

United States Senate

WASHINGTON, DC 20510

November 4, 2011

The Honorable Hillary Clinton
Secretary of State
Department of State
Washington, DC 20520

Dear Madam Secretary:

The defeat of the LTTE in Sri Lanka was a welcome and long awaited end to a vicious insurgency that targeted civilians and combatants alike. The Sri Lankan government has taken some initial steps toward reconciliation between Sri Lanka's divided ethnic communities, but many of its actions appear to undermine that goal. While we support continued U.S. aid in furtherance of Sri Lanka's recovery, we are concerned that in the more than two years since the end of the war the military has supplanted or interferes in civilian administration in the north. More than a thousand detainees suspected of LTTE links remain without charge, without access to the International Red Cross or family, and their names have not been disclosed. Despite promises of greater local autonomy, most policies in the north are determined by the military and central government in Colombo. We believe that for U.S. aid to be effective and for reconciliation to succeed, militarization of the north must end.

We are similarly concerned with the ongoing lack of accountability for war crimes and other serious abuses committed during the war. In September, UN Secretary General Ban ki Moon submitted to the UN Human Rights Council a UN Panel of Experts' report, which found credible allegations of serious violations by both sides in the last stages of the war, resulting in tens of thousands of civilian deaths. These allegations include repeated government shelling of civilian targets including no-fire zones and hospitals, and extrajudicial executions of detainees, as well attacks on fleeing civilians and other abuses by the Tamil Tigers. The UN Panel of Experts recommended the establishment of an independent international mechanism to investigate these allegations.

Sri Lankan authorities have rejected any international role in investigating these crimes, have often insisted that no civilians were killed by its forces, and have instead pointed to the Lessons Learnt and Reconciliation Commission (LLRC) as the entity charged with addressing all issues related to the conflict, including accountability. The State Department has indicated that it is willing to give the LLRC the opportunity to show that it can perform this task credibly. We also look forward to receiving the LLRC's report, which is due this month. However, if the LLRC fails to meet the basic standards of credibility and independence that the United States has set forth, and the Sri Lankan government does not take steps to hold accountable those persons most responsible for war crimes on both sides of the conflict, we urge you to promptly press for an independent international accountability mechanism.

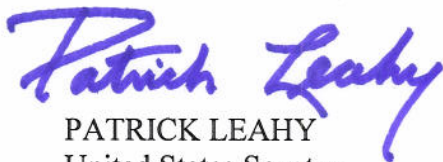
As Ambassador Susan Rice stated when the LLRC was established, for a domestic commission of inquiry to serve a useful role in promoting accountability, “commission members should be and be perceived as independent, impartial and competent; their mandate should enable them fully to investigate serious allegations of violations and to make public recommendations; commission members and potential witnesses must enjoy adequate and effective protection; the commission must receive adequate resources to carry out its mandate; and the Government should undertake to give serious consideration to its recommendations.” On August 11, 2010, the State Department’s War Crimes Office reported that the LLRC failed to meet many of these criteria, as it was not clear whether its investigations would be “linked to violations of international law,” and the LLRC did not possess the requisite level of “independence and impartiality” because its members include former Sri Lankan government officials with close ties to President Rajapaksa. Similarly, the UN Panel of Experts also found that the LLRC “fails to satisfy key international standards of independence and impartiality.” The LLRC has already delayed completion of its report once before, and none of its limited interim recommendations or statements have addressed issues of accountability.


The State Department has also made clear that the Sri Lankan government must take its obligations to investigate seriously if it wants to avoid international action. Spokesperson Victoria Nuland said the Sri Lankans must “mount an investigation that meets international standards . . . and to do it quickly.” She and other Department officials have said that absent a full, credible and independent accounting and accountability, there will be pressure for an alternative, international mechanism.


We urge you to hold Sri Lanka to the standards the Department has articulated. If, by the end of this year, the government has failed to take credible steps to investigate and hold perpetrators accountable for the array of allegations documented in the UN Panel of Experts report, the United States should openly take the lead in pressing for the establishment of such an independent international commission, either by the UN Human Rights Council or under the Secretary-General’s own authority.

Thank you for your consideration.

Sincerely,


PATRICK LEAHY
United States Senator


BENJAMIN L. CARDIN
United States Senator


ROBERT P. CASEY, Jr.
United States Senator