every Tamil that the new regime in the long run understands the history of the Tamils in the island and recognize the fact that they had never lived or shared anything in common with the Sinhalese. All though our history we were a NATION and we still are!

Since independence of Sri Lanka in 1948, Tamils have been forcibly thrust to accept the Sinhalese as their brothers and sisters against their conscience and wishes, sincere efforts were made by the Tamils through peaceful methods to co-exist with dignity in the island, the successive Sinhala regimes denied the rightful claims of the Tamils seeking equality, human rights and co-existence as equals. This aspect needs to be clearly understood by the Biden regime when dealing with Sri Lanka on the question of the ethnic

issue.

The Tamil Diaspora has been the voice of the suffering Tamils back home. The Tamils in Sri Lanka continue to suffer a structural genocide and cannot voice their opinion fearing their very existence. Every Tamil across the world desires that a Referendum must be conducted in Tamil heartlands of the North and East of Sri Lanka to decide the future course of the Tamils, though it is a long and tough ask, the US must take into account this democratic aspiration of the Tamils and must recognize the right of the Tamils towards the Right to Self Determination in future.

The Tamils world over are once again enthused that a democrat has been elected and would look forward with a ray of hope that their dream to seeking a political solution to the seven decades old problem apart from seeking justice to the 89,000 war widows, the loved ones of the missing persons, address the issue of militarization of the north and east, return the land grabbed from the Tamils as well as seek accountability to the 146,679 ^[16] unaccounted persons since May 18th 2009 would be redressed in a meaningful manner.

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