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Nigel Adams MP
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Dear Nigel,

RE: UK's Draft Resolution on Sri Lanka for the UNHRC

I am writing to express my concerns about the draft resolution on Sri Lanka that the FCDO has tabled for approval by the UN Human Rights Council on 24 March.

As the 'penholder' on Sri Lanka the UK government has a particular responsibility to demonstrate moral and political leadership on this matter, but unfortunately it is clear judging by this draft resolution you are failing to rise to the challenge.

The draft resolution is too vague and insufficiently robust, in terms of both its content and its tone. It fails to reflect the extent of the devastating impact of the human rights abuses that have been perpetrated in Sri Lanka, and it also falls far short of what is required in terms of tangible action.

Our more specific concerns about the draft resolution are as follows:

1. It fails to incorporate the recommendations made by the High Commissioner in her report of 27 January 2021. We should be supporting the High Commissioner's view that the principles of universal or extraterritorial jurisdiction apply, and that states should pursue investigations and prosecutions in their national courts. The alleged crimes of the Sri Lankan government and military clearly fall within the scope of international human rights and international humanitarian law, so it follows that there is a clear legal basis for international action. Moreover, it is beyond doubt that the Sri Lankan government and military will continue to deny, delay and evade accountability. Will the UK government therefore amend the draft resolution, to confirm that the principle of

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universal jurisdiction must be applied to the actions of the Sri Lankan government and military?

2. It fails to recommend the establishment of an International Independent Investigative Mechanism (IIIM). It is clear that the current structures that are in place for the gathering and collation of evidence are not sufficiently resourced, but the draft resolution only makes vague reference to strengthening their capacity. This is simply not sufficient, and we urge you to amend the draft resolution to reflect the fact that an IIIM is required.
3. It fails to recommend that this matter should be referred to the International Criminal Court. We fully acknowledge that two of the permanent members of the Security Council would likely veto such a referral were it to be tabled, but this is not an acceptable argument against trying. The UK government's approach to the UN Security Council should not be determined simply by the veto-wielding intentions of two of its permanent members.
4. There is nothing in the draft resolution about prevention, and what action the UNHRC and its member states will take now to protect human rights defenders and others on the ground against reprisals and attacks. What steps will the UK government, as the penholder, be taking to ensure that this resolution leads to tangible measures to protect human rights defenders on the ground from the increasingly aggressive actions of the Sri Lankan authorities?
5. The draft resolution requests a report on accountability options in 18 months. This is an unacceptably long timeline. The evidence is clear and the UNHRC needs to take action now, rather than allowing the Sri Lankan government yet more time to obstruct and obfuscate. We would recommend that the draft resolution should be amended to request the report on accountability options within 6 months.

Turning now to a question that I raised in my letter of 11 December 2020, regarding the UK's Global Human Rights sanctions regime (the so-called Magnitsky sanctions), which impose asset freezes and travel bans on those who are guilty of gross human rights violations. It is very difficult to understand why not a single senior Sri Lankan government minister, official or military officer has been designated under this regime. In his 6 January 2021 reply to my letter, Lord Ahmad stated that the government is keeping 'all evidence

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and potential listings under review.' Could you please explain why when it comes to Sri Lanka this review is taking so long, given the extent of the detailed evidence that is already widely available about the gross human rights violations that have taken place there?

We are aware of the fact that the Core Group on Sri Lanka will be meeting imminently, in order to discuss the draft resolution. I urge you to comprehensively re-write of the current draft so that it incorporates the proposed changes outlined above, thus enabling the Core Group to develop it into a document that is fit for purpose. Moreover, the chances of the resolution being approved by the UNHRC on 24 March will be enhanced if it is made more robust and substantial – the majority of member states want to do the right thing, and the UK government's draft resolution could therefore be rejected if it is too weak and lacks in substance.

This is a test of the moral authority and consistency which you claim underpins the government's 'Global Britain' strategy. The UK government owes it to the victims and survivors of the atrocities that have taken place in Sri Lanka to ensure that it rises to the occasion and shows the moral courage and leadership that is so urgently needed.

In light of the high level of interest in this matter I shall be putting this letter into the public domain.

Yours sincerely,

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Shadow Minister for Asia and the Pacific

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