



Genocide of Tamils in Sri Lanka

Tamil Information Centre

Issue No.1

International intervention is urgently needed to stop genocide of Tamils in Sri Lanka. The Sri Lankan government's persistent use of indiscriminate force in 2008 and 2009 has displaced or killed Tamil civilians in the Vanni region. Relentless shelling and aerial bombardment of places, including the safety zones announced by the government, have continued. Up to the middle of February 2009 more than 2800 civilians, including many pregnant women, children and elders, were killed and over 7,000 were wounded. On 17 February, an UNICEF officer saw babies with shrapnel and blast wounds and gunshot injuries. Hospitals have been attacked and medical personnel, sick and the wounded have been killed. According to the ICRC, the Mullaitivu and Puthukudiyiruppu hospitals were targeted repeatedly by the Sri Lankan security forces.

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What is Genocide?

The term "Genocide" is a specific term referring to violent crimes committed against groups with intent to destroy the existence of the group. The 1948 UN Convention on the Prevention and Punishment of Genocide establishes "Genocide" as an international crime, which signatory nations "undertake to prevent and punish". Articles II and III of the Convention provide the international legal definition of the crime of genocide. Article II describes the two elements of the crime:

(i) The mental element, expressed in the words "the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such", and

(ii) The physical element, which includes five types of action:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

Sri Lanka ratified the Genocide Convention in October 1950.

What is happening in Sri Lanka is Genocide

Genocidal Intent

The intent of the Sri Lankan government to destroy, in whole or in part, the Tamil community in Sri Lanka, is clear from several categories of evidence:

- 1) Documentary evidence including court case documents;
- 2) Legal inference based upon the systematic perpetration of culpable acts directed against the Tamils;
- 3) Testimony of witnesses who survived genocidal attacks;
- 4) Government's unwillingness to investigate grave violations against the Tamils, including mass graves;
- 5) Introduction of laws to facilitate genocide.

Genocidal Actions

In Sri Lanka physical violence has been perpetrated against the Tamils since 1956. The Tamil community has been systematically targeted. The violence directed against the Tamil community with increasing ferocity has included the categories listed in the Genocide Convention. Acts of violence by State security forces have included the following:

- Massacres and extra-judicial executions
- Disappearances
- Torture
- Rape
- Illegal detention

Genocidal Intent

International legal precedent (from the International Criminal Tribunals for Rwanda and the former Yugoslavia) holds that genocidal intent can be inferred from the context of the perpetration of culpable acts when they are systematically directed against a group.

The Rwandan tribunal has said that it is possible to deduce the genocidal intent inherent in a particular act charged from the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others. Other factors, such as the scale of atrocities committed, their general nature, in a region or a country, or furthermore, the fact of deliberately and

systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups, can enable the inference of the genocidal intent of a particular act.

The Yugoslavia tribunal has said that intent may be inferred from a number of facts such as the general political doctrine which gave rise to the genocidal acts or the repetition of destructive and discriminatory acts. The intent may also be inferred from the perpetration of acts which violate the very foundation of the group. The tribunal found that the intent derives from the combined effect of speeches or projects laying the groundwork for and justifying the acts, from the massive scale of their destructive effect and from their specific nature, which aims at undermining what is considered to be the foundation of the group.

Genocidal Actions

- Rendering a million Tamils stateless in 1948 and their disenfranchisement in 1949 by legislative measures
- Periodic violence from 1956 and island-wide genocidal massacres targeting the Tamil community
- Security force massacres of the Tamil community in north-east Sri Lanka
- Massacre of Tamils in government custody, including prisons and other detention centres
- The introduction of the draconian legislation and their use exclusively against Tamils
- The use of paramilitary forces and militias by security forces for violations against Tamils
- Mass round-up of Tamils by security forces
- Detention without charge or trial for long periods
- Disappearance of thousands of Tamils following arrest by the security forces
- Abduction and disappearance of Tamils
- Rape of Tamil women by security forces
- Destruction of Tamil villages, homes, hospitals and crops
- Destruction of places of worship and cultural centres
- Prevention of supply of food, medicines and other essential needs to the Tamil population

The genocidal actions of the Sri Lankan State have resulted in the deaths of more than 80,000 Tamils, forced nearly a million Tamils to flee the country and internally displaced 800,000 Tamils.

The Tamil people call for urgent action to stop the genocide.

Violation of international humanitarian law

High-level [Sri Lankan government] 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 multi-barrel rocket launchers. Rockets fired from multi-barrel 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 and hospitals) are located.

- Dr Anna Neistat, Human Rights Watch, US Senate Foreign Relations Committee hearings, 24.2.2009

Letter to President Mahinda Rajapaksa

We urge you to take steps to re-establish accountability and the rule of law in Sri Lanka. Investigations have been promised 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 must be

made clear to members of the security forces that discipline will be enforced and violators will be brought to justice.

**Marion Creekmore, Teresita Schaffer,
Peter Burleigh, Shaun Donnelly,
Ashley Wills, Jeffrey Lunstead
19 January 2009
US ambassadors in Sri Lanka
between 1989 and 2006**

Tamil population in the war zone can be treated as combatants - Sri Lanka government

Associated Press, 4 February 2009



Wounded Tamil children being treated in Puthukudiyiruppu hospital

Puthukkudiyiruppu Hospital

At least nine people were killed and at least 20 others injured as a result of the first three shellings. The hospital sustained direct hits three times in less than eight hours...On Monday evening at 6.40 p.m., the hospital was hit a fourth time. When it was hit the third time, more than 800 people, including 500 in-patients, were sheltering in the hospital...This is unacceptable. Wounded and sick people, medical personnel and medical facilities are all protected under international humanitarian law.

**Monica Zanarelli, ICRC, South Asia
2 February 2009**

Attack in the safe zone

On 4th [March 2009] artillery shelling, multi-barrel firing and mortar and cannon firing were aimed on the Mathalan makeshift hospital area from 5.15 in the morning till evening. Thirteen civilians were killed and 58 were seriously injured. During this time, shell attacks were made on Mathalan, Ambalavanpokkanai and Valaignarmadam areas which caused the death of 44 civilians and injured 46 persons. 4th Wednesday alone, 68 civilians including children were killed and 126 were injured. The number of dead increased as not enough medicines have been sent to Mullaitivu hospital and the injured could not be saved with the limited facilities in the Vanni makeshift hospitals.

Dr. T. Varadrajah, Regional Director of Health Services, Mullaitivu, Sri Lanka, 5 March 2009

Model indictment by Tamils Against Genocide to US Department of Justice

The indictment

US organization Tamils Against Genocide (TAG) has requested the US Department of Justice to charge Sri Lanka's Defence Secretary Gotabaya Rajapaksa and Army Commander Sarath Fonseka for committing genocide, torture and war crimes and violating US laws. TAG has submitted to the Department a 1000+page model indictment prepared by former US Deputy Attorney General Bruce Fein.

The law

The decision whether to file charges or not will be made by the Department of Justice. Charges can be brought under the Genocide Accountability Act of 2007. This Act amended the US federal criminal code in 2007 to allow the prosecution of acts constituting genocide committed by an alleged offender who is: (1) an alien lawfully admitted for permanent residence in the US; (2) a stateless person whose habitual residence is in the United States; or (3) brought into, or found in, the United States, even if the offense occurred outside the United States. The genocide provisions were applicable to US citizens even before 2007.

The offenders

Gotabaya Rajapaksa is a US citizen and Sarath Fonseka is a permanent resident of the US holding a Permanent Resident Card (Green Card). Gotabaya Rajapaksa and Sarath Fonseka may be charged under the international customary law doctrine of military command and control responsibility for every act of genocide committed against the Tamils in the territory of Sri Lanka after July 2006, committed with intent to physically destroy the Tamil community in whole or in part. Genocidal intent may be established by the demonstration of a systematic and progressively institutionalized design since Sri Lanka's independence in February 1948 to create a Buddhist Sinhalese State through the physical and cultural genocide of the Tamils.

The charges

The indictment charges the two persons with 12 counts of genocide and 107 counts of war crimes and torture. Count 12 in TAG's indictment covers the continuing genocidal act of artillery shelling of the Tamil civilians who have taken refuge in Mullaitivu

The model indictment charges the two persons with 12 counts of genocide and 107 counts of war crimes and torture.

district. This act is similar to the Srebrenica massacres of July 1995. The other 11 counts relate to five regions in Sri Lanka where genocidal acts were committed and to six village clusters where genocidal acts and ethnic cleansing were perpetrated.

The aim

TAG's strategy of litigation is aimed at stopping genocide of the Tamils of Sri Lanka and to seek justice for Tamils who are victims of the genocidal acts committed by the Rajapaksa administration, under the military command and control responsibility of US citizen Gotabaya Rajapaksa and US Green Card holder Sarath Fonseka. TAG's mandate is focussed solely on addressing Tamil genocide, and therefore, TAG does not have a legal or political position on other complex issues of the conflict.

The model genocide indictment is currently in the possession of US Attorney General Eric Holder in the Department of Justice. TAG, along with other US advocacy groups, will continue to lobby the Department of Justice and Congress to persuade the US to investigate and prosecute in a federal grand jury trial, a US citizen and a Green Card holder who are committing genocide in Sri Lanka.

The future

In light of the fact that the UN, governments and international organizations have thus far been ineffective in mitigating or arresting Tamil genocide in Sri Lanka, and are unable to end Rajapaksa administration's determined military posture of continuing the genocide, TAG is determined to pursue avenues of legal action available within the context of extra-territorial application of the US laws. TAG will also continue, through media publicity and other activities to participate in the international media discourse which has been demonstrably averse to considering the subject of Tamil genocide.

Britain urged to initiate Security Council Resolution

Archbishop Desmond Tutu and leading scholars in British universities wrote the following letter to the British government on 6 March 2009:

We call upon the UK Government to press for an urgent Security Council resolution on the situation in northern Sri Lanka, with the view to dispatching a fact-finding mission there under the auspices of the UN Secretary-General, in furtherance of the Security Council's primary responsibility under the Charter of the United Nations for the maintenance of international peace and security.

We urge the UK Government, as a permanent member of the UN Security Council, to recognise the underlying importance of taking measures aimed at conflict prevention and resolution, and to draw its attention to its commitment under the Security Council resolutions 1265/1999 and 1296/2000 on the protection of civilians in armed conflict; resolution 1366/2001 on the role of the Security Council in the prevention of armed conflict; resolution 1325/2000 on women, peace and security; and resolution 1460/2003 on children in armed conflict.

The deteriorating humanitarian and human rights situation throughout the war-afflicted areas of northern and eastern Sri Lanka warrants immediate attention and action by the Security Council. An armed conflict entailing widespread and serious abuses continues in these areas. Calls for all sides to exercise restraint and respect international humanitarian and human rights law remain unheeded.

Accurate and timely information about the situation of civilians in these areas remain scarce because of government-imposed restrictions on independent observers, including the UN, most human rights

organisations, journalists and others, from accessing the combat zones. A few remaining independent observers have placed the total civilian casualties at 7,000, with 2,000 fatalities, within a four-week period between January and February this year. The total number of civilians trapped by the fighting is conservatively put at a quarter of a million. The real figures are likely to be much higher. The alleged abuses are being carried out with total impunity and include serious and indiscriminate violations of international humanitarian law.

Humanitarian assistance and protection remain minimal owing to both targeted attacks and generalised insecurity. In the absence of concrete improvements in the security situation, each day adds to the toll of civilian deaths and injuries.

Security Council action is urgently needed to ensure an end to persistent abuses by all parties to the conflict, to protect the civilians still at risk of attacks and to help to improve conditions by demonstrating the United Nations' continuing commitment to the wellbeing of civilians caught up in armed conflicts around the world.

Archbishop Desmond Tutu; Dr Louise Arimatsu (LSE); Dr Chaloka Beyani (LSE); Professor Bill Bowring (Birkbeck); Professor Mathew Craven (SOAS); Professor Malgosia Fitzmaurice (Queen Mary); Professor Guy S. Goodwin-Gill (Oxford); Muthupandi Ganesan (Barrister); Dr Krishna Kalaichelvan; Professor Mary Kaldor (LSE); Naomi Lumsdaine; John McNally; Dr Roger O'Keefe (Cambridge); Andrew Price (Barrister); Professor Martin Shaw (Sussex); Mannan Thangarajah (Barrister); Professor Nigel White (Sheffield)

International humanitarian concern

"We do not believe current plans represent a sufficient solution by international humanitarian standards. Prolonging the displacement of this very vulnerable group of people is not in anyone's interests. There is no UK Government money going into the camps."

**Spokesperson for UK Department for International Development on internment camps in the Vanni
13th February 2009**

"These are nothing but concentration camps. Why should they be in camps? If they are citizens they should be rehabilitated straight away."

**Raman Senthil, Indian MP
on internment camps in the Vanni, 18 February 2009**

"We join the Co-Chairs and call on the LTTE and the Government of Sri Lanka not to fire out of or into the safe zone established by the Government or in the vicinity of the PTK hospital (or any other medical structure), where more than 500 patients are receiving care and many hundreds more have sought refuge."

**Hillary Clinton, Secretary of State, US
David Miliband, Foreign Secretary UK
4 February 2009**

"If the Sri Lankan government does not respond to this call for a ceasefire within 24 hours, Gordon Brown should call for the suspension of Sri Lanka from the Commonwealth."

Joan Ryan MP, The Times (UK), 22 March 2009

British MPs demand suspension of Sri Lanka from Commonwealth

“As a signatory to the Commonwealth's Harare declaration, the government of Sri Lanka is committed to the defence of human rights, democracy and the rule of law. However, under the guise of a campaign of liberation, the Sri Lankan government has pursued a brutal military campaign in which it has shelled its own people, including in government-designated "safe zones", displacing, injuring and killing many thousands of innocent civilians. In the past two months alone 2,000 lives have been lost and as many as 5,000 have been injured. In the areas it has secured there have been reports of unlawful killings, enforced disappearances and other human rights violations. Dissent is treated as treason, criticism is violently suppressed and Sri Lanka is one of the most dangerous places in the world for journalists. Its conduct is, therefore, manifestly incompatible with the principles set out in the Harare declaration.

“The Commonwealth Ministerial Action Group - which meets in London today - was established in 1995 as the guardian of the fundamental values of the Commonwealth. But Sri Lanka has yet to feature on its agenda. Sri Lanka should be put under permanent scrutiny and its government suspended from the Commonwealth until: 1) a ceasefire has been established; 2) it grants a UN monitoring mission unfettered access to the country; 3) it allows international aid agencies access to the Vanni region; and 4) it resumes peace negotiations. Last year Sri Lanka lost its seat on the UN human rights council over its poor human rights record. It is likewise incumbent upon the Commonwealth to exercise leadership on human rights.”

**Joan Ryan MP, Siobhain McDonagh MP, Lee Scott MP, Virendra Sharma MP
Andrew Pelling MP, Andrew George MP, Andrew Dismore MP
Stephen Pound MP, Dr Phyllis Starkey MP, Eric Joyce MP, Neil Gerrard MP
4th March 2009**

Hospital under fire for 18 hours - UN

The hospital has been under heavy artillery fire for about 18 hours now, and cluster bombs were used this morning. What we are saying is that there have been clear breaches of humanitarian law here. Both sides had the capability to fire cluster bombs, which can be launched from the ground or the air, but it was not clear which was responsible. However the government forces were conducting air strikes on targets within about 1,000 metres of the hospital in Puthukudiyiruppu.

Gordon Weiss, a UN spokesman in Sri Lanka, 4th February 2009

Journalists imprisoned

Reporters Without Borders (RSF) asked the United Nations Human Rights Council on 17 March 2009 to intercede on behalf of two imprisoned Sri Lankan journalists, J.S. Tissainayagam and N. Vithyatharan, and to meet as quickly as possible to discuss the human rights situation in Sri Lanka. RSF said it is shocked by the comments of the Sri Lankan President's brother, Defence Secretary Gotabaya Rajapaksa, made about Vithyatharan in an interview for Amos Roberts, a reporter with Australia's Special Broadcasting Service (SBS). “He is involved in the recent air attack and I am telling you if you try to give cover-up for that person you have blood in your hands,” Rajapaksa said. “And if someone says he is arrested because he is in the media, that person also has blood on his hands”.

Getting away with slaughter

“In many cases, the killings have been what independent observers would define as genocide, with whole communities killed in a form of ethnic cleansing. With the eyes of the world turned elsewhere, the Sri Lankan government has felt able to get away with this slaughter, despite condemnation from the Dalai Lama and the UN secretary general.

“Ministers must condemn the Sri Lankan government and make clear that the country faces expulsion from the Commonwealth – which expects its members to observe human rights – unless it allows the UN and aid agencies full access to the region.”

**Andrew Dismore, Guardian (UK)
4 March 2009**

IDPs held in de facto detention

Amnesty International

The Sri Lankan government has intensified the suffering of the displaced people by cutting off international humanitarian assistance to a region where there are no longer any functioning hospitals. Those people that risk their lives and flee face further ordeals when they enter government-controlled areas.

Amnesty International has received information that the government is using the screening process at checkpoints and in transitional "welfare villages" as an excuse to discriminate against large groups of ethnic Tamils and to detain families for indefinite periods of time.

Reports show that the "welfare villages" established by the authorities are overcrowded and have inadequate facilities. In camps in Vavuniya and Jaffna, the displaced are held in de facto detention, not being allowed to leave. There is also a continued military presence inside the camps which puts the civilians at further risk.

The Sri Lankan government's attitude so far has been to seek international assistance while rejecting international standards or scrutiny. The United Nations and donor government must ensure Sri Lanka acts on its obligations and ends the discrimination and suffering of the displaced people."

Sam Zarifi, Amnesty International, 27 March 2009

Growing number of targeted killings

**International
Commission of Jurists**

The Sri Lankan authorities have proved unable or unwilling to solve the growing number of targeted killings of employees of international aid organizations in government territory. In August 2006, 17 Action Contre la Faim workers were shot to death in Muttur. The police investigation into their deaths has lacked impartiality, transparency, or willingness to cooperate with outside forensics experts.

In a meeting with the ICJ's Secretary General in June 2007, the President of Sri Lanka pledged to set up an independent task force within the regular criminal justice system to vigorously renew investigations in the case of Action Contre la Faim, as well as the case of the killing of five students in Trincomalee in January 2006.

At a meeting with the ICJ on September 5, the Minister of Justice and the Attorney General denied any recollection of the commitment, and to date the task force has not been established.

**ICJ Submission to the Universal Periodic Review of Sri Lanka
UN Human Rights Council
2nd Session of the Periodic Review, 5 – 16 May 2008**

UN peace keeping mission should be allowed into Sri Lanka

"..... I also believe that the time has come for the UN Secretary- General, Ban Ki Moon, to demand that a United Nations peacekeeping mission be allowed access to the country to avoid a civilian bloodbath. The Tamil people have seen so much death and destruction. They are terrified of Sri Lankan troops and their "holding camps", not to mention their different language."

**Robert Evans, MEP - Chair of the European Parliament Delegation for Relations with South Asia
13th February 2009**

Serious violations of international law committed in Sri Lanka conflict

13 March 2008, GENEVA (OHCHR) -- The UN High Commissioner for Human Rights Navi Pillay expressed her growing alarm Friday at the increasing number of civilians reported killed and injured in the conflict in northern Sri Lanka, and at the apparent ruthless disregard being shown for their safety.

"Certain actions being undertaken by the Sri Lankan military and by the LTTE may constitute violations of international human rights and humanitarian law," Pillay said. "We need to know more about what is going on, but we know enough to be sure that the situation is absolutely desperate. The world today is ever sensitive about such acts that could amount to war crimes and crimes against humanity."

Despite the Government's designation of safe -- or "no-fire" -- zones for civilians, repeated shelling has continued inside those zones, according to information made available to OHCHR. Other areas holding civilians have also been shelled. OHCHR said a range of credible sources have indicated that more than 2,800 civilians may have been killed and more than 7,000 injured since 20 January, many of them inside the no-fire zones. The casualties are believed to include hundreds of children killed and more than a thousand injured.

Even after the Government's announcement on 24 February that heavy weapons would no longer be fired into the no-fire zones, close to 500 people were reportedly killed and more than a thousand injured in these zones. Of these deaths, the great majority have been attributed to the use of heavy weapons. Overall, since 20 January, more than two thirds of the reported deaths and injuries have occurred in the no-fire zones. According to UN estimates, a total of 150,000 to 180,000 civilians remain trapped in an ever-shrinking area of territory in the Vanni region.

Army waging war with no regard for civilian lives

Fired by the prospect of eradicating the insurgency once and for all, the army is waging a war with no regard for civilian lives. They are also trying to operate without witnesses, refusing access to foreign observers and journalists. The Security Council must demand a ceasefire so that refugees can be evacuated. The secretary general should mandate a

UN High Commissioner for Human Rights

"The current level of civilian casualties is truly shocking, and there are legitimate fears that the loss of life may reach catastrophic levels, if the fighting continues in this way," the High Commissioner said. "Very little attention is being focused on this bitter conflict."

The Liberation Tigers of Tamil Eelam (LTTE) are reported to be continuing to hold civilians as human shields, and to have shot at civilians trying to leave the area they control. They are also believed to have been forcibly recruiting civilians, including children, as soldiers.

"The brutal and inhuman treatment of civilians by the LTTE is utterly reprehensible, and should be examined to see if it constitutes war crimes," said Pillay.

There is very limited food -- and reports of severe malnutrition -- and key medical supplies, such as sutures, painkillers and antibiotics for treating victims, are virtually unavailable, even in the one makeshift medical facility still functioning.

The High Commissioner called on both the Sri Lankan Government and the LTTE to immediately suspend hostilities in order to allow the evacuation of the entire civilian population by land or sea. She also urged the Sri Lankan Government to grant full access to UN and other independent agencies to allow an accurate assessment of the human rights and humanitarian conditions in the conflict zone.

humanitarian mission to investigate the internment camps. The Sri Lankan government must not be allowed the secrecy it craves to conduct a war against its own people.

**The Observer (UK) Editorial
15th February 2009**