



New Delhi 20 March 2013

Shri Salman Khurshid
External Affairs Minister
Ministry of External Affairs
Government of India
South Block, New Delhi

Sub: Request to the Government of India to vote in favour of the resolution on Sri Lanka at the 22nd Session of the UN Human Rights Council.

Your Excellency,

1. On behalf of the Working Group on Human Rights in India and the UN (WGHR) - a coalition of Indian civil society organisations and independent experts, I urge the Government of India to vote in favour of the resolution demanding accountability against the war crimes in Sri Lanka, at the current session of the UN Human Rights Council (UNHRC).
2. In the wake of numerous recent reports that demonstrate culpability of the Government of Sri Lanka for the human rights violations during the last days of the civil conflict in 2009, the global community looks upon India to uphold its pledges to the UNHRC when it was elected. India, being the largest democracy in the world with governance based on constitutional values steeped in respect for human rights, rule of law and the celebration of diversity, is expected to stand by the embattled civilians who suffered during the war.
3. It is encouraging to note that India stood with rights, justice and accountability and supported the resolution in the 19th session of HRC in 2012 which called on Sri Lanka to account for egregious crimes during the last days of the 2009 civil conflicts.

Convenor | Miloon Kothari, Former Special Rapporteur on adequate housing, UN Human Rights Council

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Independent Experts | Ms. Vrinda Grover, Lawyer | Dr. Rajkumar, Advisor to human rights organisations | Prof. Babu Mathew, Visiting Professor, National Law University, Delhi

4. The Sri Lankan government has, to date, rejected all calls to conduct independent and credible investigations into the most serious allegations contained in the report of the *UN Secretary-General's Panel of Experts on Sri Lanka*. In the meanwhile human rights violations related to the aftermath of the conflict within the country, have continued unabated. In the February 2013 *report of the Office of the High Commissioner for Human Rights (OHCHR) on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka*, the UN High Commissioner for Human Rights points out that little has changed in Sri Lanka since the adoption of the 2012 resolution and calls for an independent and credible international investigation into alleged violations of international human rights law and international humanitarian law in Sri Lanka. Such an investigation can only be initiated if India, along with other countries, includes this demand and vote in favor of the resolution.
5. The road to peace and stability in Sri Lanka requires that victims receive justice for alleged violations of international human rights and humanitarian law. The Sri Lankan government has also delayed consideration of its own *Lessons Learnt and Reconciliation Commission (LLRC)* report, and seeks to dilute credible follow-up that would identify and prosecute perpetrators of serious war crimes, for which there is credible evidence.
6. While we welcome India's vote in favour of the 2012 resolution, India shielded Sri Lanka in 2009 at the UNHRC from international condemnation as well as from direly needed international investigations. One of the consequences of the inability of the UNHRC, at that time, to hold Sri Lanka accountable for human rights violations is that these violations remained unaddressed. India's bilateral efforts to get Sri Lanka to address concerns have so far been met with patent intransigence from the Sri Lankan regime.

7. The world is now keenly watching how India votes on the Sri Lanka resolution at the UNHRC. Many countries are likely to wait and hear India's position before deciding upon their own. Indian and international public opinion will measure India's capabilities and its credibility on human rights and diplomacy by its ability to stand again, as it did in 2012, for justice and accountability in Sri Lanka.
8. While we appreciate that many considerations will weigh-in on how India finally votes, we would urge, that a paramount consideration in the final outcome must be in line with India's democratic values that are grounded in justice and accountability. We urge the Government of India to support the resolution that is going to be put for voting at the UNHRC and use its leadership position to convince other states at the UNHRC to ensure that, at a minimum and within a short specified time frame, Sri Lanka is bound to:
 - Implement progressive recommendations made in the LLRC report.
 - Allow an independent and credible international investigation into alleged violations of international human rights law and international humanitarian law.
 - Cooperate with special procedures mandate holders and to respond formally to their outstanding requests, including by extending invitations and providing unfettered access.
9. The present draft resolution remains largely procedural although it has built on the 19/2 text from last year. It is not as substantive as the initial draft text, but key components are there – High Commissioner's report, truth seeking mechanism, credible independent international investigations, Special Procedures and OHCHR monitoring/reporting. It provides a stepping stone to re-establish truth and justice. It calls, in the preamble of the



resolution, for an independent and credible international investigation into alleged violations of international human rights law and international humanitarian law, in view of the fact that Sri Lanka failed to adequately address accountability on its own.

This is an issue that India should take note of and seek to move to the operative part of the resolution. As such, any vote on Sri Lanka that takes place at the UNHRC this month, must not preclude future UNHRC efforts that demand justice, accountability and international investigations in Sri Lanka. The resolution should be voted only as a first step in the right direction, and not as a final step diluting international scrutiny, or as a tactic to delay the urgently needed justice in Sri Lanka.

Yours Sincerely,

Miloon Kothari

Convenor, WGHR and former Special Rapporteur, UN Human Rights Council