

RECENT DEVELOPMENTS IN SRI LANKA

HEARING
BEFORE THE
SUBCOMMITTEE ON NEAR EASTERN AND
SOUTH AND CENTRAL ASIAN AFFAIRS
OF THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS
FIRST SESSION

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RECENT DEVELOPMENTS IN SRI LANKA

TUESDAY, FEBRUARY 24, 2009

U.S. SENATE,
SUBCOMMITTEE ON NEAR EASTERN AND
SOUTH AND CENTRAL ASIAN AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:33 p.m. in room SD-419, Dirksen Senate Office Building, Hon. Robert P. Casey, Jr. (chairman of the subcommittee) presiding.

Present: Senators Casey, Lugar, and Risch.

OPENING STATEMENT OF HON. ROBERT P. CASEY, JR., U.S. SENATOR FROM PENNSYLVANIA

Senator CASEY. This hearing of the Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs will now come to order.

Today, the subcommittee meets to examine the ongoing violence and humanitarian crisis in the island nation of Sri Lanka, a tragedy overlooked for far too long. The people of Sri Lanka have suffered for years as a result of the violent conflict between the Government of Sri Lanka and the separatist Liberation Tigers of Tamil Eelam, also known as LTTE, or the Tamil Tigers.

This hearing will serve a dual purpose. It will assess the humanitarian crisis exacerbating a conflict that has killed and displaced countless Sri Lankans and, according to the United Nations, trapped 215,000 civilians in the north Vanni region of the country.

In addition, the hearing will examine the prospects for a political settlement that will both end the war and implement reforms to end systematic discrimination against the Tamil population and ensure they are treated as full and equal citizens of Sri Lanka.

For the thousands of civilians trapped in the Vanni region, the situation has turned increasingly dire as LTTE leaders find themselves encircled by the Sri Lankan military. Fighting now occurs in an increasingly small, densely populated area, even spilling over into the government-declared safety zone for Tamil citizens.

The LTTE, a ruthless group, designated as a terrorist organization by the United States, Sri Lanka, and others, carries out suicide bombings and hides among the civilian population, inviting military attacks on these densely populated areas. Compounding the problem, the LTTE forbids many civilians, including some local staff working for international humanitarian organizations, from leaving the region.

I am particularly appalled by the reports of children—children—being conscripted by the LTTE. The United Nations Children’s Fund, known as UNICEF, their representative in Sri Lanka recently stated, “We have clear indications that the LTTE has intensified forcible recruitment of civilians and that children as young as 14 years old are now being targeted. These children are facing immediate danger, and their lives are at great risk.”

After two decades of fighting the LTTE, the Sri Lankan military has achieved substantial progress and has made it clear that it plans to eradicate all remaining remnants of the Tigers. Indeed, the Sri Lankan Government has rejected recent calls for an immediate cease-fire, including a plea by Secretary of State Clinton and U.K. Foreign Secretary Miliband to institute a temporary no-fire period.

Unfortunately, in its attempt to secure a total victory, the Sri Lankan military has at times exhibited an appalling disregard for the lives of noncombatants. I am particularly concerned by the allegations of Sri Lankan soldiers firing indiscriminately upon civilian areas as well as inside the safe zone.

Heavy artillery fire and air strikes are killing innocents and causing serious damage to hospitals. In a disturbing admission, Defense Secretary Rajapaksa told the BBC that hospitals outside the safe zone were legitimate targets. The few remaining hospitals are undermanned and full of victims.

Almost all access to the region for international humanitarian aid workers has been cut off, and as a result, entrapped civilians in the north of the country are being deprived of basic necessities, such as food and medical care. Many Tamil youth are at risk of malnutrition, susceptible to disease, and deprived of education. Humanitarian relief must be allowed to reach these innocent civilians suffering in the conflict zone.

Civilians in the north have few good options—stay and face deprivation of basic needs for survival, try to flee and risk being shot at by the LTTE, reach a safe zone and come under assault by government artillery, or leave for a government-controlled refugee camp, only to find themselves living in dismal conditions under suspicion of being affiliated with the LTTE. This is truly an unacceptable situation that must be remedied as quickly as possible.

Elsewhere in Sri Lanka, we are witnessing the erosion of basic civil liberties and human rights. Journalists are being murdered and imprisoned, placing freedom of speech in severe jeopardy.

In particular, the murder of renowned journalist Lasantha Wickramatunga in January sent alarms throughout the International Community. He was Sinhalese, and he dared to publish articles critical of the government’s handling of the conflict. According to the International Crisis Group, the professional nature of his murder and the subsequent commando attack on MTV studios point to the involvement of senior Sri Lankan Government and military figures.

It is disheartening to hear the Defense Secretary tell the BBC that, “Dissent in a time of war is treason.” The implications of that statement for Sri Lankan democracy are chilling.

An end to the violence is necessary, but that alone will not bring an end to the conflict, nor will it alleviate the human suffering tak-

ing place in the north and throughout Sri Lanka. While the government frames its war against the LTTE as a war against terror, there exists a broader ethnic conflict between the minority Tamils and the majority Sinhalese that has spanned decades.

Should the war end and the broader Tamil population continue to face systemic discrimination by, and inadequate representation in, the Sri Lankan Government, the Tamil Tigers could once again be driven underground to carry out acts of terrorism, perpetuating another go-around in this vicious cycle of violence.

So far there are few indications that a political deal is imminent. The Government of Sri Lanka will not negotiate directly with the LTTE, but it does not appear as though the government has much interest in finding alternative Tamil interlocutors, nor have the Tamils presented a credible alternative to the LTTE.

In recent weeks, Members in both Houses of Congress, including the distinguished chairman and ranking member of the Senate Foreign Relations Committee, that is Senator Kerry and Senator Lugar, who is with us here today, have voiced their growing concern about the deteriorating situation in Sri Lanka.

And our witnesses' testimony and questioning that will follow will undoubtedly highlight the abuses taking place. But I hope they will also offer thoughtful approaches for the United States and the International Community to facilitate an end to the conflict and the beginning of a lasting peace.

We are today honored to be joined by a respected panel of witnesses, and I will go through each of them very briefly here today.

Ambassador Jeffrey Lunstead served as the United States Ambassador to Sri Lanka from 2003 to 2006, his final post in a distinguished career in Foreign Service. Ambassador Lunstead's deep affection for Sri Lanka and its people were apparent as he oversaw the United States relief and reconstruction efforts in Sri Lanka following the devastating tsunami of December 2004.

Since retirement from the Foreign Service, Ambassador Lunstead has been vocal in raising awareness about the crisis in Sri Lanka. In January, he brought five former United States Ambassadors of Sri Lanka together to write a candid letter to President Rajapaksa that supported his government's fight against the LTTE, but also expressed concern about the erosion of the rule of law and democracy in Sri Lanka.

I also note that Ambassador Lunstead holds a Ph.D. from the esteemed University of Pennsylvania.

Second, Dr. Anna Neistat is a senior researcher at Human Rights Watch and a specialist in humanitarian crises who has reported extensively on the tragedy in Sri Lanka. She recently returned from the island and contributed to an HRW study on abuses against civilians in the conflict zone. In 2008, she authored a poignant study on the disappearance and abduction of people in Sri Lanka, entitled "Recurring Nightmare."

In addition to her involvement in Sri Lankan issues, Dr. Neistat has served as the director of the Human Rights Watch office in Moscow, where she examined the conflict in Chechnya and other human rights problems in the former Soviet Union.

Our final witness, Bob Dietz, the Asia Program coordinator for the Committee to Protect Journalists. Mr. Dietz has traveled exten-

sively across South Asia, often into hostile and dangerous environments. He recently returned from Sri Lanka, where he documented violence and abuses committed against journalists.

Prior to joining the Committee to Protect Journalists, Mr. Dietz was an editor for Asia Week magazine and served in the World Health Organization. We appreciate his presence here to elaborate on the increasingly dangerous environment in which Sri Lankan journalists are working.

I would like now to turn to both the ranking member of our Foreign Relations Committee as well as the ranking member of our subcommittee, Senators Lugar and Risch, for any opening statement they might have.

**OPENING STATEMENT OF HON. RICHARD G. LUGAR,
U.S. SENATOR FROM INDIANA**

Senator LUGAR. Thank you very much, Mr. Chairman, for calling and chairing this committee today.

I will ask that my statement be placed in the record because you have covered in a very comprehensive and very thoughtful way each of the points that I would have made if I had read it in full, namely the humanitarian considerations, the problems of freedom of the press, the problems of the country's governance.

I thank you for recognizing the concerns that Senator Kerry and I have expressed publicly. They were sincere, and we are pleased at least some recognition has come of this in Sri Lanka, as well as in the United States.

So I thank you once again for the hearing.

[The prepared statement of Senator Lugar follows:]

PREPARED STATEMENT OF HON. RICHARD G. LUGAR, U.S. SENATOR FROM INDIANA

I thank Senator Casey for chairing this hearing on recent developments in Sri Lanka. After more than 25 years of conflict and tens of thousands of lives lost, the fight between the Liberation Tigers of Tamil Eelam (the LTTE) and the government has intensified to a new level of violence. Earlier this month, Senator Kerry and I jointly expressed concerns about the deteriorating humanitarian situation in Sri Lanka. Some Sri Lankans trapped by the fighting in the northern part of the island are being denied freedom of movement, access to international food aid, and medical assistance.

Another casualty of the fighting has been press freedom. The Economist magazine reports: "Journalists have no access to the battlefield or to the displaced and must depend on information released by the government or the Tigers." Media personnel are being threatened and physically attacked. Press freedoms are an essential element of democracy. It is in every nation's best interest to have an independent press that is free to investigate issues and stories.

Senator Kerry and I urged the Government of Sri Lanka to protect all of its citizens, facilitate humanitarian access, and conduct swift and credible investigations into attacks on journalists and other civilians. The United States has repeatedly asserted that a lasting, sustainable peace can best be achieved if the Sri Lankan Government works now to reach a political solution that addresses the aspirations of all Sri Lankans, including Sinhalese, Tamils, and Muslims.

I look forward to the insights of our witnesses.

**OPENING STATEMENT OF HON. JAMES E. RISCH,
U.S. SENATOR FROM IDAHO**

Senator RISCH. Mr. Chairman, very briefly, I also want to thank you for the hearing.

I think that it is important that the world knows about the issues here and that the American people, the American Govern-

ment, and the U.S. Senate take these issues seriously. You have articulated them well, and we are all anxious to hear from the witnesses.

Thank you very much.

Senator CASEY. Thank you very much to both of my colleagues for being here and for their work on this issue.

Before we turn to our witnesses, I would also like to enter into the formal hearing record a series of statements submitted to the committee by outside experts and advocacy groups providing their perspective on recent events in Sri Lanka.

These statements are provided by the following: Bruce Fein, a former senior Justice Department official; Karen Parker, an attorney and human rights activist; Miriam Young of the U.S. NGO Forum on Sri Lanka, and finally, a statement signed by several Tamil-American communities.

We will now turn to the opening statements from our witnesses. I would encourage all of our witnesses to keep their remarks brief and succinct so that we can move to questions. Accordingly, please limit your oral statement to no more than 10 minutes, if you can do that. I know that is difficult.

But if that requires you to summarize your statement, the text of your full statement will be included in the hearing record.

So why don't we start with Ambassador Lunstead? Thank you very much. The floor is yours, sir.

**STATEMENT OF HON. JEFFREY J. LUNSTEAD, FORMER U.S.
AMBASSADOR TO SRI LANKA, MIDDLEBURY, VT**

Ambassador LUNSTEAD. Thank you, Mr. Chairman, for inviting me to speak on Sri Lanka today.

Sri Lanka is at a turning point in its history. Decisions taken now could determine whether the country will be able to put its troubled past behind and begin a new era of peace and prosperity. If Sri Lanka's leaders and people fail to take advantage of this opportunity, they risk a continuation of the violence that has long plagued the island.

When I served as the U.S. Ambassador to Sri Lanka from 2003 to 2006, a cease-fire was in effect between the government and the Liberation Tigers of Tamil Eelam, the LTTE. Sri Lankans and their friends hoped for a political solution to the ethnic conflict. The United States and much of the International Community strongly supported that peace process.

Unfortunately, the process collapsed, for a variety of reasons. The LTTE withdrew from the political negotiations at an early point and consistently violated the cease-fire. Sri Lanka's political leaders were divided and seemed to spend more time tearing each other down than seeking a way forward on peace.

It appears that the LTTE decided to return to war, perhaps hoping to gain ground and return to the negotiations in a stronger position. That was a fatal miscalculation. The LTTE manipulated the 2005 Sri Lankan Presidential election to ensure the victory of President Rajapaksa, then immediately after his victory began serious violations of the cease-fire agreement.

After a period of restraint, the government responded and ended the cease-fire. Much to the surprise of most observers, including

myself, the government forces made significant progress and now appear about to eliminate the LTTE as a conventional fighting force, though the LTTE will certainly retain a capability to conduct guerrilla operations.

It is this situation which presents both an opportunity and a challenge. One short-term and two long-term issues must be addressed. In the short term, as the fighting intensified and the area held by the LTTE diminished, the toll on civilians has increased. Both the LTTE and the government have shown a callous disregard for civilians.

There is a desperate need for food and medical care. Both sides have fired into civilian areas. The LTTE has forced children as young as 14 into its ranks and fired upon civilians trying to cross into government-controlled territory. Tamil civilians who manage to flee the conflict area have been forced into camps by the government.

This situation must be dealt with on an emergency basis. The government has an obligation to protect its own citizens. It must do better at preventing collateral damage to civilians in its military campaign and ensure that food and medical care reach them. Conditions in the camps are abysmal and must be improved.

After initial resistance, the government is now allowing U.N. and other international and local agencies into the camps. This is an important step. The government must also allow a competent outside agency, such as the ICRC, to be present when it screens those entering the camps and to establish a record of those who are detained. Tamils have a real and legitimate fear that those taken off by government forces will be abused and may never be seen again.

The first long-term issue is dealing with the need for political change. Sri Lanka's Tamils have legitimate grievances, which need to be addressed. Sri Lanka's political system, which centralizes power in Colombo, needs to be changed to devolve power to local areas. This will allow Tamils and, indeed, all Sri Lankans to have a greater say in how they are governed and how they lead their lives.

President Rajapaksa now enjoys great political support. He is expected to gain even greater power if he calls an election. He will have an opportunity to use the support to make the necessary constitutional changes.

The second long-term issue is wider than the ethnic conflict. It is the growing assault on dissent, which takes place in a culture of complete impunity. Sri Lanka has maintained its democracy, despite some rough patches, for over 60 years since independence. The recent murder of prominent newspaper editor Lasantha Wickramatunga was but the latest in a series of incidents.

Tamils and Sinhalese suffer alike from these attacks on basic freedoms. Many Tamils have been abducted and have simply disappeared. It is sad to say, but it is almost a certainty that these attacks have been carried out by elements of the government.

Impunity seems total. No one has been prosecuted for any of these incidents. No member of the security forces has been prosecuted for any abuses. Past efforts to break the culture of impunity have failed.

In 2007, the government invited the International Community to set up an International Independent Group of Eminent Persons to observe the work of a government commission of inquiry into a number of human rights abuses, including the murder of aid workers. The IIGEP terminated its mission in 2008, reporting that it had encountered “an atmosphere of confrontation” and “an absence of will on the part of the Government of Sri Lanka to investigate cases with vigor where the conduct of its own forces has been called into question.”

In January, my five predecessors as U.S. Ambassador to Sri Lanka and I sent a joint letter to President Rajapaksa, expressing our dismay about the attack on Wickramatunga and other incidents. I have attached a copy of that letter to this statement.

I have focused on the role of the government in this statement, but not because the abuses by the LTTE are less. The LTTE has shown a remarkable brutality and willingness to murder anyone, Tamil or Sinhalese, who dares to disagree with it. If the LTTE had seriously pursued the peace process from 2001 onward, the situation might be vastly different and better today.

But the government should be held to a higher standard. It is, after all, a government. It claims membership in the International Community and, therefore, must meet international norms.

The government now faces a choice. It can fail to treat its Tamil citizens properly, fail to engage seriously in political reform, and continue to allow human rights to be violated and dissent to be threatened. If so, unrest will continue, violence will certainly recur, and the promising future for Sri Lanka, which has always seemed just out of reach, will recede even further.

Or it can act immediately to show its Tamil citizens that they are valued as highly as every other Sri Lankan. It can make the dramatic changes that will give better governance to all Sri Lankans and set a standard for responsibility and accountability, which will diminish human rights violations and strengthen democracy.

The decisions made now will affect the island for better or worse for decades to come. What can the United States and others do? The United States military relationship with Sri Lanka is almost nil, with military assistance terminated. U.S. development assistance is relatively small.

However, Sri Lanka will require massive assistance to rebuild war-devastated areas to meet Sri Lanka’s other developmental needs. The United States could join with other donors, both bilateral—Japan, the EU, and others—and multilateral, including the World Bank and the Asian Development Bank.

A powerful and united donors group could insist that development assistance will flow only if strict conditions are met. These could include genuine devolution of power, quick resettlement of displaced persons, and a clear improvement in the human rights situation.

The United States should also seek close coordination with India, Sri Lanka’s close and large neighbor. With its own large Tamil population, India has a significant stake in the outcome in Sri Lanka.

With long experience in these matters, I will not pretend that meaningful donor coordination and aid conditionality are easy to accomplish. They are easy to propose, but fiendishly difficult to do.

But if the United States and other donors made World Bank and ADB loans conditional on these changes, and if Japan, Sri Lanka's largest bilateral donor, conditioned its own assistance, Sri Lanka's friends could have a major impact. Without such changes, the prospect is for an inevitable recurrence of the ethnic conflict.

I would like to add one point to that written statement. Since my participation in this hearing was posted, I have received about 40 to 50 e-mails an hour from various persons.

Most of these seek to reduce a complex situation to simple slogans, such as "the Sri Lankan Government is committing genocide against Tamils" on one side, or "the Sri Lankan Government must wipe out the terrorist LTTE" on the other side. Such simplistic slogans offer little promise to solve this difficult and important and complex issue.

Thank you.

[The prepared statement of Ambassador Lunstead follows:]

PREPARED STATEMENT OF HON. JEFFREY J. LUNSTEAD, FORMER U.S. AMBASSADOR TO SRI LANKA, MIDDLEBURY, VT

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It appears that the LTTE decided to return to war, perhaps hoping to gain ground and return to the negotiations in a stronger position. That was a fatal miscalculation. The LTTE manipulated the 2005 Sri Lankan Presidential election to ensure the victory of President Rajapakse, then immediately after his victory began serious violations of the cease-fire agreement. After a period of restraint, the Government responded and ended the cease-fire. Much to the surprise of most observers, the Government forces made significant progress and now appear about to eliminate the LTTE as a conventional fighting force—although the LTTE will certainly retain a capability to conduct guerrilla operations.

It is this situation which presents both an opportunity and a challenge. One short-term and two long-term issues must be addressed.

In the short-term, as the fighting intensified and the area held by the LTTE diminished, the toll on civilians trapped between the two forces increased. Both the LTTE and the Government have shown a callous disregard for civilians. There is a desperate need for food and medical care. Both sides have fired into civilian areas. The LTTE has forced children as young as 14 into its ranks, and fired upon civilians trying to cross into Government-controlled territory. Tamil civilians who managed to flee the conflict area have been forced into camps by the Government.

This situation must be dealt with on an emergency basis. The Government has an obligation to protect its own citizens. It must do better at preventing collateral damage to civilians in its military campaign, and ensure that food and medical care reach them. Conditions in the camps are abysmal, and must be improved. After initial resistance, the Government is now allowing U.N. and other international and local agencies into the camps. This is an important step. The Government must also allow a competent outside agency, such as the ICRC, to be present when it screens those entering the camps, and to establish a record of those who are detained.

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The second long-term issue is wider than the ethnic conflict. It is the growing assault on dissent, which takes place in a culture of complete impunity. Sri Lanka has maintained its democracy, despite some rough patches, for over 60 years since independence. The recent murder of prominent newspaper editor Lasantha Wickramatunga was but the latest in a series of incidents. Tamils and Sinhalese suffer alike from these attacks on basic freedoms. Many Tamils have been abducted and have simply disappeared, as documented in the State Department's Human Rights Report. It is sad to say, but it is almost a certainty that these attacks have been carried out by elements of the Government. Impunity seems total. No one has been prosecuted for any of these incidents, and no member of the security forces has been prosecuted for any abuses. Past efforts to break the culture of impunity have failed. For instance, the Government in 2007 invited the international community to set up an "International Independent Group of Eminent Persons" (the IIGEP) to observe the work of a Government Commission of Inquiry into a number of human rights abuses, including the murder of aid workers. The IIGEP terminated its mission in 2008, reporting that it had encountered an "atmosphere of confrontation" and an "absence of will on the part of the Government of Sri Lanka . . . to investigate cases with vigor, where the conduct of its own forces has been called into question." In January my five predecessors as U.S. Ambassador to Sri Lanka and I sent a joint letter to President Rajapakse expressing our dismay at the attack on Wickramatunga and other incidents. A copy of our letter is attached.

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The Government now faces a choice. It can fail to treat its Tamil citizens properly, fail to engage seriously in political reform, and continue to allow human rights to be violated and dissent to be threatened. If so, unrest will continue, violence will certainly recur, and the promising future which has always seemed just out of reach will recede even further. Or it can act immediately to show its Tamil citizens that they are valued as highly as every other Sri Lankan. It can make the dramatic changes that will give better governance to all Sri Lankans, and set a standard for responsibility and accountability which will diminish human rights violations and strengthen democracy. The decisions made now will affect the island, for better or worse, for decades to come.

What can the United States and others do? The U.S. military relationship with Sri Lanka is almost nil, with military assistance terminated. U.S. development assistance is relatively small. However, Sri Lanka will require massive assistance to rebuild war-devastated areas and to meet Sri Lanka's other development needs. The United States could join with other donors, both bilateral—Japan, the EU, and others—and multilateral, including the World Bank and the Asian Development Bank. A powerful and united donors group could insist that development assistance will flow only if strict conditions are met. These could include genuine devolution of power, quick resettlement of displaced persons, and a clear improvement in the human rights situation. The United States should also seek close coordination with India, Sri Lanka's close and large neighbor. With its own large Tamil population, India has a significant stake in the outcome in Sri Lanka.

With long experience in these matters, I will not pretend that meaningful donor coordination and aid conditionality are easy to accomplish. They are easy to propose but fiendishly difficult to do. If the United States and other donors made World Bank and ADB loans conditional on these changes, and if Japan, Sri Lanka's largest bilateral donor, conditioned its own assistance, Sri Lanka's friends could have a major impact. Without such changes, the prospect is for an inevitable recurrence of the ethnic conflict.

JANUARY 19, 2009.

His Excellency MAHINDA RAJAPAKSE,
President,
Democratic Socialist Republic of Sri Lanka.

DEAR MISTER PRESIDENT: We are all former United States Ambassadors to Sri Lanka, but we are writing in our personal capacities. Our service in Sri Lanka stretches for over 15 years, and we have seen good times and hard times in the country. We all have great respect and affection for Sri Lanka and its people. We have known you at different points in your career, and we all acknowledge your love for your country and your desire to see it at peace. We have all, at different times and in different ways, made it clear that we believed the goals and tactics of the Liberation Tigers of Tamil Eelam were unacceptable, and that the Government of Sri Lanka was engaged in a difficult but necessary fight against terrorism. We have all supported and argued for United States assistance to Sri Lanka in that struggle.

It is for all of these reasons that we are now so upset by developments in Sri Lanka, the most recent of which was the murder of Sunday Leader editor Lasantha Wickramatunga. We fear that, even as Sri Lanka is enjoying military progress against the LTTE, the foundations of democracy in the country are under assault. The killing of Mr. Wickramatunga has prompted this letter, but there have been many previous incidents in which the rights of individuals and the media have been violated.

Mr. President, we speak frankly because in our dealings with you we have always found you to have an open mind and to respect the truth. Some have suggested that these events have been carried out not by elements of the Government, but by other forces hoping to embarrass the Government. We do not find such arguments credible. We are familiar with your history as a defender of those whose rights were threatened by the Government. We assume, therefore, that if Government forces are carrying out these acts, they are acting without your permission and knowledge. We believe it is imperative that these actions stop, and that those who have carried them out be prosecuted.

Fighting an unconventional war against a terrorist enemy is a difficult task, and the sad truth is that it almost always results in some brutal and illegal acts. This is as true of our country as it is of Sri Lanka. The important thing is that the country's leadership not condone these acts, and that an atmosphere is set from the top that they will not be accepted, and that those who commit them will be held to account.

We urge you to take steps to reestablish accountability and the rule of law in Sri Lanka. Investigations have been promised before but have been futile. At times Government officials have not appeared diligent, as happened in the investigation of the killing of NGO workers assisted by the International Eminent Persons Group. It is crucial that an investigation now not follow that same fruitless path. It must also be made clear to members of the security forces that discipline will be enforced and violators will be brought to justice. Only you can provide the leadership and clear direction that will make this happen. We have seen before the positive results that such leadership can have, for example, when the decision to issue receipts for all detained persons dramatically reduced the number of disappearances.

Sri Lanka has gone through difficult times, but its democratic system has always persevered. Neither the LTTE nor assaults by other radical forces have been able to destroy it. It would be a tragedy if it were destroyed now, not from without, but from within.

We intend to make this letter public after you have received it.

With our personal best wishes, we remain,

Yours sincerely,

MARION CREEKMORE,
United States Ambassador
to Sri Lanka, 1989-92.

TERESITA SCHAFFER,
United States Ambassador
to Sri Lanka, 1992-95.

A. PETER BURLEIGH,
United States Ambassador
to Sri Lanka, 1995-97.

SHAUN DONNELLY,
United States Ambassador
to Sri Lanka, 1997-2000.

ASHLEY WILLS,
*United States Ambassador
to Sri Lanka, 2000–03.*

JEFFREY LUNSTEAD,
*United States Ambassador
to Sri Lanka, 2003–06.*

Senator CASEY. Thank you, Mr. Ambassador.
Ms. Neistat.

**STATEMENT OF DR. ANNA NEISTAT, SENIOR RESEARCHER,
HUMAN RIGHTS WATCH, WASHINGTON, DC**

Dr. NEISTAT. Thank you, Mr. Chairman, for inviting me to testify today on behalf of Human Rights Watch.

Just over a week ago, I returned from Sri Lanka. I would like to begin this testimony by sharing with you an account of one of the witnesses that we interviewed there.

“One mortar shell came in close. I heard the whirling sound. It was dark, so we didn’t know where it landed. When I stuck my head out of the bunker, I saw the mangled body of a young woman by the entrance. I had never seen that before. I couldn’t believe that it was a person.

“Nothing had been touched when we got out of the bunker in the morning. There were lots of people in bits and pieces lying around. My gut reaction was that I don’t want to see this, but I felt that I had to.

“One woman was lying on her back with two infants, one of whom survived, as I later heard. One baby was hanging from a nearby tree. Another baby, decapitated, was hanging on the barbed wire surrounding the playground. Next to the woman lay her husband, face down.

“Next to the family lay other people. One was severed in half. I think the other one was as well, but I couldn’t look anymore.”

It seems that the two warring parties in Sri Lanka now are involved in a perverse competition to demonstrate the greatest disregard for civilian population. And as a result, civilians are dying by hundreds. The latest figures we have suggest that the number of civilian casualties in the northern Vanni region has now reached 7,000 people, including up to 2,000 deaths.

And as outrageous as those numbers are, they might be just the beginning. As according to U.N. estimates, there are over 200,000 people now trapped in the northern Vanni region between the two warring parties.

Having worked in many conflict areas around the world, I have rarely seen a humanitarian disaster of such scale where both sides seem to demonstrate such blatant disregard to the safety and well-being of civilians and which, at the same time, receive so little international attention.

Two key issues I would like to bring to your attention today are the abuses against civilians trapped in the Vanni in the conflict areas and the dire situation of the displaced persons who manage to cross to the government-controlled areas.

For more details on our findings, I encourage you to look at our report that we just released and submitted for your review along with this testimony. Our research established that during the ongoing fighting in the Vanni, both the Sri Lankan Armed Forces and

the LTTE committed serious violations of international humanitarian law and are responsible for hundreds of civilian casualties.

The LTTE has deliberately prevented civilians under its control from fleeing into the government-controlled areas. We documented several incidents where LTTE forces fired at fleeing civilians, killing and injuring dozens. We also documented cases where LTTE effectively used civilians as human shields to protect their positions from attack. This is a war crime.

The LTTE has also continued its practice of forcible recruitment of civilians for untrained combat and labor at the front lines. That was extremely dangerous for civilians. One of the witnesses we interviewed said that just recently 25 of her neighbors died after they were recruited by LTTE to perform such duties at the front line, such as digging bunkers or collecting weapons from killed combatants.

The government, in turn, has been exploiting LTTE's grim practices to justify its own atrocities. Sri Lankan forces have repeatedly and indiscriminately shelled areas crowded with displaced persons, causing numerous civilian casualties.

Many of civilian deaths, including the ones described in the testimony—the witness account that I shared with you at the very beginning—occurred in the so-called “safe zone” declared by the government. It was a 14-square-mile area in Mullaitivu district. We received several detailed accounts from people who stayed within the safe zone, and these accounts suggest that the shelling by Sri Lankan forces killed dozens, if not hundreds, of people inside there.

There were apparently some LTTE positions, either within or right outside of the safety zone, that could be legitimately targeted by the armed forces. However, it does not relieve the Sri Lankan forces from responsibility to take all physical precautions to protect civilians, especially in the area where the government itself encouraged people to move.

Some of the attacks were particularly deadly because the government used multibarrel rocket launchers, weapons that are indiscriminate when used in populated areas because they cannot be targeted with sufficient precision. Particularly outrageous were numerous attacks on the hospitals. Our report documents about two dozen of such attacks; hospitals attacked by artillery shelling and aerial bombardments.

The plight of civilians in Vanni was exacerbated by the lack of humanitarian access to the region. At this point, there are very few supplies of food and medical necessities in the region, and that is largely because the government barred any international humanitarian agencies—most international humanitarian agencies from delivering assistance to the region. And food convoys had to stop because both parties tried to use them to advance their military positions.

Meanwhile, the situation of more than 30,000 civilians who managed to cross to the government-controlled areas is also dire. One of the concerns is the screening procedures. At this point, no international agency has access to the screening points, and there are growing reports of people who have gone missing after being detained at these checkpoints. This is particularly worrisome, given

Sri Lanka's sad record on enforced disappearances and summary executions.

Upon arrival in the provincial capital, Vavuniya, all displaced persons without exception are being confined to de facto internment camps that the government calls "welfare centers." I have to say that one look at these camps makes it very clear that the welfare of the inhabitants is the last of the authorities' concerns. They are surrounded by barbed wire and machine gun nests and sandbags, and the civilians inside do not enjoy any freedom of movement.

They are not allowed out, and their relatives do not have access to them. There are heart-breaking scenes happening outside of the camps as relatives are trying to approach their family members inside the camps.

The hospital in Vavuniya, where hundreds of civilians have been brought from the fighting area, mirrors the town's internment camps. When I visited the hospital on February 11, it was still overcrowded with patients. Patients were lying on the floors in the hospital corridors, and the hospital clearly lacked even the most basic supplies, such as bed sheets, blankets, and change of clothing for the patients.

The hospital was run by the military. There were uniformed men, uniformed servicemen in all of the hospital wards, corridors, and the hospital yard. Their main job was to make sure that nobody has access to the patients from outside and that the patients have nobody to tell their story to.

Despite the obvious lack of capacity of the hospital, the hospital personnel was specifically instructed by the authorities not to approach any international agencies for help. As a result of this lack of capacity, many of the patients are being discharged to the camps long before their wounds have healed. And we documented at least two cases where this practice led to the deaths of the patients.

I visited all of the hospital wards, and most of the patients there were in a state of despair, often crying incessantly, and they were saying that they were simply unfortunate to have survived.

As one of the patients told me, "They promised they would allow us to go back after we get treatment. Now our families are back there in Vanni, and we have no information about them. And we are not much better off. People are dying in the hospital as well. There are no relatives to help us, and there won't be anybody once we go to camps.

"Why did they bring us here? We could have just as well died there because there is nobody here to take care of us, to feed us, and we are likely to die anyway just through more suffering."

I would like to conclude by saying that collecting information about the conflict in Sri Lanka was extremely difficult because Sri Lankan Government has conducted a cynical campaign to prevent all independent public coverage of the conflict, barring human rights organizations and journalists from the conflict areas in a clear effort to cover its abuses.

Human Rights Watch tried its best to uncover the truth so that neither the Sri Lankan Government nor the LTTE nor the International Community could say that they have not known what hap-

pened there. Now we urge concerned governments, including the Government of the United States, to do all it can to end the suffering of the civilian population in Sri Lanka.

First, both sides should be pressed to immediately establish humanitarian corridors to allow the civilian population to escape the battle zone and to stop committing violations of international humanitarian law.

Second, the government should be told to end its ban on humanitarian workers, journalists, and human rights activists in the Vanni.

And last, the Security Council should hold a special session to address the humanitarian catastrophe now taking place and send a message to the government that development assistance will not be provided to create permanent internment camps for Sri Lankans, long suffering, displaced.

Thank you.

[The prepared statement of Dr. Neistat follows:]

PREPARED STATEMENT OF DR. ANNA NEISTAT, SENIOR RESEARCHER, EMERGENCIES
DIVISION, HUMAN RIGHTS WATCH, WASHINGTON, DC

Mr. Chairman, members of the committee, thank you for inviting Human Rights Watch to testify at this hearing. I will address the most recent developments on the ground in Sri Lanka and, in particular, the desperate plight of civilians caught between the two warring parties—the Government of Sri Lanka and the separatist Liberation Tigers of Tamil Eelam (LTTE).

Just over a week ago I returned from Sri Lanka. I have to mention, first of all, that collecting information about the conflict and the situation of the internally displaced persons is extremely difficult. The Sri Lankan Government is conducting a cynical campaign to prevent all independent public coverage of its military operations and the plight of civilians caught up in the war. While decrying LTTE abuses, it has kept out the media and human rights organizations that could report on them—and on government abuses. It has kept displaced persons locked up in camps and hospitals. It has traded the well-being of tens of thousands of Sri Lankan citizens for evading international scrutiny. It has been trying its best to bury the abuses.

While in the country, however, we managed to collect credible information about egregious violations by the parties to the conflict, both of which appear to be engaged in a perverse competition to demonstrate the greatest disregard for the civilian population. Our findings are summarized in a 45-page report, “War on the Displaced: Sri Lankan Army and LTTE Abuses Against Civilians in the Vanni,” that we have just released and submitted for your review along with this testimony.

As you know, after 25 years, the armed conflict between the Sri Lankan Government and the LTTE may be nearing its conclusion. This conflict has over the years claimed some 70 thousand civilian lives, and has left hundreds of thousands displaced for years and even decades.

Since the fall of the LTTE’s administrative center, Kilinochchi, in early January 2009, civilian casualties in the northern Vanni region have skyrocketed. The latest figures received by Human Rights Watch from independent monitors on the ground suggest that the total number of civilian casualties has now reached 7,000, including up to 2,000 deaths. Added to this are the dire hardships faced by the displaced—insufficient food, medical care, and shelter, whether in the combat zone or government-run internment camps.

Having worked in many conflict areas across the world, I have rarely seen a humanitarian disaster of such scale, where both sides demonstrate such shameless disregard to the safety and well-being of civilians, and which, at the same time, receives so little international attention. Civilians caught in Sri Lanka’s conflict continue to die as we speak, and immediate action is necessary to stop this egregious loss of civilian life.

VIOLATIONS OF THE LAWS OF WAR BY BOTH SIDES OF THE CONFLICT

During the ongoing fighting in the Vanni, both the Sri Lankan Armed Forces and the LTTE have committed serious violations of international humanitarian law with

respect to the conduct of hostilities. The high civilian casualties of the past months can be directly attributable to these violations.

The LTTE has been responsible for deploying their forces within densely populated areas and deliberately firing on civilians to prevent them from fleeing to safety. There is also evidence that the LTTE has used civilians as “human shields.”

The Sri Lankan forces have committed numerous indiscriminate and perhaps disproportionate attacks consisting of artillery bombardment and aerial bombing. These include attacks on the government-proclaimed “safe zones” and on clearly marked hospitals. Statements by senior officials indicating that civilians who do not leave LTTE-controlled areas are subject to attack are indicative of an intent to commit war crimes.

Violations by the LTTE

The LTTE has deliberately prevented civilians under its effective control from fleeing to areas away from the fighting, unnecessarily and unlawfully placing their lives at grave risk. As the LTTE has retreated in the face of SLA offensive operations, it has forced civilians to retreat with it, not only prolonging the danger they face, but moving them further and further away from desperately needed humanitarian assistance. And as the area that the LTTE controls shrinks, the trapped civilian population has become concentrated, increasing the risk of high casualties in the event of attack and placing greater strains on their living conditions.

Human Rights Watch documented a number of incidents when the LTTE forces fired at civilians who tried to cross to the government-controlled areas, killing and injuring dozens. In an illustrative case, a 35-year-old father of three described how LTTE cadres had shot at civilians attempting to flee:

When we came to Suthanthirapuram, it was full of dead bodies. Bodies were lying along the road. Nobody cared about them. They smelled. We didn't have food for 2 days. We slept in the field.

Some 150 people started out together, but when we tried to leave, at Suthanthirapuram, the LTTE tried to stop us. There was only a narrow path to leave by. The LTTE caught us. There was fighting, arguments. They were shooting at us. Many people were injured and killed. It was shocking to see. Only 65 were in my group when we came out. We were separated from the rest along the way.

One father was carrying his child on his back. As they were running from the LTTE, he was holding him by the arms so hard—in order not to lose him—that he broke both of the child's arms.

The LTTE practice of forcing civilians to retreat with its forces, rather than allowing them to flee to safer areas, has meant that LTTE forces have been increasingly deployed near civilians in violation of the laws of war. Several cases were reported to Human Rights Watch in which LTTE forces appeared to be making deliberate use of civilians to protect their positions from attack—which is considered to be “human shielding,” and constitutes a war crime.

The LTTE has continued to place civilians at serious risk by forcibly recruiting civilians for untrained military duty and for labor in combat zones. The LTTE also has a long history of using children under 18 in their forces, including in armed combat, and the U.N. has reported that it continues to do so. Since September 2008, the LTTE has increasingly forced people with no prior military experience to fight or perform supportive function on the front lines, which has led to many casualties. One Vanni resident described this practice to Human Rights Watch: “The workers were taken to the front line to dig bunkers, collect weapons from killed cadres and SLA soldiers, and so on. It was very dangerous for civilians—about 25 of my neighbors were killed while doing this work. They did not receive any training—the LTTE cadres fetched them from their homes and the next day brought their dead bodies back. Every day, many people were crying in my neighborhood because they lost young children; some even beat up LTTE cadres when they brought the bodies back.”

Violations by the Sri Lankan Armed Forces

The LTTE's grim practices are being exploited by the government to justify its own atrocities. High-level officials assert that the ethnic Tamil population trapped in the war zone can be presumed to be siding with the LTTE and treated as combatants, effectively sanctioning violations. Sri Lankan forces have repeatedly and indiscriminately shelled areas packed with displaced persons, causing numerous civilian casualties. This includes numerous reported bombardments of a government declared “safe zone” and of the remaining hospitals in the region.

Concerns of indiscriminate attacks by SLA forces are heightened by reports that they are using multibarrel rocket launchers. Rockets fired from multibarrel launchers cannot be targeted with sufficient precision to be accurate against military targets, and their broad area effect makes their use incompatible with the laws of war in areas where civilians or civilian objects (such as schools or hospitals) are located. The use of such weapons in populated areas is indiscriminate in violation of international humanitarian law.

Many of the civilian deaths reported in the past month have occurred in an area that the Sri Lankan Government has declared to be a "safe zone." On January 21, the Sri Lankan Armed Forces unilaterally declared a 35-square-kilometer "safe zone" for civilians north of the A35 road between the Udayarkattu junction and the Manjal Palam (Yellow Bridge) in Mullaitivu district. The Sri Lankan Air Force dropped leaflets appealing to civilians to move into the safe zone as soon as possible.

During the next days, several thousand people gathered in a large playground located just north of the A35 in the safe zone. The playground also functioned as a food distribution center for the local government agent (GA) and international organizations. Several people located in or around the GA food distribution center told Human Rights Watch that, despite the army declaration of a safe zone in the area, the area was subjected to heavy shelling from SLA positions in the period January 22–29, which killed and injured hundreds of people.

One shell that struck inside the playground early in the morning on January 24 killed 7 civilians and injured 15. An eyewitness told Human Rights Watch:

One mortar shell came in, close. I heard the whirling sound. It was dark so we didn't know where it landed. When I stuck my head out of the bunker, I saw the mangled body of a young woman by the entrance. I had never seen that before. I couldn't believe that it was a person.

There was a huge amount of screaming immediately after the impact. More mortar shells started coming in.

Nothing had been touched when we got out of the bunker in the morning. There were lots of people in bits and pieces lying around. My gut reaction was that I don't want to see this, but I felt that I had to.

One woman was lying on her back with two infants, one of whom survived, as I later heard. One baby was hanging from a nearby tree. Another baby, decapitated, was hanging on the barbed wire surrounding the playground. Next to the woman lay her husband, face down.

Next to the family lay other people. One was severed in half. I think the other one was as well, but I couldn't look anymore. One woman sustained shrapnel injuries to her head. Her brain was lying on the ground. The LTTE and police that came to take away the body did not remove the brain from the ground. It was still lying there when they left.

Several sources told Human Rights Watch that LTTE forces maintained positions in the safe zone (although about two to four kilometers north of the playground), from which they fired on SLA positions. And as LTTE forces retreated, they moved heavy artillery eastward through the northern part of the safe zone. This by itself cannot be considered a violation of international humanitarian law, as the safe zones were declared unilaterally by the Sri Lankan Government and not in agreement with the LTTE. The SLA was also not prohibited from attacking LTTE forces inside a safe zone.

At the same time, having declared the area a safe zone for civilians, the SLA encouraged civilians to go to the area, increasing the vulnerability of civilians in the event of an attack. By creating the zone, government forces took on a greater obligation to ensure that they spared civilians from the effects of attacks. Given this civilian presence, attacks on valid military targets in the safe zone should only have been carried out after issuing an effective advance warning that the area was no longer a zone protected from attack.

Human Rights Watch also documented several SLA attacks outside of the safe zone which seemed to have been indiscriminate and led to civilian casualties. For example, one of the witnesses from Vallipunam, a town just outside the government-declared safe zone, recounted to Human Rights Watch the SLA shelling of the town on January 19: "There were about 40–50 people traveling along the road when the shelling started. The shelling lasted for about 15 minutes. About 10 shells landed in the immediate area, but we could hear shells landing further away as well. I was staying in the bunker during this time and for another 30 minutes. When I came out of the bunker, people were crying and shouting. A vehicle had already taken the injured to Vallipunam school [an IDP center]. One shell had landed in the middle of the road, however, killing three people who were still lying there when I came

out. The shells were coming from SLA positions, from the southwest. We could hear them when they came in.”

According to the witness, there were no known LTTE positions in the vicinity at the time of the attack.

The witness also told Human Rights Watch that seven of his wife’s relatives, including two children—8 and 6 years old—were killed on February 5 by shelling in Mathalan, an area controlled by the LTTE that he believes had come under SLA attack. He was concerned that three other bodies had been found, mangled beyond recognition, and could be those of relatives he had not heard from.

During the fighting in 2009, the few hospitals that exist in LTTE-controlled areas have repeatedly come under artillery attack. This has added immeasurably to the suffering of individuals who have sought help in medical facilities, already horribly overcrowded and dangerously short of medical personnel, equipment, and supplies before the attacks.

We gathered information from aid agencies and eyewitnesses on more than two dozen incidents of artillery shelling or aerial bombardments on or near hospitals. Hospitals are specially protected under international humanitarian law. Like other civilian objects, they may not be targeted. But under the Geneva Conventions, hospitals remain protected unless they are “used to commit hostile acts” that is outside their humanitarian function. Even then, they are only subject to attack after a warning has been given setting a reasonable time limit, and after such warning has gone unheeded. Deliberately attacking a hospital is a war crime.

Attacks on hospitals in the Vanni (December 15, 2008–February 15, 2009)

Information compiled by Human Rights Watch from interviews with aid agencies and eyewitnesses.

Date	Hospital	Description
15/12/08	Mullaitivu General Hospital	Shelling: 2 patients injured, damage to ward and medical equipment.
17/12/08	Vaddakachchi Hospital	10 a.m. Aerial bombing hit refugee settlement 250-300 m from the hospital.
19/12/08	Mullaitivu General Hospital	11:30 a.m. Five shells hit hospital causing damage to wards, operating theater, and the Medical Superintendent’s HQ: 2 staff wounded.
20/12/08	Mullaitivu General Hospital	Shells hit inside hospital grounds.
22/12/08	Kilinochchi General Hospital	6:20 a.m. Aerial bombing hit near hospital, causing shrapnel damage. No injuries reported.
25/12/08	Kilinochchi General Hospital	Shells hit hospital grounds, narrowly missing staff. Damage to newborn nursing section, outpatient department, and reception.
30/12/08	Kilinochchi General Hospital	4 p.m. Shells hit hospital causing damage to the building. No injuries reported.
08/01/09	Tharmapuram Hospital	1:20 p.m. Shells hit Tharmapuram Junction 75 m from the hospital, killing 7.
10/01/09	PTK Hospital	11 p.m. Shells hit IDP settlement located behind PTK hospital.
13/01/09	PTK Hospital	10 a.m. Hospital hit by shells: 1 killed, 6 wounded. Patients fled to the wards to seek shelter from the shelling.
19/01/09	Vallipunam Hospital	Shell landed in hospital yard: 6 people in outpatient ward injured.
21/01/09	Vallipunam Hospital	7 p.m. One shell hit hospital.
22/01/09	Vallipunam Hospital	Morning. Shells hit hospital compound: killing 5 and injuring 22.
26/01/09	UDK Hospital	Shells hit hospital: 12 killed, 40 injured.
31/01/09	PTK Hospital	Shrapnel from shells hit hospital.
01/02/09	PTK Hospital	Three attacks. First attack: 1 person injured by shrapnel inside the hospital. Second attack: one shell hit the hospital: 1 killed, 4 injured. Third attack: 1 shell hit the women and children ward (no information on casualties).
02/02/09	PTK Hospital	One shell hit hospital: 1 nurse killed, 10 patients injured.
03/02/09	PTK Hospital	Rocket hit surgical theatre: no information on casualties.
05/02/09	Ponnampalam Memorial Hospital	Shelling: 60 casualties inside and outside the hospital.
10/02/09	Putumattalan (make-shift hospital for PTK).	Shelling: 16 people killed.

The government has sought to justify attacks that have resulted in high civilian casualties on the grounds that the civilians failed to heed warnings to flee the areas, and that the LTTE’s use of civilians as shields rendered the LTTE fully responsible for any civilian loss.

HUMANITARIAN ACCESS

The plight of civilians in Vanni has been exacerbated by the government's decision in September 2008 to order most humanitarian agencies out of the region. The government's own efforts to bring in assistance with a minimal U.N. role have been insufficient. Fighting, lack of oversight, and the manipulation of the delivery of aid by government forces and the LTTE have all contributed to the continuing humanitarian crisis.

Scarce information that comes out of Vanni through phone calls or text messages suggests that the situation gets worse by day, with civilians lacking water, food, medical supplies, and other necessities.

On February 10, an international agency received information from its staff, which had relocated to a place along the coast, that the only supplies that they had left were rice, flour, and oil. They had run out of water and the nearest water was 1.5 kilometers away. Walking there was extremely risky as the area was frequently shelled—an artillery shell had recently landed just 100 meters from the agency's bunker.

The delivery of humanitarian assistance had been further complicated because both sides used humanitarian convoys to advance their military positions, in clear violation of international law.

One individual who joined convoys delivering food supplies on December 23 and 29 said that Sri Lankan Government troops used the convoys moving northward to advance closer to LTTE positions. He told Human Rights Watch that on December 29: "We got to the last SLA checkpoint near Oddusuddan from where the ICRC was supposed to accompany us through no-man's land to the LTTE checkpoint 13 kilometers south of PTK. As soon as we passed the SLA checkpoint, military vehicles joined the convoy and followed the convoy on both sides. LTTE saw it and started firing. The army returned fire and the convoy had to stop for 1 hour. At this time nobody was injured, but when the same thing happened to the GA [government] convoy the next day, their driver was injured in crossfire."

PLIGHT OF THE INTERNALLY DISPLACED

The situation of civilians who manage to escape from areas of active hostilities into government-controlled territory is dire. Instead of providing the internally displaced with the assistance and protection they are entitled to under international law, the Sri Lankan Government continues to violate their fundamental rights.

The government has arbitrarily detained people during screening procedures; subjected all internally displaced persons, including entire families, to indefinite confinement in military-controlled camps; and failed to provide adequate medical and other assistance to displaced persons. The government has directly restricted the efforts of relief agencies seeking to meet emergency needs, and has deterred agencies from offering greater support through policies that the agencies rightly perceive as unlawful.

The number of newly arrived displaced persons changes daily and is hard to verify, especially since the government does not share IDP registration lists with any international agencies. As of February 16, according to estimates by international agencies working in the area, there were about 30,700 internally displaced in 12 sites in Vavuniya.

Screening procedures and unknown fate of the detainees

Sri Lankan security forces subject people fleeing from LTTE-controlled areas to several stages of screening, ostensibly to separate those affiliated with the LTTE from displaced civilians. While the government has legitimate security reasons for screening displaced persons to identify and apprehend LTTE cadres, the screening procedures need to be transparent and comply with the requirements of international humanitarian and human rights law. So far, none of these requirements have been met and dozens of individuals, perhaps many more, have been detained during the screening process. The fate of such detainees remains unknown, raising fears of possible enforced disappearances and extrajudicial killings.

According to several sources, at the Omanthai checkpoint—the main screening point for displaced persons on the main A9 roadway before their arrival in camps in Vavuniya—the SLA and the police Criminal Investigation Department (CID) has separated dozens of men and women aged 18 to 35, as well as some teenage children, from their families, allegedly for further questioning. Some have been released within days and transferred to the IDP camps in Vanunya, but the fate of numerous others remains unknown.

An international relief worker told Human Rights Watch that on February 8, 2009, she was approached by about 50 families whose relatives had been detained

at Omanthai checkpoint in previous days. Neither the families nor the international worker had any information as to the fate and whereabouts of the detainees. Another relief worker said: "One woman in the camp told me that she was crossing the Omantai checkpoint with her husband and child on February 3. The husband was detained there, and for a week now she has no information about him. People like her call us all night long, trying to get information about their missing relatives."

At this point, no independent observers are allowed to monitor the screening process at the Omanthai checkpoint. Efforts of international agencies, including ICRC and UNICEF (some detainees are children), to obtain the lists of the detainees and any information about their fate and location from the Sri Lankan authorities so far have proved futile.

Confinement in internment camps

Upon arrival in Vavuniya, all displaced persons, without exception, are subjected to indefinite confinement in de facto internment camps, which the government calls transit sites, "welfare centers," or "welfare villages." Those requiring immediate medical attention are first taken to the hospital, and then to one of the camps (see below).

Sri Lankan authorities have ignored calls from the international community to ensure the civilian nature of the camps. The perimeters of the sites are secured with coils of barbed wire, sandbags, and machine-gun nests. There is a large military presence inside and around the camps.

Several sources reported to Human Rights Watch the presence of plainclothes military intelligence and paramilitaries in the camps. A U.N. official in Vavuniya told Human Rights Watch that she and colleagues have seen members of paramilitary groups in different camps. In particular, local staff members recognized several members of the People's Liberation Organization of Tamil Eelam (PLOTE), a progovernment Tamil paramilitary organization long implicated in abuses, present at one of the camps. Military and CID officers regularly conduct nighttime interrogations inside the camps, summoning young men and women into their premises.

Displaced persons confined in the camps enjoy no freedom of movement and are not allowed any contact with the outside world. While many of the displaced persons have families in Vavuniya, their relatives have not been allowed to visit them in the camps. Relatives come to the camp sites, trying to find their family members and communicate with them through the fence and barbed wire surrounding the sites, yet they are often chased away by soldiers. The displaced persons in Vavuniya camps are never allowed to leave the sites on their own.

A local relief worker told Human Rights Watch that a woman she spoke with in one of the camps was not even allowed to attend the funeral of her mother who had succumbed to her wounds at Vavuniya Hospital. The relief worker said: "I spoke to one woman in the camp—she was crying and screaming. It turned out that her elderly mother, who had been injured and admitted to the hospital, died there on February 7. The elderly woman's body was given to the son, who lived in Vavuniya, but her daughter was not allowed to leave the camp even to attend her mother's funeral. She was in agony because she couldn't pay respects to her mother."

Several relief workers working with displaced persons told Human Rights Watch that many are devastated because they have been separated from their family members and have no information about their relatives—those who stayed in the Vanni, those detained at Omanthai, or even those who may be in Vavuniya but confined in a different camp.

In apparent efforts to demonstrate that they can handle the influx of displaced persons without assistance from international agencies, and to prevent any communication between displaced persons and the outside the world, Sri Lankan authorities have significantly restricted the access of international relief agencies and local nongovernmental organizations to the camps. Nor have journalists or human rights groups been allowed access.

While in early February, realizing that they would not be able to handle the situation on their own, Sri Lankan authorities allowed various U.N. agencies and international humanitarian agencies to set up necessary facilities and provide emergency assistance in the camps, the agencies do not enjoy unimpeded access to the displaced. The decision seems to be made on an ad hoc basis by military commanders in charge of the camps, and as a result, much-needed aid often does not reach the internally displaced. For example, on February 11, 2009, an international agency providing assistance and necessary equipment to the handicapped was not allowed to enter one of the camps. Given the large number of displaced persons disabled as a result of their injuries, the access of this agency to the camps is crucial.

Those working in the camps who spoke with Human Rights Watch said that it was virtually impossible for them to talk to displaced persons and interview them about their experiences. The military, CID, and plainclothes paramilitaries were keeping a close watch on any outsiders in the camp, preventing them from talking to the displaced persons. The military made it clear to the international organizations that violating their rules would result in their losing access to the camps, while local relief workers simply feared for their lives should they get noticed, especially by the paramilitaries.

International bodies, including the U.N. Secretary General's representative on internally displaced persons and the U.N. High Commissioner for Refugees have repeatedly called upon the Sri Lankan Government to honor its international legal obligations toward displaced persons. These pleas, however, seem to have fallen on deaf ears.

Meanwhile, the Sri Lankan Government is proceeding apace with its plan to confine all of the internally displaced from Vanni into so-called "welfare villages"—while the army conducts the screening, clears areas in Vanni of remaining LTTE cadres, and demines the area. The "welfare villages," according to the government's plan, are supposed to have schools, banks, playgrounds, shops, and other facilities, yet those living there will not enjoy the right to liberty or the freedom of movement. Rajiva Wijesinha, the Secretary of the Ministry of Disaster Management and Human Rights, told the media, "Of course, it will not be voluntary—we need to check everyone."

Originally, the government proposed to keep the displaced persons in the "welfare villages" for up to 3 years, but following the protests from UNHCR, said it intends to resettle most of the displaced persons by the end of 2009. The Sri Lankan Government's past record with regard to the resettlement of persons displaced by armed conflict does not give cause for optimism that resettlement will happen quickly. On the contrary, it gives reason to be concerned that the government will end up interning those placed there indefinitely.

INADEQUATE MEDICAL ASSISTANCE AT THE VAVUNIYA HOSPITAL

The situation of several hundred displaced persons receiving medical assistance at the Vavuniya Hospital is desperate.

The majority of patients were brought to the hospital on January 28, when ICRC managed to escort 226 wounded civilians requiring urgent medical assistance, including 51 children, out of the Vanni. Others were either brought to the hospital earlier, by transport organized by the Ministry of Health, or sent to the hospital after they managed to cross to the government side and went through the screening procedures along with other displaced persons.

While the medical staff in the hospital has been trying to do everything possible to assist the wounded, the influx of patients has been far beyond the hospital's capacity.

When Human Rights Watch visited the hospital on February 11, 2009—after some of the patients had already been discharged to the camps or transferred to other hospitals—there were still not enough beds for all the patients, and many of the patients, especially in the male ward, were lying on the floor in the corridor. The maternity ward was also overcrowded with no adequate accommodation provided for newborn babies and their mothers, many of whom were also injured.

Several sources told Human Rights Watch that due to the hospital's lack of capacity, patients were being discharged—and sent straight to the camps—long before their injuries were healed, which has already led to at least two deaths.

Human Rights Watch interviewed two women in the hospital who just gave birth. Both of them were in despair as they were informed that they would be discharged and sent to the camp that day. One of the women had been injured by shelling in the Vanni and had one of her feet amputated. She gave birth through Cesarean section 4 days earlier and still could not even independently take care of herself, let alone her newborn baby. Another woman gave birth to twins a day earlier and was terrified by the prospect of moving into the camp with her two babies and no one to help her take care of them.

It was obvious that the hospital lacked even the most basic necessities. Many of the hospital beds had no bed sheets or blankets, and a number of patients, including at least two children, told Human Rights Watch that they did not have a change of clothes.

Despite the obvious lack of capacity to handle all of the wounded and attend to their needs, the hospital personnel, according to several independent sources, were instructed by the authorities not to ask for any assistance from the international agencies, and very few agencies were allowed access to the hospital.

An international relief worker told Human Rights Watch that her agency tried to provide assistance to the hospital when the convoy with 226 patients arrived in Vavuniya on January 28, but the hospital did not allow them to. She said: “Authorities in the hospital kept telling us, ‘Go away, all needs are met.’ Medical staff are under a lot of pressure—they were instructed by the government not to ask for anything from relief agencies, not to speak about any of the needs, and not to provide any information. They were supposed to demonstrate that the government could handle the influx of patients. Now, however, the situation is so desperate that despite the government orders, medical staff confidentially approach international agencies, asking for medical supplies and other assistance.”

The situation of patients is aggravated by the fact that their relatives—even the ones who were allowed to accompany them from the Vanni—have not been allowed to stay with them and have been sent to the camps instead. That has been true even of small children and severely injured patients who require constant attention and assistance. No patients were allowed to stay with their families—rather than in the camp—after their discharge, despite the hospital staffs’ efforts to make such arrangements.

Human Rights Watch visited all of the hospital wards and most of the patients were in a state of despair, often crying incessantly. One of the patients told Human Rights Watch: “They promised they would allow us to go back after we get treatment. Now our families are back there, and we have no information about them. And we are not much better off. People are dying in the hospital as well; there are no relatives to help us, and there won’t be anybody once we go to the camps. Why did they bring us here? We could have just as well died there [in Vanni], because there is nobody here to take care of us, to feed us, and we are likely to die anyway, just through more suffering.”

The hospital is essentially run by the military and guarded even more closely than the camps. Uniformed servicemen patrol every ward of the hospital, the corridors, and the hospital yard. They register all visitors and watch closely, especially when international relief workers enter the wards. Attempts to communicate with the patients have already led to problems for both patients and the people who tried to talk to them.

For example, a local NGO worker told Human Rights Watch that after one of his staff members talked to a young woman with a mental disorder in the hospital, the patient “had gone missing” the next day, and the staff member was approached by the CID and questioned about his conversations with the patient. Out of fear for his safety, he had to discontinue his visits to the hospital.

The NGO worker added that he was aware of three cases in which relatives of the patients “had gone missing” after their visits to the hospital. He also said that, according to the information he received in the hospital, in early February several men arrived in a white van to the hospital and abducted the hospital canteen owner “because he used to go to the wards and talk to the patients.”

The situation in the Vavuniya Hospital raises serious concerns regarding the safety and well-being of patients not just in this hospital, but in other hospitals where injured civilians have been evacuated. After some 600 patients were evacuated from the makeshift hospital at Putumattalan to Trincomalee by the ICRC on February 10 and 12, initial reports from Trincomalee Hospital suggest that it too has become militarized and access to the patients is similarly restricted.

RECOMMENDATIONS

As a cochair of the Tokyo Donors’ Conference and one of Sri Lanka’s key international partners, the United States has the power and the responsibility to address the current crisis. The United States has in recent years been outspoken on violations of human rights and international humanitarian law by both the Sri Lankan Government and the LTTE. Given the dire needs of the civilian population in the Vanni, Human Rights Watch urges the Obama administration and Congress to bring new urgency to its concerns. Specifically, the U.S. Government should call upon the Sri Lankan authorities to:

- Cease all attacks that violate the laws of war, including artillery bombardment and aerial bombing that does not discriminate between military targets and civilians; attacks on hospitals, and attacks using weapons, such as multibarrel rocket launchers and heavy artillery, that are indiscriminate when used in or near densely populated civilian populations;
- Facilitate, along with the LTTE, the immediate creation of humanitarian corridors to allow civilians trapped by the fighting to travel to areas away from the fighting;

- Immediately lift the September 2008 order barring humanitarian agencies from the Vanni conflict area in northern Sri Lanka and allow humanitarian agencies to return to assist at-risk individuals and reach all civilians in need; ensure that nongovernmental organizations (NGOs) are able to perform their work without arbitrary government interference;
- Allow independent observers, including journalists, access to conflict zones so that accurate and timely information about the situation of civilians in such areas is publicly available;
- Immediately end the arbitrary and indefinite detention of civilians displaced by recent fighting at the internment camps in northern Sri Lanka;
- Permit international monitoring of the screening procedures to prevent arbitrary arrests and “disappearances” of the detained individuals;
- Otherwise abide by the United Nations General Principles on Internal Displacement, including by permitting the freedom of movement of displaced persons, respecting the right of displaced persons to return to their homes, and permitting humanitarian agencies access to displaced persons.

In addition, we call upon the U.S. Government to support a discussion of the humanitarian situation in Sri Lanka at the U.N. Security Council.

Senator CASEY. Thank you very much.
And finally, Mr. Dietz.

STATEMENT OF ROBERT DIETZ, ASIA PROGRAM COORDINATOR, COMMITTEE TO PROTECT JOURNALISTS, NEW YORK, NY

Mr. DIETZ. Thank you, Senators, for the opportunity to speak here today.

The comments I will be making are based on CPJ’s research over the last 12 years, plus a 10-day trip, which I took to Colombo from January 21 to February 1 this year. I have also submitted to the committee a report, which is now available on-line on our Web site and more fully develops the points that I make today.

I went to Colombo because Sri Lankan journalists are under intensive assault. The government has failed to carry out effective and credible investigations into the killings and attacks on journalists who question its conduct of war against Tamil separatists or who criticize the military establishment in any way.

Three attacks in January targeting the mainstream media drew the world’s attention to the problem, but top journalists have been killed, attacked, threatened, and harassed since the government began to pursue its all-out military victory against the LTTE. Many local and foreign journalists and members of the diplomatic community firmly believe that the government is complicit in these attacks.

The aim of my trip in January was to investigate specifically three attacks. On January 6, the main control room of Sirasa TV, which is Sri Lanka’s largest independent broadcaster—not a government broadcaster, but the most influential television station—was ruined when an explosive device, it was most likely a claymore mine, was detonated at 2:35 in the morning during a raid by 15 to 20 men with black hoods over their heads.

Two days later, on January 8, Lasantha Wickramatunga, as you mentioned—the editor-in-chief of the independent newspaper *The Sunday Leader*—was killed while he was driving to work. He was attacked by eight men who were riding four motorcycles. The attack came about 200 yards from a large Sri Lanka Air Force base. And after the attack, the hooded men rode off in the direction of the base, according to witnesses at the scene.

Wickramatunga was killed in a particularly brutal way. According to his brother, who spoke with doctors who treated him, his right temple was pierced by what was most likely a metal bar with two separate prongs. There were no bullets used in the attack or a gun.

And on January 23, another editor, Upali Tennakoon, who works for the Sinhalese newspaper Rivira, and his wife were attacked in a similar manner, but not identical to the attack on Wickramatunga. That couple survived, and they left Sri Lanka soon after the husband was released from the hospital.

While many consider the government the prime suspect in the attacks, officials have vehemently denied any responsibility. The lack of credible investigation into these crimes we see as in keeping with a long history of impunity for those who attack journalists in Sri Lanka.

The Rajapaksa government and its predecessors must at least be held responsible for the impunity that surrounds the attacks on the journalists. Most of those killings came while President Rajapaksa served as Prime Minister from April 2004 through the time he started his 6-year term as President in November 2005 until now.

According to CPJ's records, during President Rajapaksa's time in high office—as Prime Minister and as President—eight journalists have died what CPJ considers to be premeditated murder. No one of these has been investigated—no one of these cases has been investigated, and no one has been brought to trial.

The number of dead journalists, I point out, does not include journalists who were killed in crossfire or accidents or other events, which journalists frequently lose their lives. These were acts of premeditated murder, people who were intentionally killed.

The failure to investigate and the realistic suspicion that government actors are complicit in the violence to silence the press points to a pressing need for the International Community to act. Typical of the government's response to this sort of criticism was in a phone call with the attorney general, Mohan Peiris, which I had a few days ago. He dismissed the idea of impunity for those attacked journalists.

"I can tell you we have a policy of zero tolerance, zero tolerance," he said. "There is no question of the government or the attorney general's office accommodating or making concessions for criminals or criminal activities." He did admit that some cases may have been delayed for lack of sufficient evidence. These cases have been delayed, in some cases, for up to 4 or 5 years now.

The attorney general's response is typical of the hard-line of denial from the government. Other government officials have said the attacks are part of an anti-government campaign to discredit the government and do not come from the government itself.

While I was in Colombo, I spoke with more than 20 journalists, and I also met with officials from three diplomatic missions, all of whom spoke with me with the understanding that they would not be sourced or quoted. What was surprising to me was that many of the journalists with whom I spoke also did not want to be quoted and used the same restrictions, and they did so specifically for fear of retribution from the government.

As a journalist, I am accustomed to following sourcing restrictions with diplomats, but to have journalists tell me they did not want to be named was an indicator of just how intimidated Sri Lanka's media has become.

One aside here before I go to my conclusions. I have spoken at length about the attacks on Sri Lankan journalists, but I want to address this other issue, which the panelists also raised. No reporters have been allowed to travel independently to the front lines of the conflict with the LTTE.

Charges of misconduct against both sides have gone uninvestigated by independent journalists. They have had to resort to depending on second-hand information and for the few aid groups that are able to still operate in and around the combat zone.

CPJ calls on both sides, the Government of Sri Lanka and the LTTE, to allow journalists to assess the risks involved and to make a personal decision of whether or not they want to travel and report freely from the front lines about this war, which has taken so many lives.

As I said at the beginning of my address, the full version of my report is available online. But let me close quickly with some of the recommendations at the conclusion of that report.

First, to the International Community, we are calling on them to engage fully with the Sri Lankan Government, particularly the President's office, to address what has become a protracted assault on journalists and media houses.

We are also calling on the International Community to insist that the government rein in its security forces, which are believed to be behind not only the spate of attacks in January of this year, but the assaults on journalists critical to the government that have been going on since late 2006.

And we want the International Community to point out that Sri Lanka's international image has been tarnished and insist that the attacks must be fully investigated by police and the judiciary, unhindered by government pressure. No matter what viewpoint the government holds in its attempts to end the fighting with the LTTE, members of Sri Lanka's civil society who dare to criticize the government must not be treated as the enemy.

Specifically to the Government of Sri Lanka, we call on them to provide adequate protection and security for any journalist who is threatened. We want to ensure that those journalists who have fled, and there are many of them, we want the government to ensure that those journalists who have fled in fear of their lives or liberty can return home to Sri Lanka in safety. And we want to ensure an independent, thorough, and timely investigation of all attacks on journalists.

One more question. It is a small detail, but I feel it is appropriate to raise in this very open forum. We would like the government to release the full autopsy report on the death of Lasantha Wickramatunga. There is a great conflict about the cause of his death, and we are afraid that the government is intentionally sitting on the report and holding it back.

And finally, Senators, one request to the U.S. Government. The American Embassy in Colombo is deeply concerned about these

attacks on journalists and has often acted in their interests. They have been at the forefront of speaking out on those issues.

CPJ calls on the State Department to work with the Embassy to consider ways to offer temporary refuge to Sri Lankan journalists who decide to flee their country, fearing for their safety. And we want you to encourage other countries to do the same.

None of these men and women want to abandon their homeland, their families, and their careers. But they do deserve some sort of temporary support from the democracies around the world.

Thank you for the opportunity.

[The prepared statement of Mr. Dietz follows:]

PREPARED STATEMENT OF ROBERT DIETZ, ASIA PROGRAM COORDINATOR, COMMITTEE TO PROTECT JOURNALISTS, NEW YORK, NY

I wish to thank the chairman, Senator Robert Casey, and other members for giving the Committee to Protect Journalists the opportunity to testify here today. The Committee to Protect Journalists is a nongovernmental organization based in New York. It was founded in 1981 by U.S. journalists who were concerned about the safety of their colleagues overseas. Funded by individuals, private corporations, and foundations, the Committee to Protect Journalists accepts no government funds as it works to defend press freedom and journalists worldwide.

My comments here today are based on CPJ's research, including my 10-day reporting trip to Colombo, Sri Lanka, from January 21 to February 1, 2009. I have also submitted a longer version of my presentation to the committee. The report is available on CPJ's Web site, and I understand the committee will make it available online.

I will make some strong accusations against the Sri Lankan Government today. Time constraints keep me from giving the supporting evidence, but the report will fully explain the charges I will make.

I went to Colombo because Sri Lankan journalists are under intensive assault. The government has failed to carry out effective and credible investigations into the killings and attacks on journalists who question its conduct of a war against Tamils separatists, or criticize the military establishment. Three attacks in January targeting the mainstream media drew the world's attention to the problem, but top journalists have been killed, attacked, threatened, and harassed since the government began to pursue an all-out military victory over the Liberation Tigers of Tamil Eelam (LTTE) in late 2006. Many local and foreign journalists and members of the diplomatic community believe the government is complicit in the attacks.

The aim of my trip was to investigate January's three attacks:

- On January 6, the main control room of Sirasa TV, Sri Lanka's largest independent broadcaster, was destroyed when an explosive device, most likely a claymore mine, was detonated at 2:35 a.m. during a raid by 15 to 20 men.
- On January 8, Lasantha Wickramatunga, the editor-in-chief of the independent newspaper *The Sunday Leader* was killed while driving to work. He was attacked by eight men riding four motorcycles. The attack came about 200 yards from a large Sri Lanka Air Force Base, and after the attack the hooded men rode off in that direction. Although the report from the judicial medical officer—Sri Lanka's equivalent of a coroner—was to be released on February 6, it has not been made public. The next hearing in Wickramatunga's case is on March 19.
- On January 23, Upali Tennakoon, an editor at the Sinhalese newspaper *Rivira*, and his wife, were attacked in a manner similar to the attack on Wickramatunga. In this case there were four men on motorcycles. The couple left Sri Lanka soon after Tennakoon was released from hospital.

In all three attacks there have been no credible investigations, minus the coroner's inquest into Wickramatunga's death. While many consider the government the prime suspect in the attacks, officials have vehemently denied any responsibility.

The lack of reliable investigation into these crimes is in keeping with a long history of impunity for those who attack journalists in Sri Lanka. CPJ counts 10 journalists killed by premeditated murder since 1999, with no prosecutions or convictions. The Rajapaksa government and its predecessors must at least be held responsible for the impunity that surrounds attacks on journalists.

Most of the killings came while Rajapaksa served as Prime Minister from April 2004, through the time he started his 6-year term as President in November 2005,

until now. According to CPJ's records, during his time in high office in Sri Lanka, eight journalists have died of what CPJ considers to be premeditated murder. No one has been brought to trial in any of these cases. The number of dead does not include journalists killed in crossfire or other events. The people we are talking about were intentionally killed.

With a failure to investigate and a realistic suspicion that government actors are complicit in the violence against journalists, the time has come for the international community to act.

In a phone call with CPJ, Attorney General Mohan Peiris dismissed the idea of impunity for those who attack journalists: On February 20 he said, "I can tell you we have a policy of zero tolerance; zero tolerance. There is no question of the government or the attorney general's office accommodating or making concessions for criminals or criminal activities." Some cases may have been delayed for lack of sufficient evidence, he said.

The attorney general's response is typical of the hard-line of denial from the government. Other officials have said that the attacks are part of an antigovernment campaign to discredit the Rajapaksa administration.

While I was in Colombo I spoke with more than 20 journalists. Many of them work in what is considered the "nongovernment" press, but several wrote for newspapers seen as "progovernment." I also met with officials from three diplomatic missions, all of whom spoke with me on the understanding there would be no attribution of their remarks. Surprisingly, many of the journalists I spoke with also did not want to be quoted, for fear of retribution from the government. As a journalist, I'm accustomed to following sourcing restrictions with diplomats, but to have journalists tell me they did not want to be named was an indicator of just how intimidated Sri Lanka's media have become.

I have spoken at length about the attacks on Sri Lankan journalists, but I must address one other issue: No foreign or Sri Lankan reporters have recently been allowed to travel independently to the frontlines of the conflict with the LTTE. Charges of misconduct against both sides have gone uninvestigated by independent journalists. They have had to depend on secondhand information from both sides of the conflict and from the few aid groups that are still able to operate in and around the combat zone. CPJ calls on both sides to allow all journalists to personally assess the risks involved and to travel and report freely from the frontlines of this war, which has taken so many lives.

As I said at the beginning of my address, the full version of my report is available online, but let me close quickly with some of the recommendations at its conclusion: To the international community:

- Engage with the Sri Lankan Government, particularly the President's office, to address what has become a protracted assault on journalists and media houses.
- Insist that the government rein in its security forces, which are believed to be behind not only the spate of attacks in January of this year, but the assaults on journalists critical of the government that increased in late 2006.
- Point out that Sri Lanka's international image has been tarnished, and insist that attacks must be fully investigated by police and the judiciary, unhindered by government pressure. No matter what viewpoint the government holds in its attempts to end the fighting with the LTTE, members of Sri Lanka's civil society who dare to criticize the government must not be treated as the enemy.

To the Government of Sri Lanka:

- Provide adequate protection and security for any journalist who is threatened.
- Ensure that those journalists who have fled in fear of their lives or liberty can return home to Sri Lanka in safety.
- Ensure an independent, thorough, and timely investigation of all attacks on journalists.
- Release the full autopsy report on Lasantha Wickramatunga.

To the U.S. Government:

- The American Embassy in Colombo is deeply concerned about these attacks on journalists and has often acted in their interest. CPJ calls on the State Department to work with the Embassy to consider ways to offer temporary refuge to Sri Lankan journalists who decide to flee their country fearing for their safety, and to encourage other countries to do the same. None of these men and women want to abandon their homeland, their families, and their careers, but they deserve some sort of temporary refuge and support.

FAILURE TO INVESTIGATE: JOURNALISTS UNDER ATTACK IN SRI LANKA

(By Bob Dietz/Asia Program Coordinator)

COLOMBO, SRI LANKA

Sri Lanka's journalists are under intensive assault. Authorities have failed to carry out effective and credible investigations into the killing of journalists who question the government's conduct of a war against Tamil separatists or criticize the military establishment. Three attacks in January targeting the mainstream media drew the world's attention to the problem, but top journalists have been killed, attacked, threatened, and harassed since the government began to pursue an all-out military victory over the Liberation Tigers of Tamil Eelam (LTTE) in late 2006. Many local and foreign journalists and members of the diplomatic community believe the government is complicit in the attacks.

The lack of credible investigations into these crimes is in keeping with a long history of impunity for those who attack journalists in Sri Lanka. With a failure to investigate and a realistic suspicion that government actors are complicit in the violence against journalists, the time has come for the international community to act.

THREE ATTACKS

On January 6, on a quiet road on the outskirts of Colombo, the country's main independently owned TV station, Sirasa TV, was raided at 2:05 a.m. by 15 to 20 masked armed men working with military precision. At 2:35:31 they detonated an explosion, possibly a claymore mine, a military-style antipersonnel mine set off by an electrical charge through wires leading to the device. The room's two synchronized clocks both stopped at the time of the explosion. The attackers fired the weapon after stringing the detonating wire about 200 yards (183 meters) from the control room through the station's corridors to the driveway outside the station's main front door, according to Sirasa staff.

Staff shied away from describing the weapon specifically to CPJ after one of them had identified it as a claymore in an internationally broadcast interview with CNN on the morning of the attack. Defense Secretary Gotabhaya Rajapaksa denounced that staffer as a "terrorist" during a January 7 interview with the government-run Independent Television Network (ITN). Other knowledgeable sources with military experience who visited the station told CPJ that the damage was consistent with that of a claymore. The explosion wiped out the recently upgraded main control room that kept the broadcaster's three TV channels and four radio stations on the air. At 6 a.m. on the day of the full attack, Sirasa was broadcasting live shots of the wreckage to early morning viewers—staff had patched together some of the old analog broadcasting equipment.

Claymores are regularly used by both sides in the country's civil war, the government and the LTTE, but the government has denied that the weapon was a claymore mine and strongly denied involvement in the attack; the reaction has been interpreted by critics as indicative of the government's connection.

Defense Secretary Rajapaksa's denial came in the two and a half hour television interview with ITN on January 16. In a translation of the transcript supplied to CPJ by a human rights organization that asked CPJ not to be identified, he accused the owners of Sirasa of carrying out the attack as part of an insurance fraud scheme. He also said the government is investigating the incident.

The second January attack came at around 10 a.m. on January 10, when the editor-in-chief of The Sunday Leader, Lasantha Wickramatunga, was killed in his car on his way to work on a busy street in a mixed suburban and semi-industrial suburb of Colombo. According to his brother Lal Wickramatunga, chairman of the paper's parent company, Leader Publications, the editor had been receiving anonymous death threats by phone for months. Lasantha Wickramatunga's wife, Sonali Samarasinghe-Wickramatunga, told the CBC that they had been followed earlier in the morning by two men on a motorcycle as they ran errands, and that threats had been on the rise in recent days. Phone calls and text messages came in threatening to kill him if he did not stop criticizing the government. Samarasinghe-Wickramatunga eventually left Sri Lanka after her husband's death. She has asked that her location not be revealed. The couple had married about two weeks before the attack.

Wickramatunga was killed by a hit squad of eight helmeted men on four motorcycles, according to local newspaper interviews with witnesses at the scene of the crime. He died in the hospital a few hours later. The attack happened about 200 yards (183 meters) from a checkpoint at the large Ratmalana Air Base, but a bend in the road would have kept the attack out of the sight of soldiers maiming that

post. Nearby shop owners who became aware of the attack after it started told CPJ that the motorcycle-riding attackers rode off in the direction of the checkpoint, adding to the suspicion of some sort of official involvement.

The shop owners said they did not hear gunfire on the morning of the killing, and police told reporters they did not find shell casings. On the day of the murder, staffers at Wickramatunga's paper told CPJ by phone that the men had used pistols with silencers, which CPJ reported. We also reported that the car's windows had been smashed, apparently with a heavy object. With no coroner's report, there is no official explanation for the cause of death. But reliable sources are emerging who say the attackers may have used a different murder weapon.

Wickramatunga's brother Lal spoke with the doctor who treated him before he died in Colombo's Kalubowila Hospital. The same doctor also took part in the autopsy, Lal says, though he was not the judicial medical officer (JMO) the Sri Lankan equivalent of a coroner. That doctor told him there was neither a bullet nor an exit wound in his brother's skull. There was only an entry wound on his right temple, caused by a weapon that crushed its way through the skull and left two closely spaced punctures. Sonali Samarasinghe-Wickramatunga described a similar wound to the CBC.

Lal said he saw the magistrate's order describing the cause of death, and it said there had been a gunshot injury to the brain. He said he thinks the coroner's report has not been released because of the discrepancy in the description of the cause of death. He also said a police forensics expert found no chemical traces of a weapon being fired in the car, or shell casings at the scene. Two diplomatic sources in Colombo told CPJ that Wickramatunga's right temple had been crushed and that there was no bullet found inside the victim's brain.

The coroner's report was scheduled to be released on February 5. The local press later reported that the release date had been moved up to February 16, but it has yet to appear. Police told the media that they are waiting for the government to release the account, which, in their words, "would contain the scientific evidence" they need to proceed. CPJ has received the same formulaic responses as it has continued to contact the police. "The belief here is the JMO's report is being tampered with," one journalist told CPJ by e-mail when asked for an update.

The next hearing in Wickramatunga's case is scheduled for March 19 at Colombo's Mount Lavinia Magistrate's Courts. The JMO's report could be released then, along with the report of the government analyst who determines whether a crime has been committed and how to proceed with the case. Until then, all records are closed to the public.

On January 29, CPJ traced Wickramatunga's route from his home to his office at The Leader, and found that there are many quieter spots than the main road on a busy morning near a military installation where he could have been killed. The route to the paper passes many factories with high walls or fences buildings on lightly traveled roads. There is little or no pedestrian traffic in much of the area.

CPJ went to the site of the attack around the same time of day it had taken place three weeks earlier. The road was bustling with traffic. Shop owners pointed out the spot where the car was left standing after the four motorcycles had forced Wickramatunga's car to the side of the road, straddling a marked street crossing. When CPJ visited the workplaces of the two men who, according to media reports, had testified at the coroner's inquest, their employers said they had stopped showing up, and they did not know what had happened to them. It is hard to tell whether they were telling the truth or protecting the witnesses' identities for fear of retribution from the killers.

The third January attack came at around 6:40 a.m. on January 23, according to Upali Tennakoon, editor of the Sinhala-language, pro-government weekly Rivira and his wife, Dhammika. The couple was driving to his office when motorcyclists forced their car to stop and smashed its window. One attacker used a metal bar with a single sharp point to hit Tennakoon in the face and in his hands when he put them up to defend himself, he said. Both hands received puncture wounds. Another attacker reached into the car and stabbed at him with a knife, but only nicked Tennakoon's stomach. His wife fought back too, and threw her body over her husband to protect him, the couple said. The attackers fled. On January 27, while Tennakoon was still in Colombo's General Hospital, the couple told CPJ they were mystified by the attack.

Tennakoon said he did not know the men—this time there were four on two motorcycles, all wearing helmets. Tennakoon's wife said they used one of two wooden poles they were carrying to break the window of the car and the pointed metal bar to attack her husband. The pointed bar, she said, was somewhere between 2 and 3 feet (60-90 centimeters) long. They aimed for his head and neck, she said.

Tennakoon and his wife said they were aware of no further investigation beyond the police questioning them about the incident. To date, there have been no arrests or announcements made in Tennakoon's case. The government has offered a 1 million rupee reward (US\$8,800) for information leading to an arrest. Fearing for their safety, Tennakoon and his wife went into hiding after leaving the hospital. Soon after, they left Sri Lanka and are now living in another country.

GOVERNMENT'S RESPONSE

The government has strongly denounced the attacks. Chief government spokesman and Minister of Mass Media and Information Anura Priyadarshana Yapa and Minister of Mass Media Lakshman Yapa Abeywardena told Colombo newspapers there was a "massive conspiracy" to discredit the government by destabilizing the country with attacks on prominent figures and a "comprehensive inquiry" would be carried out to find the attackers in all three January cases. The comprehensive inquiry has not happened and the police report little movement in the cases, a pattern that has been seen in past killings, assaults, and attacks on media facilities.

On January 27, President Mahinda Rajapaksa met with the editors of mainstream newspapers and promised a thorough investigation of all the attacks. He also said a breakthrough was coming in Wickramatunga's case. Two days later, police announced the arrest of two drivers of three-wheeled motorized cabs. According to newspaper reports, one of the drivers was found with Wickramatunga's cell phone, the other was accused of selling it to him. The two drivers remain in detention. A few days after that, the police told the media that they had found a motorcycle ditched in a canal that they suspect might be one that was used by Wickramatunga's attackers. They have not released any more information.

When CPJ tried to contact the inspector general of police, Jayantha Wickramaratna, his office said they had no comment to make about any of the cases. The spokesman's office for the superintendent of police said its statements were all a matter of public record and that it had nothing more to add. The Ministry of Defense told CPJ that its positions on the killings and attacks on journalists are part of the public record, and available on the ministry's Web site.

With the help of the Sri Lankan Embassy in Washington, CPJ spoke by telephone from New York to Attorney General Mohan Peiris in Colombo on February 20 and with Foreign Minister Rohitha Bogollagama on February 23. We asked Peiris about the delay in releasing the JMO's report in Wickramatunga's case and of any movement in the investigations of the Sirasa and Tennakoon attacks. Peiris said that investigations are ongoing in all the cases, and said that arrests have been made.

"Our position is that the government is very, very keen to ensure the perpetrators are brought to book," Peiris said. "There has certainly not been an ebb in our enthusiasm to do so." He said the cases were proceeding slowly because the facts "have to be verified perfectly."

Foreign Minister Bogollagama responded in a similar manner. He discussed all three cases individually and in depth. Every aspect of the attack on Sirasa is under investigation, he said, and given that the attack was not a "novice operation," and to avoid bringing "half-baked cases before court," the government is proceeding very deliberately. "I'm confident very soon that we will have the evidence that is warranted in order to sustain a prosecution against the perpetrators of this crime," he said.

The Wickramatunga case is also being pursued, Bogollagama said. Investigators "are taking their time because we don't want fingers pointed at the government in terms of failing to conduct a fair investigation or to conduct a proper trial," he said. "To get to that stage we must proceed step by step."

In Tennakoon's case, the last attack in January, Minister Bogollagama saw the culmination of a string of events designed to discredit the government—a "sinister group" working to ensure that "the finger of accusation is pointed at the government in order to sustain accusations that there is no media freedom in Sri Lanka," he said. "That is why we are taking the time to go after a proper investigation."

HISTORICAL PRECEDENT UNDERCUTS DENIALS

The government's responses and the arrests in Wickramatunga's case are dismissed by the non-state press as part of an arrogant, blatant cover-up. One senior editor sardonically told CPJ that there was no need for a government investigation into the Sirasa bombing, Wickramatunga's killing, or the attack on Tennakoon. "Why should they investigate?" the editor asked. "They already know who did it." The editor, a long-time newspaperman, asked that his name not be used for fear of retribution from the government.

In addition to journalists outside the pro-government media, diplomats also reject the government's denial of involvement. On January 19, six former U.S. ambassadors to Sri Lanka wrote an open letter to President Rajapaksa:

Mr. President, we speak frankly because in our dealings with you we have always found you to have an open mind and to respect the truth. Some have suggested that these events have been carried out not by elements of the Government, but by other forces hoping to embarrass the Government. We do not find such arguments credible . . . We believe it is imperative that these actions stop, and that those who have carried them out be prosecuted.

CPJ counts 10 journalists killed by premeditated murder since 1999, with no prosecutions or convictions. The Rajapaksa government and its predecessors must at least be held responsible for the impunity that surrounds attacks on journalists. Most of these killings came while Rajapaksa served as prime minister from April 2004 until he started his six-year term as president in November 2005 until now. According to CPJ's records, since Rajapaksa took high office in Sri Lanka, eight journalists have died of what CPJ considers to be premeditated murder. No one has been brought to trial in any of these cases, according to CPJ research.

Most of those killed were Tamils. And, according to Ananth Palakidnar, a former president of a journalists' organization called the Sri Lanka Tamil Media Alliance, about 20 to 25 other Tamil journalists have fled the country since the killing of Sivaram Nadesan, who wrote a defense column under the pen name Taraki for the Sunday Times. In April 2005 he was abducted in Colombo; his body was found near the Parliament building the next day.

In his February 20 phone call with CPJ, Attorney General Peiris dismissed the idea of impunity for those who attack journalists: "I can tell you we have a policy of zero tolerance, zero tolerance," he said. "There is no question of the government or the attorney general's office accommodating or making concessions for criminals or criminal activities." Some cases may have been delayed for lack of sufficient evidence, he said.

January's assaults are part of a broader pattern against critics of the government, Tamil, Sinhalese, or Muslim. In a string of online postings, the Defense Ministry's Web site has charged specific journalists with "treachery." Defense Secretary Rajapaksa uses the government-run television and radio stations to denounce journalists by name, and dismisses allegations that the government is behind the attacks. In June 2008, with the government's campaign of assaults, harassment, and arrests of journalists in full swing, a chilling statement appeared on the ministry's Web site:

Whoever attempts to reduce the public support to the military by making false allegations and directing baseless criticism at armed forces personnel is supporting the terrorist organization that continuously murder citizens of Sri Lanka. The Ministry will continue to expose these traitors and their sinister motives and does not consider such exposure as a threat to media freedom. Those who commit such treachery should identify themselves with the LTTE rather than showing themselves as crusaders of Media Freedom.

The ministry's Web site accused specific media outlets of such behavior, and all have since come under violent attack: Sirasa TV; The Sunday Leader, The Morning Leader, and Irudina (the Sinhala-language Sunday weekly of The Leader group). After The Daily Mirror wrote a series of articles on the Tamil refugee situation, the defense secretary called the paper's editor, Champika Liyanarachchi, in April 2007 and told her neither she nor the reporter who wrote the articles should expect government protection if they are attacked, which CPJ reported. The Sunday Times' defense columnist, Iqbal Athas, has stopped writing and fled and returned to Sri Lanka several times after numerous threats and harassments, he told CPJ. The Times' Tamil columnist J.S. Tissainayagam has been jailed on state security charges since March 2008—he told the court in his pretrial appearances that other prisoners were beaten in front of him and that he had agreed to sign a false confession. He was not beaten because he has detached retinas in both eyes and his captors feared they would blind him, according to his wife. The Web site Lanka Dissent voluntarily stopped publishing on January 10, citing fears of retribution; and the owner and chief editor of Lanka e-News, Sandaruwan Senadheera told CPJ in January in Colombo that he has been frequently called in for questioning by the Criminal Investigation Department since a series of articles about the activities of military and police intelligence started running in February 2008.

Independent coverage from the front lines with the LTTE has been stifled for years. Yet far from the battlefields, critical reporting from the capital on the conduct

of the war has been quashed, and Sri Lanka's once-vocal opposition media is facing more repression than under any preceding government. At least seven well-recognized journalists, many of them who worked for the media organizations targeted by the Defense Ministry, have stopped writing; one prominent figure, Tissainayagam, is in jail, and several others have left the country, including Tennakoon. Some have fled and returned, and stopped reporting. This list is not all-inclusive, but among those affected are:

- Namal Perera, a freelance defense analyst, was attacked by men wielding wooden poles as he traveled in a car with a senior British High Commission official in June 2008. They had been followed by two men on motorcycle before Perera's attackers jumped out of a white van and smashed in the windows of his car and assaulted him, Perera said.
- Iqbal Athas, defense correspondent for The Sunday Times, said he stopped writing his weekly column as a result of threats. Athas also reports from Colombo for CNN and is a correspondent for Jane's Defense Weekly. In mid-2008, a pro-government radio station broadcast for weeks, on an almost daily basis, vituperative statements denouncing him, he told CPJ, and the Defense Ministry's Web site published attacks on his character. On June 3, 2008, on both the state-run Rupavahini national television network and the state-owned Independent Television Network, Defense Secretary Rajapaksa faulted Athas by name for his independent reporting.
- Keith Noyahr, associate editor of the English-language weekly The Nation, was abducted from his home's garage, held overnight and severely beaten, CPJ reported in May 2008. The assault remains uninvestigated and unprosecuted. Noyahr eventually fled the country. The Nation is owned by Rivira Media Corporation, which also owns the paper for which Tennakoon worked.
- Parameswari Maunasami, a Tamil reporter for the Sinhala-language weekly Mawbima, was arrested in November 2006, and held for four months without charge or trial under the Prevention of Terrorism Act, CPJ reported at the time. She was the first reporter to write about white Toyota HiAce vans with tinted glass and no number plates that had been used to pick up Tamils. A similar van was used in the attack on Perera. In his January 16 ITN television interview this year, Defense Secretary Rajapaksa mentioned her by name, again accusing her of being a "terrorist." The enterprising young reporter no longer lives in Sri Lanka.

When read this list over the phone, Foreign Minister Bogollagama said, "If they were proper journalists, today they would be journalists somewhere [else] in the world, if they had just left the country for their safety." He went on to ask: "We have so many opposition journalists in this country, why is it only them" who have fled?

"Their so-called writings have affected our destiny and our pursuit of counterterrorism," he added.

INTERNATIONAL RESPONSE

The international community has responded strongly to January's attacks, and those that preceded them. CPJ wrote to President Rajapaksa last year, calling for him to address the attacks on the media. This year we called for an independent inquiry into the attack on Sirasa TV and, after the killing of Wickramatunga, we called for forceful action from Colombo's diplomats. Other press freedom and human rights groups have spoken out against Sri Lanka's media attacks.

The government has come under a barrage of criticism from the diplomatic community, but diplomatic sources say they have little purchase when meeting with the president and his advisors, and at times have been treated dismissively. Some said they fear being marginalized as the government pursues its military solution in the north, which is supported by widespread popular approval in the rest of the country. In Colombo, a disturbing analogy is being frequently used by journalists and some diplomats: There is concern that Sri Lanka is heading in the direction of becoming another Zimbabwe or Burma, countries run by governments resistant to pressure to live up to global norms of human rights.

RECOMMENDATIONS

To the international community:

- Engage with the Sri Lankan government, particularly the president's office, to address what has become a protracted assault on journalists and media houses.

- Insist that the government rein in its security forces, which are believed to be behind not only the spate of attacks in January of this year, but the assaults on journalists critical of the government that increased in late 2006.
- Point out that Sri Lanka's international image has been tarnished, and insist that attacks must be fully investigated by police and the judiciary, unhindered by government pressure. No matter what viewpoint the government holds in its attempts to end the fighting with the LTTE, members of Sri Lanka's civil society who dare to criticize the government must not be treated as the enemy.

To the government of Sri Lanka:

- Provide adequate protection and security for any journalist who is threatened.
- Ensure that those journalists who have fled in fear of their lives or liberty can return home to Sri Lanka in safety.
- Ensure an independent, thorough, and timely investigation of all attacks on journalists.
- Release the full autopsy report on Lasantha Wickramatunga.

To the U.S. government:

- The American Embassy in Colombo is deeply concerned about these attacks on journalists and has often acted in their interest. CPJ calls on the State Department to work with the embassy to consider ways to offer temporary refuge to Sri Lankan journalists who decide to flee their country in fear for their safety, and to encourage other countries to do the same. None of these men and women want to abandon their homeland, their families, and their careers, but they deserve some sort of temporary refuge.

Senator CASEY. Thank you very much.

And I appreciate the testimony of all three of our witnesses and the attention of our audience.

I wanted to start. We will do 10-minute rounds, and I wanted to start with some questions that relate to the camps.

As we know, the government has established refugee camps for Tamils in the north who have fled the conflict zone. The Secretary of the Ministry of Disaster Management and Human Rights told the London Times that the government hopes to resettle 80 percent—80 percent of the refugees by the end of the year.

However, he added that resettlement will not be a voluntary process. And for the sake of citizens stuck in these camps, we need to determine whether they are receiving proper assistance and need to ensure they are not living indefinitely in detention centers.

So I guess my first question—and any of you can answer this—would be to, just for us, give us a sense of what is happening there. Describe for us the condition of the camps.

Dr. NEISTAT. A good illustration is this photo that you can see in front of you. As I said, there are currently 12 sites, as far as we are aware, where the displaced are coming in Vavuniya. There are also displaced in other areas, but Vavuniya is where our investigation took place.

So they are surrounded by barbed wire and run by the military. But what is more concerning is the presence of plainclothes paramilitaries in the camps. They are, despite all of the calls from the International Community, highly militarized. There is, obviously, no talk about civilian nature of these camps.

There are reportedly interrogations of the displaced being conducted inside the camps. But most importantly, as I said, the displaced have no freedom of movement. Nobody can leave the camps under any conditions, aside from medical emergencies where they are being guarded by the military to and back from the hospital.

But the access of the humanitarian agencies continues to be restricted. Indeed, the government, realizing that they cannot deal

with the influx of the displaced, allowed some agencies access to the camps. But it remains restricted. And what is worse, the decisions seem to be made on an ad hoc basis by a military commander guarding the camp.

While we were there, for instance, on one of the days, Handicapped International, an agency that is crucial right now for assistance to the displaced or injured and have amputations and who are in the camps, was denied access to the camps with no reasons given, obviously.

And most importantly, all outsiders in the camps are being very, very closely watched by the military and the paramilitaries. And it is again part of the same campaign to ensure that the displaced who just came from the Vanni have nobody to talk to.

Senator CASEY. You said that access is restricted. I want to ask you if you can describe if there is a total prohibition on any humanitarian aid coming in, or is it limited, or is it ad hoc depending on what time period you are talking about? Or are you talking about a total shutoff of any kind of humanitarian aid, or does it vary between locations?

As best you can, and I know—

Dr. NEISTAT. Not in the camps. In the camps, agencies right now do have access—U.N. agencies and certain international humanitarian agencies, such as DRC, Danish Refugee Council, and Norwegian Refugee Council, and some other groups. The problem is that I think with the exception of UNHCR, the United Nations refugee agency, with all other agencies, the access is somewhat ad hoc.

While we were there for about a week, every day we would hear a report from one or the other agency that they were denied access. And it is not clear—it does look like this decision is being made by a particular guard, particular military commander in charge of a particular camp.

But assistance is being delivered. I mean, they do build shelter. So there is certain assistance, emergency assistance going into those camps.

Senator CASEY. That can be documented, that aid is getting through?

Dr. NEISTAT. Yes. As we were there, humanitarian agencies started putting up shelter and obviously delivering food and certain medical supplies to the camps.

Senator CASEY. And just for the record, you said before in your answer, you are talking about 12 sites. Is that what you said?

Dr. NEISTAT. In Vavuniya.

Senator CASEY. Right. OK.

I wanted to ask you as well what more can the International Community be doing or could the International Community be charged with? Or what recommendations would you make with regard to what the International Community can be doing to improve the situation in these camps?

I know it is kind of a broad question, but if you can answer it as best as you can.

Dr. NEISTAT. Well, I think it is a very difficult one because I think there is a huge dilemma that all humanitarian agencies are facing right now. On one hand, as UNHCR and other agencies said

repeatedly, they do not want to support militarized camps where other agencies and journalists and nobody else has access to. So—but at the same time, they do not want to deprive the displaced from the emergency assistance.

So I think the answer should be that emergency assistance definitely should be provided, but at the same time, government should be pressed to comply with the conditions that it has already agreed to—meaning civilian nature of the camps and unimpeded access to the displaced for the International Community.

But what should not be supported is the long-term internment plans by the government. As you said, the government promised to resettle 80 percent of the displaced by the end of the year. But if you look into what has been going on with the displaced in Sri Lankan history since the 1990s, this is not likely to happen. And this is something the International Community should not provide any assistance to.

Senator CASEY. Can you give me a sense of how many people we are talking about here?

Dr. NEISTAT. We are currently talking about 30,000 people in Vavuniya. However, I also have to point out that we do not have the exact numbers, and it looks like nobody in the International Community has the exact numbers because the government refused to share registration lists of the displaced with the international agencies.

And that is true for those who were detained at checkpoints and those who arrived to the camps, which is another requirement that the government should comply with if it wants to get assistance, meaning sharing registration lists and obviously especially of those who did not make it to Vavuniya.

Senator CASEY. We may get back to more of these questions with regard to the camps. I am going to move to another topic with regard to the humanitarian assistance in the north.

I wanted to ask you because my time is running out on this round, but what programs does either the Red Cross or the U.N. or other international organizations currently have on the ground in the north? Do you have any sense of an itemized list of programs, or do you have a sense of that?

Dr. NEISTAT. I can tell you what we know. To the best of our knowledge, there are no international staff currently present in the north in the conflict areas. All of the agencies were banned or were discouraged by the government to operate in the north in September. And since then—

Senator CASEY. So none on the ground?

Dr. NEISTAT. No. They are not on the ground. There are about 250 local staff of international agencies, but they effectively do not—I mean, officially, they are not—they do not work for those agencies at this moment.

ICRC organized convoys to evacuate patients. One happened on January 28, if I am not mistaken, and another one just recently while we were there. I think it was February 11 probably, to evacuate patients to Vavuniya hospital and hospital in Trincomalee. And for that, international staff came to the area, but then they left.

And as I said, agencies like World Food Programme that used to deliver food convoys to the area do not do that anymore.

Senator CASEY. I want to—before my time is up, I have about a minute. But Ambassador, Mr. Dietz, would either of you want to add anything to either the camp discussion or the discussion about what is happening in the north?

Ambassador LUNSTEAD. Yes, I would make two points. The first is that dealing with the situation, the humanitarian situation certainly in the camps is well within the capacity of the International Community and the government working together.

After all, after the tsunami, we dealt with a million displaced persons and, working together, did it quite well. So there is no doubt that this could be dealt with in the proper conditions.

The second is the militarized nature of the camps, and we have to be plain about this. People are in the camps because they are Tamils, because of their ethnic identity.

Now, clearly, the government has a responsibility to screen people as they come in. But to keep them behind barbed wire, essentially under military guard simply because of their ethnic identity not only is wrong, it perpetuates the problem—the reason for this problem in the first place, the differentiation of the citizens of Sri Lanka based on their birth.

Senator CASEY. I will go to my next round, but I wanted to turn it over to Senator Lugar.

Senator LUGAR. Thank you very much, Mr. Chairman.

I would like to seek for your advice on the course for our Government. At least a rudimentary reading of the history of the country would lead one to believe that for the last 26 years, essentially, there has been an attempt by the Government of Sri Lanka to bring about unity in the country, and essentially, some Tamils have not wanted this unity.

Now you pointed out, Ambassador, that the government maybe has not been adept in terms of federalist principles or various ways in which the Tamil people could have been fully incorporated into the situation. On the other hand, some would argue that not all Tamils have not wanted to be incorporated. They have wanted a separate state or to have a degree of separation that was unacceptable if Sri Lanka was to be one country.

This does not mandate 26 years of conflict. But nevertheless, as you have pointed out, from time to time this has arisen, and sometimes divisions within the government has perhaps brought about conditions in which the Tamil Tigers felt this was an opportune time. And although Sri Lanka is sometimes described as a relatively sophisticated state, the fact is that it has not been able to bring about unity, and therefore, conflict has continued.

So we come to this point in which at least our briefing papers indicate that the Tamil Tigers may have been confined to something like 150 square kilometers, one description of the territory left to them. This is less than half the size of my home city of Indianapolis, just to get some perspective, for all of them.

And some would say the war has been relatively successful on this occasion, although it may lead to insurgency in the future or people sort of poking out after they are confined to 150 square kilometers.

What is the leverage point or should be the leverage point of the United States or the International Community in advising the people—all sides—of Sri Lanka how they should govern themselves, how they should live, how they should draw their lines? Specifically, what leverage do we have that would be meaningful at this point?

In this hearing, we are looking into atrocities and the problems of the press and all the things that come from a conflict in which people are killing each other, but with the objective on the part of the government of providing one state, unity, despite the resistance of others who don't want this.

And I ask you, Ambassador, from your experience there on the ground during the period that you served, what was the policy of the United States with regard to perfection of the governance of the country? Or what leverage did we have?

And if we could have gotten others to join us—India, China, others who are in the neighborhood—what leverage would they have on peoples that, for a variety of reasons, have chosen not to be very compatible and have really waged a warfare for a quarter of a century?

Ambassador LUNSTEAD. Well, Senator, you have summarized many of the difficulties of this issue very well. It is important to realize that we don't really know what all the Tamils of Sri Lanka want.

There are about 3 million Tamils in Sri Lanka. Although a large number of them live in the north and the east, they also live in other parts of the island. About a third of the population of Colombo, for instance, 700,000 people are Tamils. They clearly choose to live in places which are not controlled by the LTTE.

Also, Tamil voices for peaceful solutions have been eliminated by the LTTE itself, and there are many instances of that. So we don't know really what everybody wants. But I think that most Sri Lankans want to live in peace in a land where they can pursue their lives without harassment or without problems.

There are ways to do that that the political leaders of Sri Lanka can come up with if they want to. This is a time. The President will have tremendous opportunity now, President Rajapaksa, if he is willing to do that, if he grasps the depth of Tamil grievances and the radical changes that will be needed.

But I think that it is important to look at this not as something for Sinhalese to give to Tamils, but as changes which would improve the governance of the country for all Sri Lankans because, in fact, that is the case. It would give them a greater say in their own lives and how they are governed.

With regard to leverage, there isn't much leverage right now. Sri Lanka, of course, cares somewhat about the opinion of the International Community, but not enough to stop the military offensive. They see an opportunity now and seem determined to pursue that opportunity.

The United States and others, we do not provide large amounts of assistance. Sri Lanka receives most of its military supplies from Pakistan, from China, from commercial purchase in Eastern Europe. We have little ability to turn that off.

As I have suggested, one opportunity will be in provision of development assistance for reconstruction. Sri Lanka will need significant funds to develop both the north and the east, which they intend to do, and the rest of the country. A lot of that money will come from the World Bank, from the Asian Development Bank. Japan is Sri Lanka's largest bilateral donor. Their assistance far surpasses ours, which is really very small.

If the donors—the International Community—came together to insist that this money will flow only under certain conditions, then there might be an opportunity. That is the leverage that I can see. Frankly, I was searching when I wrote my testimony to see where the leverage was. That is an opportunity I can see. I don't see too many other opportunities.

Senator LUGAR. Let us say, ideally, that all these groups by country or agencies came together, would they also bring along with them political scientists or somebody to write a business plan?

In other words, it is well and good to call upon the governments to do the right thing, but there does not seem to have been the creativity within the government. Or if it has been, those leaders who offered that have been annihilated in the process. So we are down to brass tacks again without a plan.

And this is why as I read the testimony today, as well as the history, it is not the only situation like this on Earth, but it really is brutal in terms of the lack of alternatives for the people who are involved.

Ambassador LUNSTEAD. One of the saddest things here is that the solutions are not that difficult. Any political scientist or politician could draw up a plan for changing Sri Lankan governance and devolving power. It is the politics of doing that, which has been the problem consistently in Sri Lanka.

So it can happen. It is a question really of will and political leadership.

Senator LUGAR. I am just curious, given the politics, one of the major parties has a Marxist element that is substantial, although maybe not dominant. What does the other party look like?

Ambassador LUNSTEAD. Well, traditionally, President Rajapaksa's party has been considered more of a leftist party. The opposition, the UNP considered more of a rightist party, more free market tendencies. In reality, the parties have never been that far apart on policies. It is more personal ambition and personal rivalry that divides them.

Senator LUGAR. And so, they brought—the personal leaders brought together coalitions that gave them, at least, the ability to defeat somebody else in an election.

Ambassador LUNSTEAD. That is right.

Senator LUGAR. But not really an overall planning strategy for the future of the country.

Ambassador LUNSTEAD. That is correct. They have been unable to agree on a way to move forward unitedly and usually derailed by personal ambition.

Senator LUGAR. What has been the position of the United States Government through the Ambassador? What signals or messages are coming?

Ambassador LUNSTEAD. I don't speak anymore for the Government. I am in the very new situation for me of being able to say anything I feel like, which is a very nice situation.

Senator LUGAR. But you are an observer of what is going on.

Ambassador LUNSTEAD. Hard to get used to sometimes. But as far as I know, the Embassy has been very forthright. Ambassador Blake and the Embassy staff and the Department have supported the right things and have tried to do it through diplomatic means, through discussions with the government but have not had a huge impact, not through any personal failings, but simply because of the objective nature of the situation.

Senator LUGAR. Thank you very much.

Thank you, Mr. Chairman.

Senator CASEY. Thank you, Senator Lugar.

Senator Risch.

Senator RISCH. Briefly, this is kind of depressing to listen to this because nobody has really put the finger on who is at fault here. Somebody is at fault for this. I mean, somebody doesn't want to get along or some groups don't want to get along because, as you point out, I mean, the solutions really aren't rocket science. They are ones that a pretty rudimentary political scientist should be able to resolve.

Does this go on—what is the endgame here? I see that they are nearing an end, at least the government side is, as far as military operations are concerned. But what is the endgame? Where do they go from here?

I have heard everyone say what should happen. I haven't heard anybody say what will probably happen. Can I get all three of you to briefly give me your idea of what the endgame is here?

Ambassador LUNSTEAD. Well, President Rajapaksa has said that he is willing to consider changes in the governance system, that he will meet shortly with the Tamil politicians who are not from the LTTE who have ideas on how to move forward. Whether that will be a serious effort and whether they will be willing to make substantial changes, we just don't know.

There is also a political process, an all-party conference, which has been meeting for several years to come up with proposals on ways to change the political system.

As I mentioned in my testimony, President Rajapaksa is extraordinarily popular now. He is riding a wave of great popular support because of the military victories. It is rumored that he will shortly call a parliamentary election. It is expected to come back with a large majority, perhaps large enough to amend the Constitution.

So he has—he will have a tremendous opportunity, if he has the foresight and the political will to take it, to change the political system in the country in a way which could do away with this problem. Whether he personally has the will to do that, I couldn't say.

Dr. NEISTAT. I would just address another aspect of that, namely what is going to happen to hundreds of thousands of internally displaced who will eventually—those who survive—come out of the Vanni? Judging by previous experience, they are very likely, unless some action is taken now, to be detained, confined in these internment camps indefinitely.

And then, if some of them are released, and that is a very serious concern if you look at what has been happening, for instance, in Jaffna and Sri Lanka for quite a number of years already, this conflict will turn into a classic dirty war with paramilitaries running around the villages detaining people who would then disappear or be executed.

And I think this is also the best illustration of the fact that when the government is claiming right now that all of these casualties are justified, all of these abuses are justified because it is just weeks short of crushing the terrorist LTTE, that this argument is not just cynical and unlawful, but also very shortsighted.

Because if you look at how Tamil population is being treated right now in the Vanni and as they move to government-controlled areas, you can see that this is definitely not the way to reconciliation and long-term peaceful solutions.

Senator RISCH. I will follow up on that. What are your thoughts, I mean, as far as who should do what? You have got a clear prediction as to what is going to happen. To avoid that, who should do what?

Dr. NEISTAT. Well, I am not sure I have the time to go through all of our recommendations. They are definitely in our report. We have certain calls on the Sri Lankan Government and on the LTTE, to the extent that anybody can have influence over this.

But I think there are short-term goals that are very clear. First of all, we need concerned governments, including the U.S. Government, must do something—should do something—to just stop what is happening right now when civilians are being killed by both sides of the conflict by hundreds, and that means providing, ensuring that there are humanitarian corridors, there are ways of people to get out.

Second of all is what happens when people get out. This is why we are pushing so hard to end this policy of internment camps. People must resettle into the areas where they were displaced from, and this is the fundamental principle of international law and a very clear obligation of the Sri Lankan Government.

And then, obviously, in terms of a more political message that I think needs to be sent to the Sri Lankan Government is that this argument of final victory over LTTE at any cost will not be bought by the International Community, that people do see what is going to happen unless they change their attitude toward the Tamil population, both in the northern Vanni and in other areas of the country.

Senator RISCH. Mr. Dietz.

Mr. DIETZ. Yes, Senator, I approached Sri Lanka as a problem of journalists and how they are operating and the pressures on them. The journalists with whom I spoke felt that what was happening to them from the government was something that started with the government's efforts against the LTTE when they decided to go and go for this all-out military solution, that they were also going to take care of the homefront and stifle criticism there.

And I asked them specifically do you think this will end once there is a military—a final military solution? And most of them said no. That what they fear at this point is a popular government,

as the Ambassador pointed out, but one that is going to still act repressively and control dissent and criticism.

The fear is that there will be some sort of lower level intensity conflict going on after this great military clash resolves itself in the north, and the government will be able to use that to continue its repressive measures. The journalists with whom I am speaking expect more of the same in the coming years, even after this situation appears to resolve itself in the north.

The other thing that—I spoke with a real lot of people. I did a real journalist's job and just swung through Colombo for a week. I spoke with a lot of people on the right and a lot of people within the government—or sorry, within progovernment papers and anti-government papers and people in civil society and with three diplomatic missions who I won't identify.

An analogy that I heard several times—not just once but five or six times—was that people are beginning to worry that the government is moving in such a way and will have such a mandate from the population that they will not be responsive to international pressure, and they will be able to discard it.

Somehow they will find a way to survive the economic crisis, to survive financially. But the feeling was—and I am repeating what other people are saying. The feeling was that somehow Sri Lanka is moving in the direction of Zimbabwe or Myanmar in terms of a nation, a country, or a government where the International Community no longer has that purchase or, as Senator Lugar said, the leverage to work things.

That more and more, this is a government certainly meeting—in its own eyes and on its own terms meeting with great success in finally solving a 26-year-long problem that the country has faced. Whether it is to our liking or not is not for them to worry about.

But somehow this government seemed to be isolating itself more and more. There are family ties and there are links within the government. The Defense Secretary is a brother. The senior adviser to the President is a brother. They are all Rajapaksas, and there is a sense of people coming from another region, another part of Sri Lanka trying to do some sort of reform or change.

And well, as I said, people are just not finding the purchase or the leverage that they have had in the past in the Sri Lankan Government, and they are worried that coming off of this apparent military success that is going to increase that problem.

Senator CASEY. Thank you, Senator.

I wanted to return to a question that we have covered somewhat in the question period, but we all spoke to in one way or another, and that is the violence against journalists. Plenty of examples to point to.

Obviously, the most egregious recent example was the death of Mr. Wickramatunga, and I guess I wanted to ask the question from two vantage points. One is on the mechanics of the interplay between journalism and the government, and the other is in terms of the governmental power, I guess, is the best way to describe it.

Mr. Dietz, I wanted to start with you. You have done rather extensive research, and it is of recent vintage. To what extent do

you find any kind of identifiable government intrusion in the media? Please give us a sense of the examples of that.

Mr. DIETZ. It is pretty obvious and blatant. First of all, just let me set, for 30 seconds, a scene of a country that is politically riven over the years.

As the Ambassador pointed out, you are looking at contending factions and families and different groups. And not that much of an ideological split, rather is whose side are you on? It is not really Marxist versus free market or something like that.

Typically, political parties or political families have newspapers which are sympathetic to their reporting. Having said that, there is a fair amount of legitimate journalism that goes on in Sri Lanka, and I think it is fair to say that the government has made it clear that people who dare to criticize it in any way are considered traitors or are engaging in treachery.

Most of those accusations come from the Secretary of Defense, Gotabhaya Rajapaksa, the President's brother. Accusations naming specifically journalists—and in my report, I have a long list of names—this person is a traitor because they publicized this. This journalist is engaged in treachery.

During the attack on Sirasa TV in which a claymore mine was—or there was an explosion, which certainly looks like a claymore mine was detonated, a young reporter from Sirasa had an interview with CNN. And he said, yes, whoever it was who came in here detonated a claymore mine.

Defense Secretary Rajapaksa within I think a day, less than a day, less than 24 hours, responded that this reporter—and I won't bother to name him here—this reporter was a traitor, that how dare he say such a thing. He better watch out for his safety. These sort of responses are regular and current.

The attacks on journalists, these that go uninvestigated or unprosecuted, we have shied away from saying that these are military attacks, OK? The bombing, the attack on Sirasa TV took place with what we call military precision by 20 men who swept into a place, detonated a claymore mine by stringing wires down a maze of corridor halls. They carried weapons similar to that used by the government.

But we are not saying that it was the government or the military who did this. We are saying this case needs investigation.

The other attacks also bear similarity. Men appear on motorcycles, force a car over to the road. More recently, not using guns. Using poles or sticks to smash in windows and windshields and then attack the target; the journalist that they are going after.

This happened in the case of Lasantha Wickramatunga, Upali Tennakoon. It happened in the case of Namal Perera, who is a journalist who left about 6, 8 months ago, who was pulled out of his car while he was riding with a member of the British High Commission.

White vans have been going around the city. Unmarked, unlicensed plates, white Toyota Hiace vans with tinted windows, going around picking up people—opponents, Tamils, and people the government does not like.

Is this the government doing it? Hard to believe that people can operate in a city where there are so many checkpoints because of

the Tamil threat, the security threats, that people cannot move freely around that city without having to stop and identify themselves every 5 or 10 minutes.

Senator CASEY. Give me a sense of—as opposed to print journalism—the airwaves. If you can describe that, which in this country, as you know, is the predominant way people get their news. With no disrespect to newspapers, people get their news mostly through television.

And I realize they are different. It is not in any way parallel to the deployment of that kind of technology and that kind of television presence that we have here. But just give me a sense of what it is like on the ground in terms of what they hear or see on the airwaves.

Mr. DIETZ. Sirasa was the one independent, large independent station, widely watched, widely received. Sirasa also operates four radio stations and three TV channels.

The rest of the television broadcast media are progovernment or owned by the government in a legitimate sense of being government-run stations. They are clearly identified with the government and make themselves available to government members to criticize—or to put forth their viewpoints. There is one other small television broadcaster who really doesn't play as large a part in this.

Radio stations tend to be a bit freer—certainly government and progovernment stations, but also more independent and some antigovernment stations as well, clearly antigovernment. Hard to find in that media universe in Sri Lanka that ideal broadcaster or newspaper, which is not tied or which isn't linked, one way or another, to one side of this argument or this discussion in civil society.

The journalists who operate, frankly, I see them as colleagues, as people doing what I used to do for a living as a journalist and going out and reporting. I think when you look at how media is consumed in Sri Lanka, newspapers continue to play a very large part, that they appear in Tamil. They appear in Sinhalese. They appear in English as well.

And that if a citizen of Sri Lanka wants to watch Fox or CNN or the equivalent—BBC or another broadcaster—that they will be able to find a voice for them. And actually, that is the saddest part. Because what has been traditionally a pretty vibrant media, if politically tied media, it seems to be coming under much, much heavier government pressure.

And that tradition, so fundamental to a democracy, of having all those voices out there and feeding that conversation across the population are quietly beginning to be silenced. A lot of the journalists I know have simply stopped reporting for fear of retribution from the government.

Senator CASEY. Thank you very much.

I wanted to ask the Ambassador about, in light of what we know about the death of Mr. Wickramatunga, writing the editorial days before he died and predicting the circumstances of his death. What is your sense, having spent time there and having to deal with the government and the legal underpinning of the government, how much control does the President have over the security services in Sri Lanka?

Ambassador LUNSTEAD. Well, of course, that is a very important question, which we can't really answer. It is who knew what and when, and I don't know the answer to that.

I know President Rajapaksa pretty well. I have met him, spoken to him at length any number of times. I don't see him as someone who is directing the murder of people. That doesn't mean that there aren't elements within the government or the military who don't do this.

This has happened before in Sri Lanka. Sri Lanka has had very dark periods in its history when murder squads were used to suppress dissent and rebellion, and it has come back from those periods also.

So I think that, as I said, that it is simply not credible to think that there aren't some elements of the government involved in these attempts. How high that goes and who is involved, I couldn't say.

Senator CASEY. How about just the legal mechanics of his control, absent an event or an allegation?

Ambassador LUNSTEAD. Well, the President—

Senator CASEY. How does it work, in essence?

Ambassador LUNSTEAD. Well, the President, it is a very powerful Presidency. The President is, for instance, both Commander in Chief and Defense Minister. That is why—so he is in charge of the military. He has delegated most of the running of the military to his brother, the Defense Secretary. I think if he wanted these incidents to stop, he could make them stop tomorrow. And that would be the key.

And we know that in a guerrilla war, and I have said this to the President personally, in a guerrilla war, incidents occur. The important thing is that after they occur that someone take responsibility; that there be accountability, that there be a prosecution.

Incidents occur with U.S. forces in guerrilla wars. We know that. But we prosecute people who carry them out. That then sends a message to everybody else. If you don't take any action, if there is no accountability, it sends a totally opposite message, which is that you may operate with impunity. You don't have to give an order in that case.

Senator CASEY. And with regard to Mr. Wickramatunga, was it an escalating series of attacks that culminated in his death, or was it that singular incident?

Ambassador LUNSTEAD. Well, Mr. Wickramatunga has long had a reputation as a journalist who attacks everybody in power. He has done that to different administrations in Sri Lanka.

He had had some threats from the current government, although they were more on the nature of verbal threats than physical attacks. But I think that the actual physical attack on him was something, although he in a way predicted it, but probably never expected it would happen.

Senator CASEY. Thank you.

Senator Lugar.

Senator LUGAR. Mr. Chairman, I would just like to observe that the committee has chosen to have this hearing because there is really a sensitivity and, in fact, a passion for the freedom of the press, for the problems of human rights around the world. And

obviously, the attendance at the hearing indicates a large number of citizens are deeply interested in Sri Lanka at this particular time.

And I mention this because in another fora in Washington, the Foreign Ministers of Pakistan and Afghanistan, plus the heads of their military—in the case of the Pakistanis, the ISI, their secret service—are all meeting with Secretary Clinton, Richard Holbrooke, others, discussing the problems of the Taliban or the al-Qaeda or security situations in that complex that led to an attack upon our country.

Fear is that they might lead to another attack if we are not successful working out the politics and the security of those countries. So there is obviously intense interest with regard to American security. Now conceivably there are such threats in Sri Lanka, but these have not been expressed today.

What we are really looking into is a country that has severe problems, and we are expressing Americans' deep interest in that country, what our responsibility ought to be, what our options might be to be more successful. And I think that is just important to state for the record, that there is deep concern.

What I suppose also I just am curious, from any of the three of you—leaving aside the specifics of what we are looking at today, the murder of journalists, internment camps, human rights violations, seemingly interminable war for 26 years—what is the importance of Sri Lanka to the United States or to India, Pakistan, China, or other countries in the area, to the International Community generally?

In other words, what role does it play now? Potentially, what role could it play? What are some of the upside potentials of success really in working out the internal problems and these difficulties?

Because this will be important for the International Community and really for people in the United States as we would approach, say, the authorization or appropriation process. And someone would say we ought to be doing more in Sri Lanka. More of what? And at what cost?

And so, we finally identify objectives, and we try to get authorization for specific kinds of assistance to the country. Our colleagues will ask why? What is the importance of Sri Lanka? What role does it play? What are others doing? Who are we allied with in all of this?

I mention this because, otherwise, I suspect we will have other hearings like this. I hope not the same grim statistics and descriptions, but I am trying to look for a better outcome or at least some charge as to how we move along the trail.

Ambassador, I will pick on you to begin with again as somebody who served some time there as an objective observer of those who were now serving our country and then working with other countries, as our Ambassador does. What is the importance of the country? What is the potential importance in the region, with us, with anybody?

Ambassador LUNSTEAD. Well, when I was in Sri Lanka and the International Community was quite engaged in supporting the peace process, I used to joke to my Sri Lankan friends that Sri Lanka got more attention in Washington than it deserved, by

which I meant not that it wasn't an important issue, but that the United States had no strategic interest in Sri Lanka.

There is no petroleum there. It is not a major trading partner. We don't have military bases. It is a nice country with which we have good relationships. It is also a country which has been successful in many ways and especially in contrast to its South Asian neighbors. It has almost a 100-percent literacy rate. It has very good social and economic indicators.

It has shown that it can succeed. And it seems to me that that is where our interest lies. Not in some strategic interest, but in showing that this country, which for so long has had this terrible ethnic struggle and expressed in military conflict and terrorism, could put that behind and find a political solution.

If it could do that, which it can with the right political will, that would be a tremendous example for the region and for the world that terrorism is not the answer to a political issue. And Sri Lanka could move ahead and do that, if it desires to do so.

Senator LUGAR. Ms. Neistat, do you have some thoughts on this subject?

Dr. NEISTAT. Just a very brief one. I guess from the perspective of Human Rights Watch, there are certain situations that the International Community needs to address regardless of a particular country's geopolitical importance. And we do believe that the situation in Sri Lanka has reached this level.

When civilians are being killed by hundreds on a daily basis and when thousands of others are on the edge of starvation and possible deaths, this is probably a situation where concerned governments, including the United States, must intervene regardless of the country's importance. And I do think that that is why we are so much encouraging the United States to use its leverage to make sure that the issue gets raised at the Security Council.

Because it does seem that Sri Lankan Government cares about whether or not it comes before the Security Council. And if it does, it will send a very strong signal to the government.

Senator LUGAR. So the strategy you would employ would be for our Government to move through our Ambassador to the United Nations to bring this issue before the Security Council?

Dr. NEISTAT. Ideally. I mean, there are two options, obviously. One is a proper special session on Sri Lanka at the Security Council, which may or may not be realistic because there are certain other countries involved that may potentially block it.

Senator LUGAR. I see.

Dr. NEISTAT. But what is definitely possible is a briefing by U.N. humanitarian coordinator who just returned from the region, which, if I understand the procedure correctly, cannot be so easily blocked. And this can happen in the coming days because he did just return. So in terms of immediate to-do things, that would be something that could be very helpful.

Senator LUGAR. Just out of curiosity, which countries would want to block consideration by Security Council?

Dr. NEISTAT. I would think that China and Russia would be on the list.

Senator LUGAR. Yes, sir.

Ambassador LUNSTEAD. Could I just add something? I was not, in any way, belittling the humanitarian issue, which needs to be addressed. But I do think that Sri Lanka's need for assistance to deal with such issues as resettlement is an important leverage point.

Now I have heard, for instance, that the World Bank has already conveyed to the Government of Sri Lanka that it is ready to consider requests for resettlement moneys. The United States and others can be very plain on that, saying that, yes, money is needed, but it should only be provided under certain conditions. And there has to be transparency and resettlement of these people according to acceptable international norms.

That is very straightforward, and I think we can do that.

Senator LUGAR. International participation, in this case, through the World Bank, for example?

Ambassador LUNSTEAD. Through the World Bank or the ADB or other lenders, yes.

Senator LUGAR. Mr. Dietz, do you have any comment on this situation?

Mr. DIETZ. I will go beyond my brief as journalist; one just concerned about media. But to me, it strikes me that Sri Lanka is a perfect place for everyone to try and get it right, once and for all.

Here, you have an ethnic divide that is going on for a great historical length, and we see that playing out in so many other countries as well. But in a lot of those places, let us say, Afghanistan or Pakistan, you have political—it is all freighted with political reasons of geopolitics. Sri Lanka, that doesn't apply as much.

It is completely viable as a nation. It has a well-educated population. It has a tradition of—it is one of the oldest democracies in Asia. And if the Government or if the Governments of Sri Lanka can be brought along and developed and encouraged like to try and transcend this one problem, which they haven't been able to deal with, it could emerge as a shining example of everything that our Government and much of the Western world holds up as an ideal.

It has failed consistently to do that, and for many reasons. But this is one place in which it could all go right, instead of not working out.

Senator LUGAR. Well, I thank you, all three, for your testimony and your help to each one of us. Thank you.

Senator CASEY. Thank you very much, Senator Lugar.

I know we have to conclude shortly. But I wanted to raise another general area of inquiry here. I mentioned in my opening the possibility that at some point if the Sri Lankan Army is able to prevail totally in a sense that you could drive LTTE into the underground, I guess that is a possibility.

But if the Sinhalese majority and the government can negotiate an agreement with the Tamil minority, it is possible, I guess, that the LTTE might be isolated and lose legitimacy. I know that we don't know if that will happen. But I guess one area of questioning I wanted to get into was the question of what can we expect in terms of credible negotiations leading to a political settlement, in this sense?

And I guess I would start with you, Mr. Ambassador. What is your sense, and this is for each of the witnesses. What is your

sense about the Sri Lankan Government's interest in even reaching a political solution at this point? Or do they think that they have got momentum, so to speak, militarily and that they don't need to consider that or need to closely examine that option?

Ambassador LUNSTEAD. Well, that is the key question is if the LTTE is defeated as a conventional military force, will the government then seize the opportunity to make political changes, which will satisfy the grievances of Tamils and recast the political structure of the country? Or will it say, well, we don't need to do that anymore?

I think that could go either way, and we don't know. It will depend on the leadership of the President. It could depend also on the encouragement of Sri Lanka's friends from outside to take this opportunity and to show that if the President does that, that Sri Lanka's friends will support the country and help it move forward.

There is a need for a lot of reconstruction, and that is a hard thing to do. But we could do that. But the opportunity is there. There is no question about that.

I think the President is not a racist. I think he would like to do the right thing. The question is whether he will see what the right thing is.

He has said all along that this is a fight to, as he puts it, liberate the Tamils from the LTTE. I think that is a little bit rhetorical there. But certainly most Tamils in the country, I think, would accept a political solution which dealt with their grievances.

Senator CASEY. Ms. Neistat, any sense of what you have seen on the ground and—

Dr. NEISTAT. I would just add very briefly that from what we are seeing so far on the ground, it does not look like the Sri Lankan Government is serious about that. Because probably before any political process takes place long term, it should, first of all, stop dropping rockets and shells on the heads of the Tamils, the very Tamils that it is claiming to be liberating, and allow them the freedom of movement and stop the humiliation that they are encountering after they cross into the government-controlled areas.

I do think that it is very important, and unfortunately, from what we heard from many observers on the ground, what the government is doing right now could eventually fuel further support of the antigovernment forces rather than help reconciliation.

Senator CASEY. Mr. Dietz.

Mr. DIETZ. I will step away from my role as a policy analyst and put back on my press hat, and now my fedora and my press card, and just say that journalists with whom I spoke are fearful for the future, that they don't see the pressure on them ending when this fighting stops in the north.

And that they expect there is still a Tamil identity, and Tamils will continue to push one way or another for some greater autonomy or some sort of freedom or recognition that they are not getting now, and that they expect the government to be as resistant to covering that as they are during the intensely military conflict that is going on now. They don't see a bright future ahead.

Senator CASEY. I would ask one concluding question, and each of you, I want to give you an opportunity to say anything that you might have wanted to say in response to other questions. But my

last question is, and I don't know if Senator Lugar has more? But it is just a basic question, which I thought of that I didn't ask before, but for Ms. Neistat.

What is the most urgent—and be as specific as you can be—the most urgent humanitarian need right now in the near term, in the next, literally the next couple of months? Apart from the question of access to aid, what is the most urgent need? Is there one thing that is lacking in terms of humanitarian aid that the International Community could help with?

Dr. NEISTAT. You mean in the Vanni or in Vavuniya, the areas where people manage to flee to? I think there are two somewhat different issues.

Senator CASEY. Right. Why don't you cover both?

Dr. NEISTAT. Yes. I mean, very briefly, in the Vanni, it is food and medical supplies.

Senator CASEY. OK.

Dr. NEISTAT. And medical supplies in particular because, I mean, just I got an e-mail yesterday from a colleague from a humanitarian agency. There are no antibiotics. There is just nothing to treat patients with. And as shelling continues, there are more and more people getting injured on a daily basis. And the same is true for food. It is just running out.

As for the situation with the camps, there, as I said, the situation with humanitarian assistance is better. But if the government is expecting the influx of another hundreds of thousands of people out of the Vanni, then there must be places for shelter. There must be arrangements made for the International Community to assist people.

And obviously, as I said, in the hospital it is just a question of letting agencies provide whatever the needs of the hospitals are. And this can be very specific, such as bed sheets and clothing for the patients. But it is just the matter of making sure that agencies have access to the patients to provide supplies.

Senator CASEY. Great. Thank you.

Unless any of you have any further commentary. Mr. Ambassador.

Ambassador LUNSTEAD. On that point you raised about immediate need, it is a humanitarian need, although it is not an issue of a supply. But the other need is to set up a system where those who are detained by the government are noted. They are not just taken off.

That a competent agency—and most people think that the International Committee of the Red Cross is the right one, and they have done this role in Sri Lanka before. That when someone is detained by the government on suspicion of being an LTTE fighter, that the ICRC is present, that their name is taken down, that their relatives are notified. So there is a record of who has been taken and where they have gone.

I understand that the ICRC is in negotiations with the government to set up such a system like that now. The International Community is supporting it. But that is something which is not being done now. Some supplies are getting in now. Not enough. But this one, nothing is being done right now, and that is an urgent thing because it is people's lives that are at stake.

Senator CASEY. Mr. Dietz, you have last the word.

Mr. DIETZ. The last word, and it is a very fine point to make. I wish I could end on a broader, sweeping statement. We have a request to make of the U.S. Government and other Western nations, and I made it when I listed my recommendations.

We are aware of a lot of journalists who want to leave or who have left Sri Lanka. The Committee to Protect Journalists and the other media support organizations are stretched very thin. We cannot offer them the support they need.

We would like governments and aid agencies to step forward and help us meet that need. Frankly, this problem isn't limited to Sri Lanka. I deal with all of Asia, and I am looking at Pakistan and Afghan journalists, too, who have to get out because people are coming after them.

We are running out of resources to deal with that, and we are looking for as much help as we can get. And this is, frankly, the most public and best forum I could think of to raise that issue.

Having said that, I would just like to say thanks very much for the opportunity to appear here today.

Senator CASEY. Thank you very much.

This hearing is adjourned.

[Whereupon, at 4:17 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. PATRICK J. LEAHY, U.S. SENATOR FROM VERMONT

The ethnic conflict in Sri Lanka that has waxed and waned for decades costing the lives of tens of thousands of people, has exploded into a full scale war and it is civilians who are bearing the brunt of the carnage.

The origins of the conflict arise from decades of the Sinhalese majority's systematic discrimination against the Tamil minority, and its denial of the Tamils' meaningful participation in the political process. The Sri Lankan army is almost exclusively Sinhalese. Successive Sinhalese-dominated governments have failed to effectively address these longstanding injustices.

Over the years, peaceful demonstrations by Tamils have been met with violence by Sinhalese extremists, which has in turn fostered violent extremism on the Tamil side.

In recent weeks, as the Sri Lankan army has seized control of most of the northern strongholds of the Tamil Tigers, or LTTE as they are otherwise known, the situation has gone from dire to the verge of catastrophe for the estimated 250,000 vulnerable civilians who are trapped in a so-called "safe zone."

The LTTE has a history of suicide bombings and other indiscriminate attacks against civilians, using civilians as shields, and preventing civilians under their control from escaping to government areas. Several hundred local staff of the United Nations and international humanitarian organizations are reportedly trapped because the LTTE refuses to allow them to leave. The LTTE has been designated a foreign terrorist organization by the United States.

For its part, the Sri Lankan army insists it is targeting the LTTE, not civilians. But the army has also acted in ways that have blurred any meaningful distinction between itself and the LTTE. It has reportedly shelled areas populated by civilians, including hospitals, causing hundreds of casualties, summarily executed suspected LTTE sympathizers, and detained those who have fled LTTE areas, including women and children, in militarized camps where they are exposed to great hardship and danger.

The United Nations says a compound sheltering U.N. national staff inside the safety zone was shelled on January 24 and 25, killing at least 9 civilians and wounding more than 20. On January 26, another artillery attack reportedly narrowly missed U.N. local staff working in the safety zone, but caused dozens of civilian deaths. The International Committee of the Red Cross has said that "[h]undreds

of patients need emergency treatment and evacuation to [a] hospital in the government-controlled area.”

In the past 2 days, another hospital was reportedly shelled multiple times, resulting in more civilian deaths and injuries.

Human Rights Watch reports that since last September, when the Sri Lankan Government ordered the withdrawal of most U.N. and nongovernmental humanitarian organizations, as well as journalists, from the conflicted area, a grave humanitarian crisis has developed with acute shortages of food, shelter, medicine, and other humanitarian supplies.

The Sri Lankan Government has a duty to respect the rights and protect the safety of all Sri Lankan citizens, whatever their ethnic origin or political views. Instead, the government has embarked on a strategy to defeat the LTTE militarily and in doing so has shown disregard for the laws of war. Rather than protecting the Tamil people, the government has often contributed to their suffering. Its strategy has been to cordon off the area and blame everything, including its own violations, on the LTTE.

Since 1984, successive peace talks have failed, as both the LTTE and the Sri Lankan Government have reneged on their agreements, and the government has failed to provide the vision and leadership necessary to build a multiethnic consensus. Both sides' extreme ethnic nationalist agendas have caused widespread human suffering. Both sides are accountable.

I have no sympathy for the LTTE, which has brought misery upon the Tamil people it professes to represent. But while the LTTE has been severely weakened, it is unlikely to disappear, and the cycle of violence may continue.

It is imperative that the government and the LTTE agree to an immediate ceasefire to avoid further loss of life, permit access to U.N. monitors and humanitarian organizations, and permit civilians to leave for areas of safety. The Obama administration, the British, Indian, and other concerned governments, should be publicly urging the same.

Over the longer term, if lasting peace is to come to Sri Lanka, the government must effectively address, in negotiations which include all the main Tamil and Muslim parties, the core issues that have fueled the conflict including laws and policies that unfairly discriminate against Sri Lanka's minorities.

There is a related issue that needs to be mentioned, and that is the imprisonment for the past 10 months of J.S. Tissainayagam, a journalist, and N. Jashiharan, a publisher, and his wife, V. Valamathy. They were arrested for articles critical of the government, and are being held in violation of their right to freedom of expression. Another of Sri Lanka's most respected journalists, Lasantha Wickramatunga, was gunned down in broad daylight a few weeks ago. According to Navi Pillay, the U.N. High Commissioner for Human Rights, “[t]he killing of . . . Wickrematunge . . . was the latest blow to the free expression of dissent in Sri Lanka. The searing article he wrote prophesying his own murder is an extraordinary indictment of a system corrupted by more than two decades of bloody internal conflict.” The High Commissioner noted that there have not been any prosecutions of political killings, disappearances and other violations committed in recent years. That in itself speaks volumes about the Sri Lankan Government's credibility.

For many years, the United States and Sri Lanka have enjoyed good relations. A close friend of mine, James Spain, was our Ambassador there years ago. He often told me of his deep affection for the Sri Lankan people, and of the country's extraordinary natural beauty.

When the tsunami crashed ashore in December 2004, a member of my staff was on the island. The American people responded generously to help Sri Lanka rebuild.

It has therefore been difficult for me to watch the conflict intensify, the LTTE abuse civilians and fail to live up to its commitments, and the government threaten to expel foreign diplomats, aid agencies and journalists, and refuse appeals to permit independent observers and aid workers access to areas where Tamil civilians are trapped. And as reputable, courageous journalists have been arrested on transparently political charges or assassinated.

The Sri Lanka Government will one day want the respect and support of the United States. The same can be said of the LTTE, if and when it renounces violence and becomes a legitimate political party. How they respond to today's humanitarian appeals will weigh heavily on how the United States responds when that day comes.

RESPONSE OF ROBERT DIETZ TO QUESTION SUBMITTED BY
SENATOR RICHARD G. LUGAR

Question. Today, the Sri Lankan Embassy provided this committee with a copy of a letter from Sri Lanka's Foreign Minister to our Secretary of State. Please find the letter for your reference. The letter states that "freedom of the media and the freedom of expression are ensured and the government has taken action to investigate such cases whenever these rights and liberties have been curtailed." Could you please help us understand the differences—and any points of agreement—between this assertion and the testimony that you have provided today?

Answer. The Sri Lankan Constitution does indeed provide for a free press and over the years there has been a dynamic media presence in the country, though one which has often been under fire. What I tried to press home in my testimony before the committee is that since President Mahinda Rajapaksa first came to power as Prime Minister in 2004 and then when he assumed the Presidency in 2005 and until now, we have seen an increase in the number of attacks directed against journalists who are critical of the government.

It is a sad list and a long one, so I will just direct you to our Web site.

While we had long become accustomed to seeing openly partisan minority Tamil journalists attacked and even killed, and which we regularly reported, what we have seen in recent years is an attack on more main stream journalists who dare criticize the military's war effort or report on corruption within the armed forces. There is a fairly clear correlation between the number of deaths and attacks and acts harassment, intimidation against people as well as attacks on printing presses, or more recently, on the main control room of Sirasa TV.

We see a direct correlation between the government's efforts to win an all out military solution against the Liberation Tigers of Tamil Eelam and a heightened effort to silence critics of any kind on the home front.

Please understand that we have kept ourselves apart from the debate of the value of the government's war effort—what we are concerned about is the government's use of death and intimidation to control public opinion at home.

RESPONSE OF DR. ANNA NEISTAT TO QUESTION SUBMITTED BY
SENATOR RICHARD G. LUGAR

Question. Your testimony includes specific recommendations including:

- "The immediate creation of humanitarian corridors to allow civilians trapped by the fighting to travel to areas away from the fighting";
- Allowing "humanitarian agencies to . . . reach all civilians in need" and;
- "Permit international monitoring of the screening procedures to prevent arbitrary arrests and 'disappearances' of the detained individuals."

Could you please describe why there may be resistance to these recommendations and help us understand under what circumstances that the LTTE and the government would be open to implementation of your recommendations?

Answer. Although the Liberation Tigers of Tamil Eelam (LTTE) claims to be the "sole representative" of the Sri Lankan Tamil people, they unfortunately have a long history of acting with little regard for the well-being of this population. The LTTE has frequently targeted Tamil political parties for attack, assassinated Tamil politicians, journalists, and human rights advocates, and mistreated the civilian population under their control. They have forcibly recruited Tamils into their forces, including children, who have been used in combat roles. While one would hope that the LTTE would give greater consideration to the civilian population during the current fighting, they have showed no signs of doing so. They have forced displaced persons to retreat along with their forces, deployed their forces near civilians thus effectively using them as human shields, and in several instances shot at civilians trying to flee to the safety of government-controlled areas.

While the LTTE has never paid much heed to the concerns of foreign governments or human rights organizations, they have at times responded to the entreaties of the large Sri Lankan Tamil diaspora. This has at times resulted in the reduced use of child soldiers and in curtailing extortion in foreign countries to raise money. It would be extremely helpful at this time if the diaspora were to call upon the LTTE to demonstrate greater regard for the civilian population still under their control.

We are also concerned with the Sri Lankan Government's response to the humanitarian crisis. The creation of humanitarian corridors clearly requires cooperation from both sides to the conflict. However, there are certain steps that the Sri Lankan Government can and should be urged to take even in the absence of an agreement with the LTTE.

One such step had been the creation of “safe zones” in LTTE-controlled areas where civilians could move to escape the fighting. Unfortunately, instead of ensuring that civilians in such zones enjoyed greater safety and are protected against attacks, the Sri Lankan Armed Forces have repeatedly and indiscriminately shelled such areas. We urge that Sri Lankan forces strictly honor such safe zones. Before the government attacks LTTE forces that may have entered such zones, the government should first make clear that these areas no longer have protected status and allow civilians sufficient time to leave them before carrying out attacks.

Additionally, the U.S. Government should work with other co-chairs of the Tokyo Donors Conference and the Sri Lankan Government to seek alternative evacuation routes for civilians, such as by sea, and offer logistical support for such evacuations. So far, the government has only permitted a very limited evacuation conducted by the International Committee of the Red Cross.

The government’s opposition to access to humanitarian agencies and international human rights monitors in conflict areas can be traced to a broader government effort in the past 2 years to avoid any kind of independent scrutiny of its actions, either from civil society in Sri Lanka or international efforts. This increasing closure of “democratic space” in Sri Lanka is also evident in the increasing repression of the local media and broader restrictions and criticisms of humanitarian efforts in the country. Unfortunately these state actions have the effect of harming the population that needs the most help—displaced persons caught up in the war zones. But it also harms democratic society generally in Sri Lanka and undermines hopes that an end to the conventional war with the LTTE will result in government policies that benefit the entire Sri Lankan population, including the very real concerns of the Tamil population throughout the country.

The Sri Lankan Government has shown some greater recognition in the past few weeks that the needs of the displaced population fleeing LTTE-controlled areas is immense and that the government cannot provide the necessary humanitarian relief. As a result it is slowly permitting greater access of humanitarian agencies to displaced persons camps near Vavuniya. But humanitarian agencies and governments providing assistance are rightly concerned that these militarized camps do not become long-term detention centers for civilians. Beyond the provision of immediate relief, we urge that the United States and other concerned states only offer long-term assistance if the government treats internally displaced in accordance with the U.N. Guiding Principles on Internal Displacement. That means turning the camps into civilian facilities, permitting those at the camps full freedom of movement, and facilitating the safe and voluntary return of displaced persons at the earliest moment possible. More broadly, the U.S. Government should make it very clear—and encourage other concerned government and international institutions to do so—that future financial aid to the government, beyond what is immediately for emergency needs—will be contingent on the government’s commitment to abiding by international human rights standards.

RESPONSE OF ROBERT DIETZ TO QUESTION SUBMITTED BY
SENATOR ROBERT MENENDEZ

Question. Journalists and independent observers do not have access to conflict areas to accurately report information about the situation of civilians. What can be done to provide greater access for journalists and independent observers?

Answer. Conflict zones are dangerous but reporting from them is crucial to our understanding of how a war is being conducted. I have been a cameraman, a producer and a reporter in combat situations ranging from East Africa to Lebanon during the Israeli invasion of 1982 to the fall of the Marcos regime in the Philippines in 1986. The work comes with great risk, but it was always a risk my colleagues and I were willing to take.

When governments claim they are acting out of concern for the safety of reporters, they are actually infringing on one of the basic fundamentals of free speech—open access to information. No matter how dangerous, no government has the right to restrict access to a battle zone—it is up to the journalists to weigh the dangers they are facing and judge whether or not to attempt to cover a story. The Committee to Protect Journalists rejects efforts by any government or agency to stop reporters from doing their job—the answer is as simple as that. Governments seldom stop journalists from reporting out of concern for their safety. They almost always do it out of the desire to control potentially damaging information from a battle zone.

We base our opinions on firm legal ground. According to the 1949 Geneva Conventions journalists wearing military uniform and attached to regular armed forces are entitled to the same protection as soldiers. They have POW status, and cannot be

executed as spies. Journalists who are not embedded with military forces are entitled to the same protection as all civilians; they cannot be targeted, but can be subject to laws of the country including espionage. U.N. Security Council Resolution 1738, adopted December 23, 2006, affirms the rights of journalists in conflict zones.

RESPONSES OF DR. ANNA NEISTAT TO QUESTIONS SUBMITTED BY
SENATOR ROBERT MENENDEZ

Question. Journalists and independent observers do not have access to conflict areas to accurately report information about the situation of civilians.

- What can be done to provide greater access for journalists and independent observers?

Answer. Virtually all democratic governments have permitted journalists to have access to war zones. This access of course can be restricted for specific security concerns. Unfortunately the Sri Lankan Government's blanket ban of independent journalists traveling into combat areas, as well as overbroad restrictions on places where displaced persons have fled, has meant that the public, both in Sri Lanka and abroad, has been largely prevented from obtaining independent information about the conduct of this war, and the effects of the fighting on the civilian population.

The Sri Lankan Government has also limited access to international humanitarian and human rights organizations. Not only can such organizations play a valuable role in ensuring that accurate information about the situation gets public attention, but the presence of monitors can have a valuable deterrent role in preventing abuses by both sides to the conflict.

The Sri Lankan Government does itself a disservice by insisting it is protecting the rights of all civilians caught up in the war zone, and blaming the LTTE for all civilian casualties, but then failing to allow independent observers to impartially assess the situation. The government can rectify this situation immediately by permitting access, with narrowly tailored time and place restrictions for genuine security reasons, to the media and humanitarian and human rights organizations.

Question. There have been reports that the Sri Lankan Government plans to hold displaced Tamils in "welfare villages" in Vavuniya and Mannar. The displaced people will have no choice but to stay in the "welfare villages" for a period of up to 3 years.

- What further details do you have concerning these "welfare villages," and what the Sri Lankan Government seeks to accomplish by holding Tamils in such camps?
- Is it likely that the camps will push moderates into the arms of the LTTE?
- What steps can the United States take to ensure that displaced people in the camps are adequately cared for?

Answer. The Sri Lankan Government has a long history of detaining persons displaced from combat areas—particularly Tamils and Muslims—in what are effectively internment centers and holding them for years. Thousands of Muslims who were displaced in 1990 remain in government detention centers today. While the government may have immediate security concerns regarding any displaced population, long-term restrictions on the right to freedom of movement are a serious violation of Sri Lankans' basic rights under international law. The Sri Lankan Government has promised a quick return of most of those displaced by the current fighting—by the end of the year. Given the Sri Lankan Government past practices and the current treatment of these persons, it is essential that the U.S. Government keep a close eye on developments and speak out as necessary.

Currently, all displaced persons are subjected to indefinite confinement in de facto internment camps, which the government calls transit sites, "welfare centers," or "welfare villages." As of February 16, 2009, eight sites near Vavuniya alone had been allocated for newly arriving displaced persons. Local authorities were not prepared for the large influx of displaced persons and did not allow international agencies to adequately prepare the sites. Relief agencies were struggling to set up additional shelter, water, and sanitation facilities at the last moment, as the displaced persons were being brought to the sites.

Sri Lankan authorities have ignored calls from the international community to ensure the civilian nature of the camps. The perimeters of the sites are secured with coils of barbed wire, sandbags, and machine-gun nests. There is a large military presence inside and around the camps. Several sources reported to Human Rights Watch the presence of plainclothes military intelligence and paramilitaries in the

camps. A U.N. official in Vavuniya told Human Rights Watch that she and colleagues have seen members of paramilitary groups in different camps.

Displaced persons confined in the camps enjoy no freedom of movement and are not allowed any contact with the outside world. Unlike the internally displaced brought to Mannar district in 2008, some of whom were granted passes to leave the camp for a day to go to work, the displaced persons in Vavuniya camps have not to date been allowed to leave the sites on their own. While many of the displaced persons have families in Vavuniya, their relatives have not been allowed to visit them in the camps. Relatives come to the camp sites, trying to find their family members and communicate with them through the fence and barbed wire surrounding the sites, yet they are often chased away by soldiers.

The treatment of the displaced Tamil population—and all Tamils in Sri Lanka—is extremely important for the future of the country. There are genuine grievances that need to be met and it is essential for the government to address them in a serious way. But it is important to recognize that all Tamil dissatisfaction does not necessarily play out in greater violence—many Tamils do not support the LTTE or their tactics and want to play a part in a genuinely democratic Sri Lankan society that recognizes and protects the rights of all its citizens. To ensure that this population plays as productive role as possible, the government needs to send a message that it values all members of Sri Lankan society. This includes those most affected, and harmed, by the armed conflict.

The U.S. can do its part by supporting, as it can, state actions that will develop a fully multiethnic Sri Lanka and objecting to those steps that go contrary to that fundamental goal. This might entail providing development assistance that would allow displaced persons to return to their old homes, but rejecting long-term aid to “welfare centers.” It also means providing support to Sri Lankan civil society, which has played an essential role in promoting a multiethnic society, and criticizing state repression against Tamil journalists and human rights defenders.

Question. Human rights organizations such as Human Rights Watch and Amnesty International have advocated for a humanitarian cease-fire to allow aid workers and human rights monitors into the region.

- Can the U.S. effectively pressure the Sri Lankan Government to accept a cease-fire, and to allow humanitarian aid, journalists, and human rights monitors into the conflict zone and into refugee camps?

Answer. While Human Rights Watch has urged the creation of humanitarian corridors in accordance with international humanitarian law, it is beyond the organization’s mandate to call for cease-fires of any kind. Certainly the U.S. Government should make it clear to Colombo that continued good relations with the United States depends in part on Sri Lanka’s compliance with international humanitarian law and taking necessary steps to uphold its tradition of being an open and democratic society.

Question. Over 2,000 Tamil civilians have been killed since the military onslaught began. The Sri Lankan Government has ordered all medical personnel in the Vanni region to evacuate, and its military has repeatedly attacked hospitals. Doctors Without Borders has teams of doctors and equipment standing by to provide life-saving assistance, but the government continues to refuse to allow them into the region. Civilians trapped in the fighting have been repeatedly bombed at the hospitals where they were receiving treatment and in the “safe zones” where they took refuge; these Tamils need immediate and urgent medical treatment.

- In light of these events, is it accurate to say that the Sri Lankan Government has failed in its responsibility to protect Tamil civilians? If the government has failed in this responsibility, should the United States seek to have the situation in Sri Lanka placed on the agenda of the United Nations Security Council?

Answer. The Sri Lankan Government is failing in its responsibility to protect Tamil civilians, and the crisis is continuing. Reports from the ground by independent observers indicate that civilian casualties continue to rise. The seriousness of the situation points to the need for the humanitarian situation to be placed on the agenda of the U.N. Security Council, and we would urge the U.S. to seek to do so.

Question. In your view, would the threat of economic sanctions, and/or the promise of economic assistance, be effective in shifting Sri Lanka’s policy on humanitarian assistance, and encouraging a regional peace agreement with the Tamils?

Answer. The need for humanitarian assistance to reach the displaced civilian population in the Vanni is extremely urgent. We believe that the best way for the United States to encourage rapid assistance to this population would be to offer

logistical support to the government, both in providing assistance and helping civilians leave the combat area, particularly by sea.

LETTER FROM ILANKAI TAMIL SANGAM, USA, INC., ASSOCIATION OF TAMILS OF SRI LANKA IN THE USA, CHESTERFIELD, NJ

FEBRUARY 18, 2009.

MEMORANDUM ON THE PROTECTION OF TAMIL CIVILIANS IN NE SRI LANKA

We, the Tamil American community are greatly concerned for the safety of the Tamil civilians in the North East of Sri Lanka. We are particularly concerned for the more than 250,000 Tamil internally displaced persons (IDPs) who are living in areas not controlled by the government and are now in the middle of a war zone with almost no humanitarian assistance.

We strongly support Secretary Clinton's call for both the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil Eelam (LTTE) to agree to a temporary no-fire period in order for aid to reach the suffering population and for the ICRC to evacuate urgent medical cases. We also urge that humanitarian workers be given immediate full access to the conflict area in order to get food and medical assistance to the trapped civilians. Furthermore, we insist that safe zones be negotiated by both parties and that these safe zones involve U.N. monitoring mechanisms to provide assurance of compliance.

Though there is an acute food and medical shortage, in addition to continuous shelling and bombing inside the LTTE-controlled areas (resulting in scores killed every day), the majority of these 250,000 civilians are reluctant to cross over to the government-controlled areas.

On January 23, Stephanie Nolen, a journalist from the Globe and Mail wrote: "The assumption is that all the civilians in the north would flee if they could . . . [and while] a few have managed to get out . . . awaiting a long and unpleasant 'security screening' . . . they will live behind thick coils of razor wire, forbidden to leave. But no one here is talking about the other line in Vavuniya, the one five times as long—the line of people desperate to go back the other way. No one admits what it says about the chances for real peace in Sri Lanka that so many people see more hope for their families in a war zone than in the calm of the government-held side."

Robert Evans, the chairman of the European Parliament Delegation for Relations with South Asia reiterated this on February 14th when he noted: "The Sri Lankan government has urged Tamil civilians to come over to their side for protection, but there is a strong reticence and fear of such a move. The Tamil people have seen so much death and destruction. They are terrified of Sri Lankan troops and their 'holding camps,' with all the stories of assaults and rape, not to mention the different language and religion which divides the Hindu Tamils from the Buddhist Sinhalese troops."

Most of the civilians at risk have lived in LTTE-controlled areas for a generation. Although there have been allegations that it is the LTTE which is putting these civilians at risk, it is counter-intuitive that the LTTE would be harming some of the very people who have been closest to them. In parallel, these civilians are viewed as threats by the GoSL and it is in the GoSL's interests to eliminate as many as possible away from the eyes of the world.

The U.N., India, and the GoSL have called for the immediate evacuation of Tamil civilians from the conflict zone for their safety, yet Tamil civilians are reluctant to move into the GoSL's territory. Civilians fear entering government territory because:

(1) There are credible reports in the media that numerous civilians are being killed or disappeared when they are "screened" by the mono-ethnic armed forces on entering government territory.

(2) Civilians are placed in internment camps after being screened, where they are guarded by the mono-ethnic armed forces and are at further risk of human rights abuses and neglect. The GoSL is asking for aid to keep these camps open for up to 3 years.

For the following reasons, the evacuation of Tamil civilians into government internment camps would worsen their situation:

1. Safely evacuating 250,000 civilians will be impossible when the GoSL and the LTTE are firing at each other. Hence the primary need for a "no-fire period."

2. Evacuation may well turn the 250,000 or more civilians into permanent IDPs who will be unable to return to their homes, but who will have to live in internment camps, euphemistically termed "Welfare Centres," like the 10,000 Tamil civilians

who have been detained near the northern city of Vavuniya for many years without any freedom of movement.

3. Amnesty International says, "Given past experience, there are credible fears that those confined in transit centers could be vulnerable to enforced disappearances or extrajudicial executions, as well as increased targeting of persons, including arbitrary detention and harassment on an ethnic basis. There have been reports of several hundred cases of disappearance in Sri Lanka since 2006, many of them in government-controlled areas." Tamil civilians have been killed or disappeared at the rate of on average six a day for the past year and a half.

4. Though the GoSL says the U.N. and ICRC have access to these camps, in practice this has not happened.

5. Uprooting over 250,000 ethnic Tamil civilians from their areas of habitation and livelihood and placing them in internment camps with little hope of return is potentially a form of ethnic cleansing.

6. The vast majority of the civilians of Vanni area have fled from the GoSL armed forces into the 100 sq. km. LTTE-occupied area. If these civilians are placed in internment camps, much of the "cleansed" Vanni will be turned into a High Security Zone, similar to many parts of the Jaffna Peninsula and the East, which are swept free of civilians and are patrolled by the mono-ethnic Sri Lankan armed forces. The fear is also that those areas not declared High Security Zones will be colonized by Sinhalese with GoSL assistance.

For these reasons strengthening the safe zone is a much better alternative to evacuation.

We ask the U.S. Government to assure the protection of our relatives, friends, and neighbors in the North East of Sri Lanka by helping to:

- Initiate a cease-fire;
- Negotiate a secure civilian safe zone with international monitors;
- Provide full immediate access for humanitarian goods, aid workers, and the press;
- End the blockade of goods and services to civilian areas;
- Provide neutral international monitoring of the "screening" process and internment camps;
- Dismantle the internment camps in a short period and assure the return of civilians to their lands and homes.

Yours Sincerely,

Americans for Peace in Sri Lanka; Association of Sri Lankan Tamils in the USA; Federation of Tamils of North America; HELP Advocates Sri Lanka; North Carolinians for Peace; People for Equality and Relief in Lanka; Tamils Against Genocide; Tamils for Obama; and World Tamil Organization.

PREPARED STATEMENT OF MIRIAM A. YOUNG, COORDINATOR, U.S. NGO FORUM ON SRI LANKA

Thank you for the opportunity to submit my statement to the official record of today's hearing on the situation in Sri Lanka. I am very pleased that this hearing is taking place. In the 20 years that I have been working on the issue I do not recall a time when a full hearing was dedicated to Sri Lanka. It is an indication of the seriousness of the crisis in the country today.

I have worked on human rights, humanitarian, and conflict issues in South and Southeast Asia for two decades. I have worked with Cambodian refugees, directed health programs for Afghans in Peshawar, Pakistan, raised awareness about the situation in Burma and West Papua, advocated for the rights of the Uighurs in western China and led delegations to witness the referendum in East Timor. All of them, including that of Sri Lanka, have suffered from a lack of attention by the international community because they do not hold strategic interest for the great powers.

Sri Lanka does not have the international profile of Gaza, Sudan, Zimbabwe, or the Congo. But the atrocities taking place there are every bit as horrible as in any of these countries well covered in the media.

What is perhaps the most well-known aspect of the war in Sri Lanka is the ruthless efficiency of the Liberation Tigers of Tamil Eelam, LTTE, who have perfected the use of the suicide bomber. The long running conflict developed following successive failures to address minority rights through the political process. Unfortunately for Sri Lanka's citizens and possibilities of the war's resolution, the roots of the conflict have been lost in the rhetoric of the "war against terror," to the extent that Sri Lanka's Government has convinced its own citizens and much of the international community that it is fighting a terrorist war.

HUMANITARIAN CATASTROPHE

A decade ago the International Committee of the Red Cross termed the conflict in Sri Lanka the “No Mercy War.” There is no truer description of the tragedy that is taking place now, as the government forces are on the verge of victory, squeezing the LTTE into an ever smaller section on the northeast coast of the area called the Vanni. A quarter of a million Tamil civilians, most of whom have been displaced from their homes multiple times, are caught between the two armies. Humanitarian agencies, on which these internally displaced persons, or IDPs, depended, have been denied access since September. The civilians have no where left to run, and are directly in the crossfire. Due to growing cries of concern, the government declared safe zones, to which some people were able to flee, but then ignored its own promise and continued to bomb and shell the areas. Shells have landed on makeshift hospitals, killing and maiming those already sick and injured.

There is no doubt that the LTTE have prevented the civilians from leaving, effectively using them as human shields. They have forced people to fight, and shot at those trying to escape the battle zone. The government on its side, which is a sovereign state and resents outside interference, is flouting international humanitarian law with abandon—treating Tamil civilians who don’t leave the area as LTTE supporters and thus legitimate targets, preventing food and medicine from reaching the civilians, detaining those who do escape in internment camps, etc.

I would like to share a few anecdotes from my own recent experience. I was in Colombo for a short period in January, arriving on the day of the funeral of Lasantha Wickremetunge, the courageous editor of the Sunday Leader newspaper and a critic of the government’s prosecution of the war. Lasantha was assassinated in broad daylight near a high security zone in the capital. Several days after I left, the editor of a Sinhalese newspaper was attacked on his way to work by men on motorbikes, beaten and stabbed, and his wife injured while trying to protect him. A week after my return I learned that eight journalists had either left the country or were in hiding in fear for their lives. Several of my Sri Lankan colleagues have received threatening letters and phone calls, or been visited at night by masked men on motorbikes. Some humanitarian workers have come down from the north in tears over their inability to assist or protect anyone.

JOURNALISTS AND MEDIA FREEDOM UNDER SIEGE

The climate for journalists is one of the most hostile anywhere in the world. While foreign journalists are either denied visas to enter the country or are denied access to the conflict zone, Sri Lankan journalists risk their lives to report anything other than official government propaganda. Sri Lanka ranks 165th out of 173 in the World Press Freedom Index by Reporters Without Borders. As Sacha Guney, a Canadian free lance journalist, puts it, “Ruthless, effective control of the media has meant that one of Asia’s longest-running wars has run its course out of sight of all but the soldiers, the unreachable civilians in the crossfire, and the dead.”

J.S. Tissanaiyagam, a prominent Tamil journalist, was detained almost 1 year ago under the country’s Prevention of Terrorism Act and held without charge for 5 months. He was then charged under the PTA for an article criticizing the government for its failure to protect civilians in war zones. Despite international pressure to release him, he remains in prison and has been declared a Prisoner of Conscience by Amnesty International.

Because of the difficulty of access for journalists, most tend to report the official statements of both warring sides with the caveat that the information cannot be verified. A figure of 70,000 killed over the course of the war has been used consistently. With large numbers of Sinhalese troops being killed (but not reported), tens of LTTE cadre reported killed daily by the Defense Ministry, and at least a thousand Tamil civilians killed just during the month of January, not to mention ongoing disappearances throughout the country, this number indicates serious underreporting. Credible firsthand information is available, both from religious organizations and Sri Lankan humanitarian workers, who are risking their lives to get information out about what is happening.

THE ROOTS OF THE CONFLICT

Sri Lanka’s troubles are rooted in the practices of its former colonial power, Britain, and in unaddressed political and economic injustices following independence in 1948. Unlike India, Sri Lanka did not wage a violent struggle for independence. But members of the Sinhalese majority in particular resented the long years under colonialism that had deprived them of their language and culture, and diminished the role of Buddhism in their society. Anti-Western sentiment drove the development

of a Sinhalese Buddhist nationalist ideology. However, what began as anti-Western sentiment and a search for identity began to take on an anti-Tamil tone as well.

As in other colonies, the British had practiced a divide-and-rule strategy, favoring the Tamil minority in education and positions in their civil administration. Successive post independence Sinhalese governments tried to reverse this perceived injustice, instituting policies that increasingly put Tamils at a disadvantage for government and professional positions. Some of the most polarizing moves were the institution of the Sinhalese-only language act in 1956, regulations that required Tamil students to achieve higher marks to qualify for university admissions, and, in 1972, a new constitution which gave the "foremost place" to Buddhism. Tamil political parties tried to redress through the political process, but to no avail. Communal violence began in the late 1950s but had its worst outbreak in 1983 in an anti-Tamil pogrom that killed thousands.

Calls for greater autonomy for the Tamils led to calls for outright secession. A number of armed Tamil groups formed, out of which the LTTE emerged as the most militarily efficient, and the long war began. Successive periods of peace talks foundered and collapsed for a variety of reasons, with each party blaming the other. Each collapse led to a resumption of hostilities more fierce and deadly than the last and compounding the mistrust among the communities. The ruthlessness of the LTTE overshadowed the unresolved legitimate grievances of the Tamil population and enabled the Colombo government to sell its war as one to rid the country of terrorists. The rights of the Muslim minority are seldom even recognized.

The international community, focused on abuses of the LTTE, such as conscription of children, came late to the realization that Sri Lanka's security force had become a mirror image of its foe, engaging in equally outrageous acts of violence such as killings, disappearances, aerial bombing and shelling of civilian areas, and withholding of food and medical supplies. The government also used the excuse of war to limit democratic freedoms in all parts of the country.

THE NEED OF THE HOUR

Over the past months the world has witnessed the increasing humanitarian crisis in Sri Lanka. The diplomatic community has expressed its concern for civilians caught up in the conflict, but the time for expressions of concern is past as lives are literally being blown apart each day. There are a variety of figures on the number of civilian deaths, averaging 40-100 per day, but this seems very low. The critical need of the hour must be to allow access by the U.N. and ICRC to the civilians in order to provide the necessary space and to monitor their passage away from the war zone. While some civilians have now begun coming out, hundreds of thousands remain. Again, there are a variety of figures on the number, from 350,000 estimated by aid agencies last September, to 250,000 quoted by the U.N., to a mere 70,000 by the Sri Lanka Government.

Those civilians coming out are put through two screening processes, and then brought to hospitals (severely under-staffed and -supplied) or to so-called welfare camps where they have no freedom of movement. It is imperative that the United Nations, the ICRC, and international aid agencies have full access at all stages, both to assist with humanitarian needs and also to provide protection for people who have been terrorized by both of the combatants. Sustained vigilance and pressure are needed to ensure that the displaced civilians are not treated as prisoners and that they are allowed to return to their homes as soon as possible.

POLITICAL AND INSTITUTIONAL REFORM ESSENTIAL

Attention must also be paid to the aftermath of the war's outcome for, as I made clear, this conflict is at its roots a political one, and as such requires a political solution. The Rajapakse government has made few concrete indications of its commitment to address the political grievances of the Tamil minority. Statements by the army commander, for example, that Sri Lanka is a Sinhalese country, without repudiation from the government, do not inspire confidence. Without outside pressure, the danger exists that the government in Colombo will not feel the need to genuinely work toward the institutional and political reforms necessary if Sri Lanka is ever to enjoy a sustained peace.

Reforms should include protection of minority rights, an end to human rights violations including assassinations, disappearances, and violence against the media, and an end to impunity. At present no domestic institution can guarantee this, which means that some form of international monitoring will be urgently required.

THE U.S. ROLE

Our Embassy in Colombo has been dedicated to helping find a solution to the current crisis and should be applauded. But we need active and sustained leadership from the top. Despite the Sri Lankan Government's apparent disregard for diplomatic protocol—it has no compunction in calling top U.N. officials terrorists and threatening to expel foreign diplomats—it is a fact that the U.S. is one of the few countries that still retains influence.

As a leading member of the U.N. Security Council, the U.S. has the leverage to demand action on an international level. It must use its leadership to bring about a discussion in the Security Council that will create the moral and political authority necessary to exert full diplomatic pressure on the Government of Sri Lanka to ensure the protection of the internally displaced persons and all its citizens.

Whether or not a country is of strategic interest on the global stage, its citizens are no less entitled to the rights and protections enshrined in the Universal Declaration of Human Rights, including the right to life. This is an opportunity for the new administration to reassert this country's moral leadership on behalf of desperately vulnerable people.

RECOMMENDATIONS FOR U.S. POLICY

The United States should:

- Call for an immediate cease-fire and insist on full access to the internally displaced people by the U.N., ICRC, and international humanitarian organizations to provide safe passage out of the war zone and throughout the process of assistance and resettlement.
- Immediately call for a discussion of the situation in Sri Lanka at the United Nations Security Council.
- Press for a U.N. humanitarian assessment mission to the north and for a Special Envoy of the Secretary General.
- Support a special session of the Human Rights Council in Geneva.
- Use its good offices with India, Japan, China and other nations to encourage the Government of Sri Lanka to adhere to its commitments as a responsible member of the international community.
- Consider bilateral action such as withdrawal of IMET if the Government of Sri Lanka continues to violate international humanitarian law.
- Review U.S. development assistance to ensure that it is "conflict sensitive" and does not contribute to government policies that reassert existing power structures based on violence and military or paramilitary rule or exacerbate deep seated intercommunal tension.

PREPARED STATEMENT OF KAREN PARKER, ATTORNEY

Chairman Casey and members of the subcommittee, I am pleased that you are concerned about the situation in Sri Lanka and have given me this opportunity to provide the subcommittee with information regarding this situation and my views on what United States might usefully do. By way of introduction I am an attorney specializing in international humanitarian (armed conflict) law and human rights. I have participated in United Nations human rights forums since 1982, and have addressed the situation in Sri Lanka since 1983 on behalf of a number of non-governmental organizations, most recently with the Association of Humanitarian Lawyers (AHL) and International Educational Development (IED). In 1987 I presented a statement to the House of Representatives on the situation in Sri Lanka.¹ The views expressed in this statement are my own and do not necessarily reflect the views of IED or AHL.

BRIEF OVERVIEW OF CURRENT CRISIS

The 26-year-old armed conflict between the armed forces of the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam has reached a phase that can only be called genocide-like and catastrophic for the Tamil people in the north and east

¹Application of Human Rights and Humanitarian Law to the Situation in Sri Lanka: Hearings on Sri Lanka before the Subcomm. on Asian and Pacific Affairs of the House Comm. on Foreign Affairs, 100th Cong., 1st Sess. (1987).

of the island.² As there are many incidents on a daily basis and the situation is extremely volatile, it is not possible to be either timely or even accurate as far as facts and figures. Accordingly, this overview should be accepted as snapshots indicating the urgency of the situation. Even so, they clearly indicate genocidal acts.³

A. *Civilian casualties*

While numbers vary substantially about the number of Tamil civilians killed, the most reliable estimates indicate at least more than 2,000 in the past several weeks alone. There are many thousands with life-threatening injuries and the casualty figures can be expected to rise dramatically in the next few weeks due to lack of medical care. Casualty figures released in June 2008 for the war indicated more than 100,000 persons had died, the vast majority of them Tamil civilians.⁴ Recently, the health officer for Mullaitivu district indicated at least 40 Tamil civilians killed and 100 injured per day.⁵

B. *Illegal military operations*

It is clear that hospitals, safety zones and civilian locales have been targeted and the number of casualties indicate blatant disregard for humanitarian law standards.⁶ In defending military actions against hospitals, Defense Secretary Gotabaya Rajapakse was filmed stating: “No hospitals should operate outside the safety zone . . . everything beyond the safety zone is a legitimate target.”⁷ This is an egregious misstatement of the humanitarian law rules. In addition to targeting hospitals outside the safety zone, there is also reliable evidence that the government’s forces continue to targeting hospitals, schools and civilian dwellings inside the safety zones and in other undefended civilian areas that under humanitarian law rules may not be attacked.

C. *Status of relief providers*

Because of fears of attacks as well as because of express orders to leave, most relief agencies have left the LTTE-controlled areas and much of the area newly under government control as well. It appears that Tamils Rehabilitation Organization is the sole-remaining international NGO in the LTTE-controlled area. The International Committee of the Red Cross (ICRC) was ordered out of the LTTE-controlled areas by the government and its capacity to attend to the needs of Tamil civilians not in the LTTE-controlled areas has been dramatically reduced. Its last act was to transport several hundred severely wounded out of the area by ship.

D. *Shortages of food, water, and medical supplies*

Tamil civilians both inside and outside of the LTTE-controlled areas suffer severe shortages of food, water, and basic medical care. The primary supplier of food has been the World Food Programme. WFP’s access to the Tamil-controlled was curtailed some weeks ago, but after much international pressure on the government, a food caravan was allowed into the LTTE-controlled area (the Vanni) on February 19 containing 30 tons or an estimated 100 grams per person/per day, which is grossly inadequate. At the same time, the available food and water at the government’s IDP camps is also grossly inadequate. UNICEF has had emergency feeding centers for children who are grossly underweight and facing death by starvation, but it is uncertain if they also have been cut back by government edict. Tamils in the whole of the north and east have had their subsistence farming and fishing severely curtailed for some time due to the government’s establishment of high security zones (HSZ) which effectively remove prime farming and fishing areas from use. In this manner, the Tamils in the North especially have already faced serious food shortages—many Tamil children are developmentally delayed due to lack of food. In

²This is not to say that there are not serious abuses of Tamils in other areas, which, as they are taking place in the context of the armed conflict, also indicate serious violations of humanitarian law.

³Former United Nations Secretary General Kofi Annan stated many times that whenever there is an ethnic conflict, the question of genocide arises. In this situation there are elements such as direct killings; imposing impossible conditions of life by severe restrictions of food, water, medicines; killing humanitarian aid workers or driving them out; and continuous anti-Tamil rhetoric at home and abroad.

⁴See British Medical Journal, vol. 336, p1482–1486 (19 June 2008) (Zaid Obermeyer, et al.).

⁵Randeep Ramesh, “Sri Lanka Casualty Toll Rises,” The Guardian, Feb.14, 2009.

⁶The protection of hospitals and medical care in general is the foundation issue of the Geneva Conventions, beginning with the Geneva Convention of 1864. Hospitals and other health facilities of both combatants and civilians “may in no circumstances be the object of attack.” Geneva Convention I, Art. 1; Geneva Convention IV, Art. 18. Under current rules, parties to conflicts may establish safety zones, which then become off-limits for military actions.

⁷Interview on Skynet, Feb. 3, 2009.

any case, all evidence shows that the government is denying food, water, and medicine to the Tamil civilian population, prohibited by humanitarian law norms and an element of the crime of extermination under the Statute and Elements of the International Criminal Court.⁸

E. Status of Tamil civilians

There has been considerable controversy about the status of Tamil civilians both in the LTTE-controlled areas and in the government controlled areas. Estimates about the numbers of Tamils in the LTTE area vary from 150,000 to over 300,000. At this point, with no monitoring of the situation, it is impossible to tell, but given the fact that fewer than 60,000 or so have crossed to the government side according to the government's figures, the higher number is the more likely one. Another controversy is that there are accusations that the LTTE is not letting civilians flee and that the government is preventing people from entering into its area. Again, with no witnesses, it is not possible to verify this accusation. However, it is highly likely that many of Tamil civilians in the LTTE-controlled areas would be hesitant to turn themselves over to what they consider an enemy government.⁹ Many of those in the Vanni had come there the past few years after abuses in the government-controlled areas such as Jaffna and Trincomalee. Prior to the recent upheaval, monitors who surveyed check points both ways found that many entering the Vanni had lost relatives to the "white vans," the vehicles that roam the street and seize people who are rarely seen again.¹⁰ Others had been arrested and tortured at government police stations. The war began, of course, after the Tamil people lost faith in the national government to protect their rights, and has been fueled by continued human rights and humanitarian law violations against them. Indeed, more than one-third of the Tamil civilian population on the island now forms the more than 1.3 million persons in the burgeoning Tamil diaspora.¹¹ Those in the LTTE-controlled area also are aware of the IDP camps, and know that when they cross the line, that they will be sent to a camp. What is apparent is that those crossing into the government-controlled area are in severe need of both food and water.

There is also controversy over the government's plans for Tamils leaving the Tamil-controlled areas. The government originally announced that they would be kept in detention camps for 3 years, but after a rather strong reaction from the international community, especially from certain U.N. officials and the U.K., the government is now claiming that Tamil civilians would be in camps for a shorter, unspecified time. Obviously, those crossing the line would be very nervous to express their opinion freely while in camps, and are likely to say whatever will keep them the safest under the circumstances, as commonly occurs in this type of situation.

F. Weaponry

There is strong evidence that the government forces may be using either illegal weapons or legal weapons in an illegal manner. A recent charge was made that 30 families in a safety zone were killed by "bunker buster" bombs. Without proper investigation, it is not possible to verify this or to know, if used, the bunker busters are B61-11s or the older B61-7s from the United States arsenals, or whether they are of different origin. The photographic evidence of cluster bomb casings against civilians is inconclusive—it is obvious that the markings on the cases is in Russian, but less clear whether the photographed casings were from cluster bombs or some other munitions. It is unknown if the Russian Federation supplied these munitions or if another county did. There appears to be reliable evidence of the use of white phosphorus as weapons rather than tracers, or that white phosphorus was used

⁸ See ICC, Rome Statute, Articles 7(1)(b) and 7(2)(b); ICC Elements, Article 7(1)(b).

⁹ See, i.e., Robert Evans, MEP, "Who Can Protect Tamil Civilians," *The Independent*, Feb. 14, 2009: "Whilst the Sri Lankans claim that they are merely trying to eliminate terrorism, the real victims are, as ever, the civilians trapped by the fighting. All the evidence suggests that unless the international community acts very soon, about a quarter of a million people could be caught in a ghastly bloodbath. The Sri Lankan government has urged Tamil civilians to come over to their side for protection, but there is a strong reticence and fear of such a move. The Tamil people have seen so much death and destruction. They are terrified of Sri Lankan troops and their 'holding camps,' with all the stories of assaults and rape, not to mention the different language and religion which divides the Hindu Tamils from the Buddhist Sinhalese troops."

¹⁰ According to United Nations figures, Sri Lanka has one the highest numbers of disappeared persons, the vast majority of which are Tamils.

¹¹ These Tamils are what are called "Eelam" Tamils—Tamils who have lived and governed themselves in the north and east of Sri Lanka for nearly two thousand years. There are also Tamils in Sri Lanka who were brought by the British from India's Tamil Nadu. Usually referred to as the plantation Tamils, they are not part of the conflict, although they may sympathize with the Eelam Tamils, as do the Tamil people in India's Tamil Nadu.

with disregard for possible civilian casualties. There is also photographic evidence of the use of fire bombs against Tamils in camps for internally displaced persons (IDPs). The Government of Sri Lanka has received Dvora patrol/attack boats from Israel, MIG-27s from Ukraine, military assistance and arms from Pakistan and military assistance (and possibly weaponry) from Iran and possibly the Russian Federation.

G. Monitoring

The government has refused any monitoring of the conflict by international actors and organizations and has prevented the media from going to the war area. Note that former President Clinton and former U.N. Secretary General Annan were not allowed to the Tamil-controlled areas following the tsunami, and, except for the ICRC, now forced out, and one or two U.N. officials, no other U.N. mandate holders have been allowed to that area. Former U.N. High Commissioner for Human Rights Louise Arbour was allowed to travel to the North in 2007, but not to Tamil-controlled areas. Her visit to Jaffna was heavily controlled by Sri Lanka authorities, and she apparently was not able to meet with Tamil civilians in private. There is a clear intent to prevent anyone in a position to act from meeting with the LTTE leaders or the people who live in the LTTE areas. The head of the U.N. Office for the Coordination of Humanitarian Affairs (OCHA), John Holes, was allowed to visit several of the IDP camps in Vavuniya during his just-finished trip, but he was not allowed to circulate freely and was accompanied by the President's brother. In the best of circumstances, this would not be conducive to a fair evaluation of the situation. Further, he was called a "terrorist" by Sinhala politicians following his previous visit in August 2007 when he commented on the high number of killings of humanitarian workers aiding the Tamil population, so he is apt to be cautious. A significant concern is that the interpreter from Tamil to English during Mr. Holmes' visit to persons in IDP camps was a senior minister in the Rajapakse administration, and there is no way to verify what interviewees actually said.¹²

H. Attacks on media

In the past few years there have been assassinations of many of the major Tamil journalists, or journalists that are considered "friendly" to Tamils by the government. The most recent victim of this was Lasantha Wickrematunge, killed on January 8, 2009. Mr. Wickrematunge, a Time Magazine freelancer and the editor of The Sunday Leader, was an outspoken critic of the Government of Sri Lanka. In an interview with the BBC's Chris Morris about Mr. Wickrematunge's death, Defense Secretary Gotabaya Rajapakse stated that dissent or criticism in time of war is treason. Chris Morris fled Sri Lanka on February 2, 2009, after being called an LTTE supporter by the Defense Secretary. Dozens more have fled since then, many receiving aid from international media NGOs. In 2008, 12 journalists were killed in Sri Lanka. Sri Lanka was identified by Time Magazine as No. 3 on the list of under-reported stories in 2008 and claimed the war was deadlier than Afghanistan.

INTERNATIONAL RESPONSES TO THE CRISIS

There have been a number of actions by both governments and international officials since the crisis began in January, although since the Rajapakse administration began, there has been increased scrutiny of the long war, especially since January 2008 when President Rajapakse announced that he was suspending the then-5-year-old cease-fire agreement. For example, there was a special debate on the Tamil genocide in the House of Commons U.K. in October, followed by an adjournment debate in the House of Commons on December 18, 2008.¹³ On January 23, 2009, Germany called for a cease-fire. Australia has indicated that it will provide an additional 4 million Australian dollars. The EU issued a call for a cease-fire on February 23, 2009.

A number of international personages have also called for a cease-fire and a settlement of the conflict through negotiations. Recently Nobel Laureate Jose Ramos Horta offered to mediate. Nobel Laureates Desmond Tutu and Martti Ahtisaari have recently spoken out about the need for a negotiated political settlement.

¹²At the time of that visit, more than 60 aid workers had been killed in about 1½ years, the highest in any current conflict.

¹³A brief summary of some recent actions undertaken by the U.K. was transmitted by Andrew Dismore MP (Hendon) to one of his constituents, including U.K. actions urging a cease-fire, and pressing the Sri Lankan authorities on access for organizations delivering humanitarian relief to be both improved and more predictable. There has been direct communication by Prime Minister Brown, with follow up by David Milliband, to President Rajapakse encouraging cooperation with the ICRC and U.N. The U.K. Government is doubling its recent humanitarian aid, and cooperating with the U.N. in the Emergency Response Fund.

Within the U.N. system, Walter Kalin, the U.N. Independent Expert on Internally Displaced Persons issued a statement of concern on December 23, 2008. Radhika Coomaraswamy, the Special Advisor to the Secretary General on Children and Armed Conflict issued a statement on January 21, 2009, and another on February 20, 2009. Navi Pillay, the High Commissioner for Human Rights issued a statement on January 29, 2009. On February 9, 2009, ten mandate holders under the U.N. Human Rights Council issued a statement.¹⁴ OCHA posted a special report on February 10, 2009, in which it indicated that the Office of the U.N. High Commissioner for Human Rights was preparing to address the needs of up to 100,000 IDP and others. UNICEF and the World Food Programme are actively involved with providing relief in Sri Lanka, although the two specialized agencies cannot operate freely in the Tamil areas and the Tamil-controlled areas.

A recent request by Mexico to address Sri Lanka in the Security Council was rebuffed by the Russian Federation. Secretary General Ban Ki-moon claimed that he could not ask the Security Council to address the issue because it was not on the agenda, although Article 99 of the U.N. Charter clearly gives him the authority to do so and he has acted under Article 99 authority in the past.

The Tamil diaspora has responded to the crisis with many demonstrations. For example, there have been recent demonstrations in South Africa, Australia, New Zealand, Washington, DC, New York, San Francisco, London, Paris, and Geneva. In Canada there have been several massive demonstrations, including a "human chain" that surrounded a large part of downtown Toronto.

UNITED STATES POLICIES

United States had little interest and involvement in post-colonial Sri Lanka until the Reagan administration, even though there were many disturbances between Sinhala and Tamils from the beginning of that period, including four or five widespread massacres of Tamils by Sinhala mobs. Regretfully, United States policies that began under the Reagan administration have been unhelpful in resolving this situation. In 1987 India found out about President Reagan's interest in developing Trincomalee Harbor to accommodate the United States Navy: a deal had been nearly worked out with President Jeyewardene. Wanting to prevent this, India entered into the Indo-Sri Lanka Accord (1987) and attached a letter of annexure indicating that nothing would transpire with Trincomalee that was against the wishes of India. There was perhaps a tactical pause under the Clinton administration. After the events of September 11, the Bush administration looked again at Trincomalee and there are suggestions that Palaly Airfield was also under consideration. Both of these are in the Tamil areas, so in order for possible bases to be secure, the Tamil question would have to be resolved.¹⁵ However, instead of taking a leadership role in resolving the conflict with cooperation of the co-chairs and the Sri Lankan Monitoring Mission, the Bush administration converted the armed conflict in "terrorism/counterterrorism." Thus the conflict was no longer reviewed under prevailing humanitarian law, the result of which has substantially prolonged the conflict and has done considerable damage to humanitarian law itself. Of course, false labeling of armed conflicts as "terrorism/counterterrorism" does not make the world any safer from actual terrorists and, with the demise of humanitarian law protections usually results in many more victims of armed conflicts than there would otherwise be. Sadly, this is the case in Sri Lanka.

It is clear that since 1982 the LTTE has met all criteria for combatant status according to humanitarian law norms: They have an identifiable chain of command; they are in uniform and use the weapons and the materiel of war; they have ground, sea and air forces; they have exercised sufficient control over territory to be able to engage in sustained and concerted military operations; and in all ways meet combatant status criteria. This does not mean that to recognize the existence of the armed conflict necessarily means a political approval of their aims, which, as the LTTE states, is to ensure sufficient autonomy if not separation from Sinhala control

¹⁴The statement was issued by experts Sehaggya (human rights defenders), La Rue (freedom of expression on opinion, Corcuera Cabezul (involuntary disappearances), Castrillo (arbitrary detention), Grover (the right to health), Despouy (the independence of justice), deSchutter (the right to food), Alston (the right to life), Nowak (torture), and Rolnik (housing).

¹⁵The importance of Trincomalee was one of the topics under discussion in the Adjournment debate of December 18, 2008. The debate is on the U.K. Parliament's webcam. That the Bush administration was seeking these military bases may be a reason the Russian Federation has made overtures to the Rajapakse administration of late and blocked Security Council attention to the matter. There apparently is an MOU between the Bush administration and President Rajapakse regarding Trincomalee.

so as to enable the Tamil people to live in peace and security.¹⁶ Recognizing a war as a war also does not extinguish the terrorism question: there is a rule in the Geneva Conventions that prohibits “measures of intimidation or terrorism” against the civilian population.¹⁷ However, if such measures occur, this does not convert combatant forces to terrorists; combatants remain under the protection and obligations of humanitarian law as long as the conflict is occurring, and in certain cases, for some time after the conclusion of hostilities. Both the LTTE and the government forces may carry out any military operation that is not prohibited in humanitarian law. Many of the military operations in this war are legal, but those occurring now that target the Tamil civilian population are not.

The conversion of the war into “terrorism/counterterrorism” has had a number of other serious consequences, one of which is the distressful erosion in basic human rights and far too many “shades of gray” in situations that are actually quite black and white.¹⁸ But an even more serious consequence is that the Tamil people worldwide have been so demonized by the constant inferences that “Tamil = Tiger = terrorist,” mostly by the constant references to this by Sri Lanka’s President and other authorities, that Tamils have been intimidated and have lost the key support of institutions and groups who ordinarily would be sympathetic.¹⁹ Any public show of sympathy for Tamils is fiercely and publicly countered by the government, targeting, *inter alia*, more than a few Members of Congress in the United States and members of Parliaments in numerous other countries. Sri Lanka representatives try to intimidate NGOs at United Nations human rights sessions.²⁰ They also pursue Tamils in the diaspora, and even try to prevent local authorities from issuing permits for Tamil demonstrations. In the United States there is a mood that somehow the Tamil people as a whole are an enemy of the United States. In my 27 years working on humanitarian law issues, I have never encountered a situation where an ethnic group that has been the victim of the most serious of human rights and humanitarian law violations becomes the culprit—and in ways that are overtly racist. Indeed, it is not possible for people to discuss any other group in this fashion without receiving instant disapproval.

There are some hopeful signs that the new United States administration will play an affirmative role in the situation rather than a grossly negative one. Both President Obama and Secretary of State Clinton have made statements that indicate more careful reflection on this and similar situations.

RECOMMENDATIONS

1. The first thing that the United States should do is call for an immediate ceasefire, and then should most forcefully present this to the Rajapakse administration. While the Rajapakse administration has stated as recently as a few days ago it would not do so, it is difficult to imagine that with the combined force of the U.S., the rest of the co-chairs and the rest of the “Western and Other” bloc at the U.N., Sri Lanka’s main “donor” states, that Sri Lanka would be defiant. While Sri Lanka may have received assurances from Iran and the Russian Federation, for example, that they would cover Sri Lanka’s needs, it does not seem likely that they can substitute for the level of aid from the Western bloc and Japan.

2. The United States should ensure that no state that receives United States military assistance provides arms to the government forces. The United States should also seek to stop arms delivery to the Government of Sri Lanka by any other countries.

3. The United States should take a leadership role in ensuring that the humanitarian needs of the Tamil civilians are met, that Tamil civilians are not relocated

¹⁶Their aims are identical to those of the Kosovans, who have obtained the blessing of the United States to secede from Serbia. One wonders, why the Kosovans and not the Tamils?

¹⁷Geneva Convention IV, Art. 33. This is slightly augmented by Protocol Additional I to the Geneva Conventions, Art. 36: “Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.”

¹⁸Treating persons suspected of being terrorists as being Prisoners of War (Guantanamo comes to mind) and held under Geneva Convention standards when they are clearly not captured combatants, for example, is absurd: the “war on terrorism” is a rhetorical phrase, not a factual one.

¹⁹Note that even M.I.A., the Tamil rap star nominated for a Golden Globe and an Oscar, was attacked by some for being proterrorism. A college student in Canada told me that after the Harper government came to power and “listed” the LTTE, a professor announced in one of her classes that there was a terrorist in the room.

²⁰Note that some also raise the “child soldier” issue, which further demonizes of the Tamil people although the charge is leveled at the LTTE and others. However, the international minimum age for soldiers as set out in the Geneva Conventions is 15, and those who raise the issue are using age 18 as the minimum.

to detention camps but are allowed freely to resettle in their own locales, and that the human rights abuses against them cease immediately. In particular, the United States should ensure that its contribution to the rehabilitation of the Tamil areas reflect a genuine desire to assist. The United States should ensure that any funds donated by Tamil people to assist Sri Lanka Tamils that have been “frozen” be made available for the purpose of assisting these Tamils.

4. The United States should most forcefully insist that on-site visits to any and all areas of Sri Lanka by U.N. officials or other impartial persons take place, and that interpreters for such visits are trained and impartial. The United States should also insist that Sri Lanka allow the United Nations High Commissioner for Human Rights to expand her office in Sri Lanka.

5. The United States should ask the Government of Sri Lanka what proposals they have for the resolution of the Tamil issue. The United States should consult regularly with the leadership of the Tamil diaspora, both in the United States and in other countries, to invite comments and suggestions on proposals. The United States should encourage the Government of Sri Lanka to accept the good offices of mediators such as those mentioned above.

6. The United States should ensure that the Government of Sri Lanka ceases all anti-Tamil rhetoric at home and abroad and that it finds a way to prevent Sinhala political parties (such as the JHU) from also engaging in anti-Tamil rhetoric that has so often incited Sinhala mob attacks on Tamils and those perceived as “pro-Tamil.” The United States should ensure that the Government of Sri Lanka ceases all acts against Tamil American citizens or residents or anyone else perceived as being “pro-Tamil.”

7. The United States should reexamine its foreign policy objectives in Sri Lanka and the area, and take steps to ensure that United States policies do not contribute to human rights and humanitarian law violations of any kind, and especially not of the scale and scope of those against the Tamil people in Sri Lanka.

PREPARED STATEMENT OF BRUCE FEIN, ATTORNEY, TAMILS AGAINST GENOCIDE

Dear Mr. Chairman and members of the subcommittee, I welcome the opportunity to share my views on the recent violence in Sri Lanka; and, to make recommendations as to how the United States should respond to diminish or end the daily horrors inflicted on innocent civilians outside any conceivable war zone.

I. The Government of Sri Lanka (GOSL) has compounded the difficulty of knowing what is happening by an impenetrable media blackout and eviction of all outside observers.

Best estimates from neutral persons in Sri Lanka place the death toll of innocent Tamil civilians in the predominantly Tamil northeast over the past 2 months at more than 2,000. The number of injured probably exceeds 10,000. The number of displaced persons most likely approximates 350,000. None of these figures, however, can be confirmed at present with direct testimony. The Sinhalese Buddhist GOSL is the reason we are reduced to conjecture. It has imposed a media blackout. It has evicted all NGOs. It has evicted all humanitarian aid workers. It has evicted the Sri Lanka Monitoring Mission. It has evicted the International Committee of the Red Cross. No independent news reporter or neutral witness may observe the conflict between the all Sinhalese “Tamil free” armed forces and security services of Sri Lanka and the Tamil Tigers. Neither are there outside eyewitnesses to the indiscriminate violence that rains down daily on innocent Tamil civilians whether in hospitals, temples, churches, schools, or “safe zones”—an Orwellian term to describe the forced concentration of Tamil civilians into a tiny area to increase the efficiency of their physical destruction in whole or in substantial part by the Sinhalese majority.

The GOSL accuses the Tamil Tigers of responsibility for the atrocities and worse against Tamil civilians. The LTTE and Tamil civilians maintain the opposite. Who is telling the truth? There can be no conclusive answer based on direct eyewitness testimony because the GOSL has compounded the fog of war with the fog of censorship—making the Tamil northeast a virtual black hole. If the GOSL’s assertions were true about LTTE culpability in the killings of Tamil civilians, it would have all the incentive in the world to lift both the censorship and the media blackout and place the northeast under a public spotlight. It has hundreds of military camps in the north and northeast. Its roadblocks are omnipresent. It controls population movements more tightly through National Identity Cards and otherwise than South Africa did during apartheid. It could easily create safe passage for foreign reporters and NGOs to testify about responsibility for the grim Tamil civilian casualties and conditions of life.

From the circumstance that the Sinhalese Buddhist GOSL has drawn a figurative iron curtain around the northeast and the so-called "safety zone," a persuasive inference can be drawn that it is hiding something terrible: its primary or complete responsibility for the recent ongoing murders and sister atrocities against Tamil civilians.

II. A page of history is worth volumes of logic.

Accordingly, to understand Sri Lanka's contemporary ethnic conflict, the history of Sinhalese Buddhist persecution of Tamil Hindu/Christians must be briefly recounted.

Sri Lanka's Tamils in the Jaffna Peninsula and in the North-East have been victims of Sinhalese Buddhist persecution and genocide since independence 61 years ago. Sri Lanka uniquely sports a culture of genocide. But for a few quislings and Tamils willing to accept vassalage or serfdom, every living Tamil in the Jaffna Peninsula and the North-East has been displaced, physically injured, or persecuted by the Sinhalese Buddhist majority—an unprecedented victimization rate approaching 100 percent.

A genocidal culture seeks to destroy a minority racial, ethnic, or religious group not only by extrajudicial killings, but also by disintegrating their political and social institutions, language, national identity, religion, and economic existence; undermining their personal security, liberty, health, education, communications, mobility and dignity; and, creating a permanent state of psychological or emotional trauma or anxiety through never-ending displacements or otherwise.

Sri Lanka's culture of genocide was born in part from a paranoid imagination that more than 50 million Tamils from Tamil Nadu state in India would be perpetually plotting to overrun Sri Lanka's Sinhalese Buddhists by sheer numbers. Building on that fear, three elements combined. The first was the Mahavamsa, the Sinhalese Buddhist equivalent of the Christian New Testament or the Muslim Holy Koran. The Mahavamsa myths teach that Sinhalese Buddhists are the sole rightful occupiers of Sri Lanka; and, that Tamils and all others are inferior interlopers who must be destroyed to honor Buddha.

The second was the Buddhist monk dogma that religion and state were indivisible; and, that Sinhalese Buddhism and politics on the island should merge.

The third was the Sinhalese Buddhist racial supremacist doctrines of the venerated Sinhalese Buddhist monk Dharmapala. They exalted a pure Sinhalese Buddhist race in Sri Lanka to the exclusion of all others. The race purity creed surfaced contemporaneously with Hitler's goal of making Nazi Germany pure Aryan.

Reminiscent of white racist politicians in the South during Jim Crow in the United States, Sri Lankan prime ministerial or Presidential candidates routinely pledge to be more genocidal toward Tamils than their campaign rivals to win Sinhalese Buddhist votes. Each political contest culminates in higher plateaus of Tamil genocide than had been set by its predecessor.

At independence, Sri Lanka's population was then generally divided into two ethnic-religious groups. The commanding majority were Sinhalese Buddhists with a smattering of Sinhalese Christians. They constituted an approximately 77 percent voting majority, and resided predominately in the west and south. Tamil Hindus with a small percentage of Tamil Christians comprised approximately 18 percent of the population. They resided primarily in the north and east. The remainder consisted of Tamil-speaking Muslims who largely resided in the east.

Like Jews in Nazi Germany, Tamils are excluded from service in the Sri Lankan armed forces, security services, or law enforcement agencies. In the Jaffna Peninsula and the North-East, Tamils are exposed to conditions of life intended to lead to their physical destruction in whole or in substantial part. Those conditions include, but are not limited to, starvation; malnutrition; disease; chronic displacements; lack of housing, medical care, education, and communications; abject poverty, and permanent physical and economic insecurity.

Since Sri Lanka's birth, only one nontrivial crime perpetrated by a Sinhalese Buddhist against a Tamil has ever been prosecuted and seriously punished; and, no Tamil has ever been compensated for injuries inflicted by the GOSL for its orchestrated riots or crimes.

Long before the LTTE came into being, Tamils had been viciously persecuted and slaughtered by Sri Lanka's Sinhalese Buddhist majority with impunity. Mahatma Gandhi-like peaceful protests by Tamils against subjugation were answered with brutality.

In 1956, the Sinhalese-Buddhist majority enacted the "Sinhala Only Act." It made Sinhalese the exclusive official language of Sri Lanka and stripped the Tamil language of equal dignity or respect. The exaltation of Sinhalese severely compromised the ability of Tamils to compete professionally, academically, and politically, and

handicapped their legal protection because all complaints or testimonies must be in Sinhalese.

Two hundred Tamils peacefully assembled on Galle Face Green, which faces the Sri Lankan Parliament, to protest the Sinhala Only Act on June 5, 1956. Led by junior minister Rajaratna, Sinhalese mobsters attacked the Tamils and pelted the protestors with stones while the Sinhala police gazed on in amusement. Rioting against Tamils soon spread nationwide, including the major cities of Colombo, Batticaloa, Trincomalee, and Gal Oya. When the rioting ended, approximately 150 Tamils were dead. The GOSL neither attempted to prosecute the Sinhalese attackers nor compensated the Tamil victims. No apology for the rioting was offered.

After the conflict with the LTTE commenced, the Sinhalese Buddhist GOSL routinely responded to military attacks by massacring the Tamil civilian population, like Hitler's destruction of Lidice in World War II. "Black July" of 1983 was emblematic.

In response to an LTTE attack in the Jaffna Peninsula on Sri Lanka's Army that killed 13 soldiers, the GOSL orchestrated the mass murder of Tamil civilians and destruction of their properties. They were removed from buses and cars to be hacked and burned alive. In Colombo alone, more than 2,000 were slaughtered and 70,000 displaced. Elsewhere, more than 1,000 were slain and 150,000 were displaced and driven into refugee camps. When the rioting concluded, 18,000 homes had been damaged, 20,000 Tamil shops had been ravaged, and more than 100 Tamil industrial plants had been destroyed. In Jaffna alone, 175 homes had been set ablaze by policemen. Thirty-nine Hindu and Tamil places of worship were destroyed. No Sinhalese Buddhist culprit was prosecuted, and, no Tamil victim was compensated. Then GOSL President Jaywardene sneered to a British reporter in an interview republished in the government-run Sunday Observer on July 17: "I am not worried about the opinion of the Jaffna [Tamil] people now . . . Now we can't think of them. Not about their lives or their opinion about us."

III. Violence perpetrated by the incumbent Sinhalese Buddhist Government of Sri Lanka against Tamil civilians has crossed the line into genocide, which justified a criminal investigation under United States laws.

The crime of genocide under the United States Genocide Accountability Act of 2007 (GAA) is defined as physically destroying or attempting to destroy in whole or in substantial part a racial, ethnic, religious or national group, as such, through extrajudicial killings, serious bodily injury, or the creation of conditions of life intended to cause the physical destruction of the targeted group.

In spearheading the enactment of the GAA, Senator Richard Durbin (D-IL), had in mind the cases of U.S. dual citizen Gotabaya Rajapaksa, Sri Lanka's Defense Secretary, and U.S. permanent resident Sarath Fonseka, Sri Lanka's Army Commander. The Senator elaborated: "What we are saying to those around the world who are engaged in uncivilized and barbaric conduct is do not even consider coming to the United States as your retirement home . . . There is no place for you to hide." Then Senators Barack Obama (D-IL), Joseph Biden (D-DE), and Hillary Clinton (D-NY) supported Senator Durbin and the GAA.

On February 5, 2009, I had delivered to U.S. Attorney General Eric H. Holder a three-volume, 1,000-page model 12-count genocide indictment against Rajapaksa and Fonseka charging violations of the GAA. (An executive summary is attached as Exhibit 1). Derived from affidavits, court documents, and contemporaneous media reporting, the indictment chronicles a tale of Sinhalese Buddhists attempting to make Sri Lanka "Tamil free." Rajapaksa and Fonseka assumed their current offices in December 2005. They exercise command responsibility over Sri Lanka's mono-ethnic Sinhalese security forces. On their watch, they have attempted to physically destroy Tamils in whole or in substantial part through more than 3,800 extrajudicial killings or disappearances; the infliction of serious bodily injury on tens of thousands; and, the creation of conditions of life intended to lead to the physical destruction of Tamil civilians, including starvation, withholding medicines and hospital care, humanitarian aid embargoes, bombing and artillery shelling of schools, hospitals, churches, temples; and, the displacements of more than 1.3 million civilians into camps, which were then bombed and shelled. This degree of mayhem inflicted on the Tamil civilian population because of ethnicity or religion ranks with the atrocities in Bosnia and Kosovo that occasioned genocide indictments against Serbs by the International Tribunal for the Former Yugoslavia.

During the past 2 months, a virtual reenactment of the Bosnian Srebrenica genocide of more than 7,000 Muslims has unfolded. Sri Lanka's armed forces employed indiscriminate bombing and shelling to herd 350,000 Tamil civilians into a government-prescribed "safe zone," a euphemism for Tamil killing fields. There, more than 2,000 have been slaughtered and a greater number have been injured by continued

bombing and shelling. As a preliminary to the horror, roads and medical aid were blocked and humanitarian workers and all media were expelled. During a BBC radio interview on February 2, 2009, Rajapaksa declared that outside the “safe zone” nothing should “exist.” A hospital was repeatedly bombed killing scores of patients. Rajapaksa further proclaimed that in Sri Lanka any person not involved in fighting on behalf of the Government of Sri Lanka was a terrorist, and that any person who criticized the GOSL should anticipate a death squad. General Fonseka is no less definitive that Sri Lanka is Sinhalese Buddhist (not a multiethnic) nation. In a September 23, 2008, interview with Stewart Bell of the Canadian National Post, Fonseka conceded: “I strongly believe that this country belongs to the Sinhalese. . . .”

Under Article 5 of the Genocide Convention of 1948, ratified by the United States Senate in 1986, the United States is obligated to provide “effective penalties” for genocide. That imposes an obligation on signatory parties to investigate and to prosecute credible charges.

The predictable GOSL defense of counterterrorism will not wash. Not a single Tamil victim identified in the genocide indictment was involved in the longstanding ethnic civil war between the Government of Sri Lanka and the LTTE—including the victims who were attacked in hospitals, schools, temples, churches, and displaced person camps.

Former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen recently published a report placing genocide on the national security agenda. The State Department lists Sri Lanka as an investigatory target in its Office of War Crimes. The New York-based Genocide Prevention Project last December labeled Sri Lanka as a country of “highest concern.” President Barack Obama has made the case for military intervention in Sudan or elsewhere to stop atrocities. The justification for opening a genocide investigation of citizen Rajapaksa and permanent resident Fonseka is thus compelling. In addition, an investigation or indictment, despite little current prospect of extradition from Sri Lanka for trial in the United States, would probably deter the GOSL from some of its most gruesome killing tactics.

IV. Recommendations for stopping the genocide or slaughter of Tamil civilians by the Sinhalese Buddhist GOSL.

I would suggest the United States consider the following measures:

- Seek an international arms embargo on Sri Lanka in the United Nations Security Council under Chapter 7 of the United Nations Charter;
- List Sri Lanka (along with Sudan, Iran, Syria, and Cuba) as a state sponsor of terrorism under United States laws, which would trigger various sanctions;
- Freeze the United States assets of Gotabhaya Rajapaksa and Sarath Fonseka;
- Deny visas to the GOSL leadership, including President Mahinda Rajapaksa;
- Vote against economic aid to the GOSL at the World Bank and IMF;
- Deny Sri Lankan goods favorable tariff treatment;
- List Mahinda Rajapaksa, Gotabhaya Rajapaksa, and Sarath Fonseka as specially designated terrorists under Executive Order 13224;
- Support a “One country, two systems” political solution to the ethnic conflict in Sri Lanka;
- Withdraw the United State Ambassador from Colombo until the genocide and indiscriminate killing of Tamil civilians by the Sinhalese Buddhist GOSL ceases.

CONCLUSION

For decades, the primary horrors in Sri Lanka have been inflicted on Tamil civilians by the GOSL. Like triage, their plight should be addressed first through genocide prosecutions or otherwise.

EXHIBIT 1

EXECUTIVE SUMMARY

MODEL INDICTMENT CHARGING U.S. CITIZEN AND SRI LANKAN DEFENSE SECRETARY AND U.S. PERMANENT RESIDENT AND COMMANDER OF ARMED FORCES

Bruce Fein, attorney for Tamils Against Genocide (TAG), has gathered evidence that the crime of genocide under United States law has been committed against the indigenous civilian Tamil population of Sri Lanka outside of any conceivable war or conflict zone, for example, temples, churches, schools, or hospitals. The evidence is collected in a three-volume, 1,000 page prod model indictment which charges U.S.

citizen and Sri Lankan Defense Secretary, Gotabaya Rajapaksa, and U.S. permanent resident and Commander of the Sri Lanka Army, Lt. General Saratha Fonseka, with 12 counts of genocide, and 106 counts of war crimes and torture, in violation of U.S. domestic statutes 18 U.S.C. § 1091, 18 U.S.C. § 2441, and 18 U.S.C. § 2340A.

TAG submitted the model indictment to the U.S. Department of Justice on February 5, 2009, for the U.S. Attorney General to initiate a grand jury investigation aimed at filing a federal criminal case in the U.S. District Court for the Central District of California.

A recent U.S. statute now makes it a crime for U.S. citizens and permanent residents to be responsible for the crime of genocide committed even outside U.S. borders. If filed, this case would be the first test of the United States Genocide Accountability Act of 2007 sponsored by Senator Richard Durbin (D-IL), and supported by then Senators Barack Obama (D-IL), Joseph Biden (D-DE) and Hillary Clinton (D-NY).

The Sinhala-dominated government has discriminated against and persecuted the civilian Tamils of Sri Lanka since independence in 1948. Since the ethnic conflict erupted between the Sri Lankan armed forces and Tamil rebels in 1983, the Tamil areas of the North-East have been subjected to harrowing destruction. The Tamil people there have been indiscriminately killed, disappeared, kidnapped, raped, and otherwise persecuted with the intent to destroy Tamil groups in whole or in substantial part because they are not Sinhalese Buddhists.

COMMAND RESPONSIBILITY FOR GENOCIDE, WAR CRIMES AND TORTURE

The model indictment organizes all relevant crimes committed against Tamils in Sri Lanka between December 5, 2005 and January 29, 2009. By compiling legal evidence, this document intends to prove that the defendants are individually criminally responsible for genocide, war crimes, and torture as recognized and punishable under U.S. domestic law. Genocide is the deliberate and systematic destruction or attempted destruction, in whole or in substantial part, of an ethnic, racial, religious, or national group, as such. War crimes are the violation of the laws and customs of war and include the murder, ill-treatment or deportation of civilians, the wanton destruction of cities, towns, and villages, and any devastation not justified by military necessity.

As detailed in the model indictment, the specific crimes of genocide, war crimes, and torture committed against Tamils during the period from December 5, 2005 to January 29, 2009 (Eelam War IV), from the gang-rape of Tharshini Illayathamby to the Sencholai school bombing, were committed under the military command responsibility of the defendants through the following nonexhaustive list of methods which were systematically employed in Sri Lanka by the Sri Lankan armed forces and government-sponsored paramilitaries: Murder, massacre, torture, mutilation and maiming, disappearance, abduction, rape, gang-rape, sexual abuse and assault, arbitrary or indefinite detention, indiscriminate aerial bombardment, indiscriminate artillery shelling, a permanent cycle of displacement and redisplacement, starvation, deprivation of essential goods, medicine, education and public services, harassment, intimidation, and other stark conditions of life intended to cause the physical destruction of Tamil groups in whole or in substantial part.

These crimes have brought the Sri Lankan Tamil community to substantial physical destruction, as the model indictment details:

- “Every living Tamil in the Jaffna Peninsula and the North-East has been displaced, physically injured, and/or persecuted by the Sinhalese Buddhist majority—an unprecedented victimization rate approaching 100 percent.”
- “During more than two decades of war, including Eelam War IV, in predominantly Northeastern provincial territories, all Hindu/Christian North-East Sri Lankan Tamil villages have been fully depopulated at least once.” “The economic blockade and military attacks worked in tandem with a media blackout, and confinement of Tamil civilians in the North-East intensified. The GOSL continued their genocidal strategy of killing Tamils in concentrated locations and imposing stringent conditions of life with shortages of food, medicine, energy, or housing to destroy Tamils physically through starvation, malnutrition, disease, and exposure to the elements.”
- In one 4-year period alone “Sri Lankan forces destroyed 150,000 homes, created 6,000 widows, orphaned 4,000 children in the North-East, damaged 700 temples through bombings, and removed various icons or holy Hindu images from 63 temples.”
- “Poverty, displacement, and garrisoning of entire towns and villages by Sri Lanka’s armed forces caused Jaffna’s student population to plunge by 100,000

since 1995, the Government Agent for the northern district reported. Before Eelam III, the student population in Jaffna was 240,000. By 2004, it had dropped to 140,000.”

- “Genocide [was also accomplished] in Jaffna and the North-East, respectively, in part through colonization, militarization, and Sinhalization.” A population which had some of the best indicators of civilian well-being in South Asia, including literacy and infant mortality rates has now become one of the poorest areas. For instance, “In 1991, of the total 148,080 tons of essential foods needed in Jaffna, only 43,080 tons were supplied—a 71-percent shortfall. Paddy production plunged 83 percent.” “Before Eelam War II and the blockade, 700–1,000 tons of food was unloaded annually at Point Pedro Port in Jaffna; during Eelam War II, that quantity fell to 100 tons.” “The fishing sector provided subsistence and livelihoods for 200,000 Tamils. Annual fish production in this sector fell from 104,300 tons to 1,094 tons, a drop of 98.95 percent, occasioned by national security restrictions. Local consumption before the blockade annually required 6,605 tons of fish. Only 16.6 percent of that tonnage was caught after 1990.” In 2002, “[t]he SLA destroyed 50,000 palmyra trees on the route joining Thalaimannar to Mannar. Approximately 40,000 Tamil families depend on palmyra plantations while another 25,000 families’ livelihood depends on toddy production, handicrafts, as well as other tree products.” “In the 10 months from June 1990 to April 1991, North-Eastern hospitals required 220 million rupees to operate, but the GOSL only supplied 7 percent—15 million—of the required amount, and did so irregularly.” During the same period, “Amparai, whose Sinhala population had risen since independence due to state-sponsored colonization, received funding and treatment for 90 percent of their needs.” “In the Jaffna Peninsula, for example, the SLA’s Operation Whirlwind in May 1992 bombed eight hospitals and surrounding infrastructure.”
- “The Mannar Bishop and human rights activists lamented [in 1998] that the CSU [Counter Subversive Unit] habitually arrests women such as Sivamani and Wijikala from various parts of the Mannar district to rape and exploit brutally under the pretext of interrogation and extended detention pursuant to the Prevention of Terrorism Act and the Emergency Regulations.”
- Colonization of Sinhalese into Tamil areas has continued apace. For instance, “The GOSL began construction of a Buddhist shrine in Vilankulam, a traditional Tamil village in 2002 . . . In a companion act of religious bigotry, [nearby, 2 weeks later] the GOSL banned renovation of the historic Hindu temple at Kanniya, in Trincomalee.” In 2007, “[w]hile a majority of the 222 Tamil families from the traditionally all Tamil Raalkuli village in Muthur division in Trincomalee District had been displaced due to SLA and SLAF attacks, by this date, a Colombo-based Buddhist organization laid the foundation stone for 138 houses intended for the settlement of Sinhala-Buddhist civilians in the village.”
- “The fact is that not a single member of the security forces had, at the date of the Mission, been convicted of murder . . . A culture of impunity has developed, with perpetrators of grave violations being convicted of minor offenses or, in most cases, not at all.”—Centre for the Independence of Judges and Lawyers in Geneva, 1997. “Torture has been facilitated by widespread impunity of the perpetrators. To date, no member of the security forces has been brought to justice for committing torture.”—Amnesty International, 1998

The Eelam War IV genocidal motivation can be understood only when juxtaposed with the post-independence pattern of facts and historical events which show the persistent intent of successive democratically elected Sinhala-Buddhist regimes to commit deliberate acts of genocide with the intent to destroy in whole or in substantial part the Hindu/Christian North-East Sri Lankan Tamil national, ethnic, racial, religious group, as such, in the North-East provincial territories of Sri Lanka, which includes the heavily populated Jaffna Peninsula.

GENOCIDE AND WAR CRIMES

Proof of genocidal motivation is occasionally direct, as with Defendant Fonseka’s assertion that Sri Lanka is a Sinhalese nation—not a multiethnic nation. Other evidence of motivation is circumstantial, for example, no Tamils serve in the security forces; and no Sinhalese Buddhist perpetrator of extrajudicial killings, torture, rape, and other atrocities has ever been both prosecuted and punished in more than 60 years, with one minor exception.

Twelve counts of genocide are charged in the model indictment, followed by 106 counts of war crimes and torture. These introduce the option of legal action which charges the defendants for acts of war crimes and acts of torture where, unlike the

counts of genocide, the proof of intent to physically destroy on whole or in substantial part a Tamil group is not required.

The indictment charges violations of U.S. criminal laws, not international law. The institutions entrusted with enforcing international criminal prohibitions, for instance, the International Criminal Court or the International Court of Justice, are routinely hijacked by big-power politics. China would frustrate any effort to call the Defendants to account before international bodies, just as it has for its own crimes against Tibetans or Uighurs.

Recourse is being made to prosecuting these crimes in U.S. courts because the Government of Sri Lanka, controlled by the island's Sinhala-Buddhist majority, has been an impediment to delivering any justice for crimes against Tamils in Sri Lanka. Further, the defendants are a U.S. citizen and U.S. permanent resident, whom the United States has a special responsibility for prosecuting under the Genocide Convention of 1948, which was ratified by the U.S. Senate in 1986. United States courts are fiercely independent, and will not be distracted in a genocide prosecution about arguments over the listing of the LTTE as a terrorist organization or other irrelevancies to the crime that the defendants would attempt to interject.

The Counts

Genocide Counts

The charges of genocide in the model indictment are separated into 12 counts as discernable by the differing methods of genocide in different territorial areas of North-East Sri Lanka. The 12 counts of genocide are comprised of 5 region-level counts and 6 village-cluster levels of genocide. The 5 regions are listed below:

Region-Level Genocide

1. Non-Government-Controlled Northern Territory (NGNT): Vanni Region, which includes Mullaithivu and Kilinochchi districts (as of January 2008).
2. Government-Controlled Northern Territory 1 (GNT-1): Jaffna Peninsula that includes the Jaffna district and the Jaffna islets.
3. Government-Controlled Northern Territory 2 (GNT-2): Vavuniya District, Mullaithivu District and Mannar District.
4. Eastern Territory (ET): Trincomalee District, Batticaloa District, Amparai District.
5. Southern Territory (ST): Western Province, Central Province, Sabaragamuwa Province, and the Southern Province.

Village Cluster-Level Genocide

The 6 village clusters of the village-cluster level genocide counts 6–11, whose villages where acts of genocide occurred are listed in the charging section of the model indictment are

- a. Sampoor village cluster;
- b. Mannar/Manthai village cluster;
- c. Vavuniya North village cluster;
- d. Mullaithivu South village cluster;
- e. Poonakari village cluster;
- f. Pallai-Vadamaradchi East village cluster.

WAR CRIMES AND TORTURE

The war crimes under the War Crimes Act of 1996 and the U.S. criminal prohibition of torture in fulfillment of the Convention Against Torture listed in this model indictment are not comprehensive. They will be supplemented with new evidence that TAG expects to be generated by the model indictment example. In U.S. law, the new charges would be contained in what is called a "superseding indictment."

In this model indictment, there are 106 counts of war crimes and torture. Each act of torture, murder, rape, mutilation or maiming, sexual abuse or abuse, is charged separately by individual.

The 106 counts include, in no particular order, all Tamil civilian victims of the following:

- Separate acts of torture in the areas of Jaffna, Batticaloa, and Colombo carried out through a nonexhaustive list of torture methods used by the Sri Lankan armed forces and government-sponsored paramilitaries;
- Murder of Tamil civilian male Joseph Pararajasingam;
- Trinco-5 massacre;
- Allaipitti massacre;
- ACF-17 massacre;
- Sencholai bombing;

- Rape of Tharshini Illayathamby;
- Murder, decapitation, and body mutilation by dismemberment of Tamil civilian male Fr. Jim Brown;
- Murder and decapitation of a 5-month-old Tamil male infant by an indiscriminate aerial bombardment of a Tamil civilian area; and,
- Sexual assault of 51 Tamils in Boosa Detention Camp.

EXPLAINING TAMIL GENOCIDE

All previous well-known genocides which have occurred since the end of World War II have been characterized by a massive number of murders in a small defined locality occurring in a short time period and carried out by an actor seeking the total physical extermination of a particular ethnic group. The post-1945 genocide cases often cited are: the Holocaust, the Kurds in Iraq, the Srebrenica massacre, and Rwanda.

By contrast, Sri Lanka's genocide against Tamils has taken place over a number of years and is more characterized by widespread, prolonged displacement and destruction of the community's physical and cultural base than murder. For this and also wider geopolitical reasons, the destruction of the Sri Lankan Tamils is less well understood in the world at large as a case of genocide.

The 2007 U.S. Genocide Accountability Act defines genocide as an attempt to physically destroy a group in whole or in substantial part because of race, religion, ethnicity, or nationality, as such, by employing the following tactics: Extrajudicial killings or disappearances; the infliction of serious bodily harm; or, the creation of conditions of life intended to cause the physical destruction of a racial, religious, ethnic, or national group in whole or in substantial part. The evidence collected and organized in the model indictment establishes a prima facie case that Eelam War IV is genocide masquerading as counterinsurgency. Every incident of genocide chronicled in the indictment was inflicted on Tamil civilians outside any conceivable war zone and uninvolved in the ethnic conflict between the LTTE and the government.

The central difference between the Tamil genocide and other post-1945 genocides is that in Sri Lanka the culture of genocide seeks to physically destroy Tamils in substantial part, not in whole, if the Tamil survivors are willing to accept vassalage or serfdom to Sinhalese Buddhists.

Eelam War IV, and the Tamil genocide between December 6, 2005 and January 29, 2009, as detailed and alleged in the model indictment, inherits and continues a post-1948 Sinhala-Buddhist culture of genocide against Sri Lankan Tamils which fundamentally seeks to create a racially pure Sinhala-Buddhist state as prophesied in the 13th century pseudo-historical text of Sri Lankan Sinhala-Buddhism, the "Mahavamsa." It is widely taught, read, and revered today among Sinhalese Buddhists as incontrovertible truth.

From the first to the last page of the model indictment, the evidence is mountainous that the ascendant Sinhalese Buddhist power structure has invariably acted on the conviction that Sri Lanka is a mono-ethnic-religious nation and that all other groups are aliens or interlopers whose physical existence (when it is tolerated) is at the grace of the government.