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Initial Response to the LLRC Report - 19th December 2011

The TNA notes the release of the Report of the Lessons Learnt and Reconciliation Commission. The TNA always had strong reservations about the composition of the Commission and its mandate. These matters will be fully referred to in a comprehensive statement that the TNA will issue.

In its Joint Statement with the United Nations Secretary General on 26th May 2009, the Government of Sri Lanka expressed its strongest commitment to the promotion and protection of human rights in keeping with international human rights standards and Sri Lanka's international obligations. In this statement, the UN Secretary-General 'underlined the importance of an accountability process for addressing violations of international humanitarian and human rights law.' The Government undertook to take measures to address those grievances.

A year later, on 15th May 2010, the President appointed the Lessons Learnt and Reconciliation Commission and held out to the world that this Commission would address those accountability issues.

The LLRC report categorically fails to effectively and meaningfully deal with issues of accountability.

Several thousand Tamil civilians gave evidence before the LLRC. These civilians were the direct victims of the war. They recounted their experiences before the LLRC expecting justice and accountability on the basis of the truth. Yet the findings of the LLRC offend the dignity of these victims.

Allegations of war crimes and crimes against humanity committed by both sides during the last stages of the war needed to be fully investigated. The LTTE had been accused of deliberately targeting civilians and using them as 'human shields'. The Government of Sri Lanka had been

accused of deliberately underestimating civilian numbers in the Vanni in order to deprive them of food and medical supplies, deliberately or recklessly endangering the lives of civilians in No-Fire Zones, targeting civilian objects including hospitals, and executing or causing the disappearance of unarmed surrendees.

The LLRC concludes that, on these issues, the Government is not responsible. Instead, it shifts blame onto individual soldiers and surmises that any violations that may have been committed were merely isolated incidents. For example, large numbers of disappearances that resulted from the surrender of unarmed persons to Government forces have been cynically dismissed as isolated incidents perpetrated 'by a few'. The LLRC unjustifiably rules out the possibility that these violations were systematic.

In June 2010, the UN Secretary General appointed a Panel of Experts to advise him on accountability issues in Sri Lanka. In their report dated 31st March 2011, the Panel concluded that there were several credible allegations of war crimes and crimes against humanity, which required 'genuine investigations'. The Panel also opined that the Government's notion of accountability is not in accordance with international standards and that unless the Government 'genuinely addresses the allegations of violations committed by both sides and places the rights and dignity of the victims of the conflict at the centre of its approach to accountability, its measures will fall dramatically short of international expectations.' The Panel observed that the Sri Lanka Army's campaign between September 2008 and 19th May 2009 constituted 'persecution of the population of the Vanni.'

The Panel also concluded that 'the conduct of the war represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace.' Accordingly, the allegations against the Government were found to be credible by the Panel. Such allegations included large-scale and indiscriminate shelling of civilian targets in three consecutive No-Fire Zones, which the Government had encouraged the civilian population to concentrate in, while indicating that it would cease to use heavy weapons. The Panel found that the Government shelled these areas 'in spite of its knowledge of the impact, provided by its own intelligence systems and through notifications of the United Nations and the ICRC and others.' The Panel also observed that the Government systematically shelled hospitals on the frontlines and systematically deprived the people of food and medicine. To this end, the Government 'purposefully underestimated the number of civilians who remained in the conflict zone.'

In rejecting outright all allegations of 'systematic' and 'widespread' violations of international humanitarian and human rights laws amounting to war crimes and crimes against humanity, the LLRC has dramatically failed the victims of the conflict. By mischaracterizing the crimes committed during the last days of the war as isolated acts of individual perpetrators, the LLRC has effectively granted immunity to civilian and military leaders responsible for devising the policies that led directly to the commission of war crimes and crimes against humanity.

The LLRC has, therefore, reinforced the fact that those most responsible for the commission of crimes would never be held accountable within Sri Lanka. The TNA calls on the international community to acknowledge the consistent failure of domestic accountability mechanisms in Sri Lanka and take steps to establish an international mechanism for accountability.

The report of the LLRC is a serious assault on the dignity of the victims of the war in Sri Lanka, and as such, has not only gravely damaged the chances of genuine reconciliation but has further alienated the victims of the war.

Truth is the cornerstone of justice and is the only foundation on which true reconciliation can be achieved.

1. Hon. R Sampanthan MP
2. Hon. M. Senathiraja MP
3. Hon. A. Vinayagamoorthy MP
4. Hon. S. Adaikalanathan MP
5. Hon. A. K. Premachandran MP
6. Hon P. Ariyanethiran MP
7. Hon M.A. Sumanthiran MP
8. Hon E. Saravanapavan MP
9. Hon P. Selvarasa MP
10. Hon S. Sridharan MP
11. Hon S. Ananthan MP
12. Hon V. Noharathalingam MP
13. Hon S. Yogeswaran MP

R Sampanthan
M P
A V ——
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E S ——
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