



Human Rights in Sri Lanka

Hearing of the Subcommittee on International Human Rights Standing Committee on Foreign Affairs and International Development House of Commons of Canada

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Mr. Chairman, members of the committee, thank you for inviting Human Rights Watch to testify at this timely and important hearing. Over the last two decades, my organization, Human Rights Watch, has documented human rights violations in Sri Lanka, especially violations committed by security forces and the Liberation Tamil Tigers of Eelam (LTTE) during the conflict which ended in May 2009. Today I will talk about the lack of accountability for alleged war crimes, particularly in its final stages, and also about the current human rights situation in the country.

Alleged war crimes committed by LTTE and government forces

With regard to the final stages of the conflict, Human Rights Watch has interviewed hundreds of victims and witnesses to abuses, we have analyzed photographs, video, and satellite imagery.¹ We issued a report in February 2009, *War on the Displaced: Sri Lankan Army and LTTE Abuses Against Civilians in the Vanni*,² based on firsthand information gathered by our researchers. Since the war ended we continued to gather more information. Our findings are consistent with investigations by other independent groups such as Amnesty International, International Crisis Group, and more recently a panel of experts appointed by UN Secretary General. That panel's report, published on April 25, 2011, found "strong and credible" allegations that both the government and the LTTE committed serious violations during the final months. The report concludes that up to 40,000 civilians may have died during this period, the majority by government shelling.

¹ <http://www.hrw.org/news/2009/05/12/sri-lanka-satellite-images-witnesses-show-shelling-continues>. For a full list of Human Rights Watch materials on Sri Lanka, please see <http://www.hrw.org/asia/sri-lanka>.

² http://www.hrw.org/sites/default/files/reports/srilankao209webwcover_o.pdf

Abuses by the LTTE committed during the final stages included using civilians as “human shields,” and deliberately firing on civilians to prevent them from fleeing to safety. They also forcibly recruited children.

On the government side, government forces killed civilians by widespread shelling, committing numerous indiscriminate attacks including attacks on the government-proclaimed “safe zones” and clearly marked hospitals as well as humanitarian objects—food lines and UN trucks trying to deliver aid. The government also deprived people in the conflict zone of humanitarian aid, many more died because of insufficient food and medical supplies.

Some specific examples of war crimes allegedly committed by government forces include video footage now released, and recently shown in the Channel Four documentary, *The Killing Fields*, showing summary execution of prisoners on May 18, 2009, during the final hours of the 26-year armed conflict in Sri Lanka.³ Human Rights Watch obtained a longer version of a video and photographs of the same incident from other sources. The videos and photos show what appears to be the summary execution of prisoners by government troops. At least a dozen dead bodies are visible. One of the dead bodies in the video and photographs is of a woman named Isaipiriya, a 27-year-old reporter for the LTTE. Her body, and the bodies of other women beside her, are partially naked and soldiers who took the footage make lewd comments, raising concerns that women may have been sexually assaulted.⁴

After the war ended, Tamil civilians faced further violations. Government authorities conducted screenings of LTTE suspects which took place with no transparency or external scrutiny. Human Rights Watch has documented enforced disappearances of LTTE suspects.⁵ The government detained internally displaced persons in closed camps with squalid conditions. And human rights violations continued outside the conflict zone, through the silencing of government critics and the media.

Failure to hold perpetrators accountable

Immediately after the war ended, in May 2009, in a joint communiqué⁶ between the UN secretary-general and President Mahinda Rajapaksa of Sri Lanka, the secretary-general “underlined the importance of an accountability process for addressing violations of

³ In August 2009, Channel 4 broadcast excerpts from a video showing what appears to be Sri Lankan government soldiers executing several undressed, blindfolded, and handcuffed men believed to be captured LTTE members. The Channel 4 broadcast on November 30 showed excerpts from a longer, five-minute video, which shows more dead bodies, including those of two unclothed young women.

⁴ Human Rights Watch has received independent confirmation from multiple sources, including family members, identifying one of the dead women in the photographs and video as Isaipiriya.

⁵ <http://www.hrw.org/news/2011/04/07/sri-lanka-account-wartime-disappearances>

⁶ <http://www.un.org/News/Press/docs/2009/sg2151.doc.htm>. This joint communiqué and the understandings contained therein were endorsed by the Human Rights Council on 27 May 2009 at its 11th Special Session (A/HRC/RES/S-11/1).

international humanitarian and human rights law” and the Sri Lankan government agreed to “take measures to address those grievances.”

Two and a half years later, we have seen zero good faith efforts at accountability from the Sri Lankan government for any of the extensive laws-of-war violations committed by both sides during the long civil war. The government has not launched a single credible investigation into alleged abuses.

The government established a Lessons Learnt and Reconciliation Commission (LLRC)⁷ but this lacks the mandate to investigate serious allegations of war crimes—instead its mandate is to look into the failure of the 2002 ceasefire agreement—in effect casting the blame on the LTTE and previous governments. The members of this commission lack independence and impartiality.⁸ The UN panel report describes the process as “deeply flawed.”

The government has used the LLRC as nothing more than a delaying tactic, delaying the presentation of the report several times, now expected to be presented to the Sri Lankan president on November 15, 2011. The LLRC’s interim recommendations, released in September 2010, did not contain a single recommendation relating to justice or accountability, focusing instead on issues of reconciliation. While reconciliation is an important goal, it cannot come at the cost of accountability.

The LLRC’s work should be seen in the context of other similar commissions established over the years. Since 1977, Sri Lanka’s default response to international criticism of its human rights record has been to establish national commissions of inquiry or other ad hoc bodies to investigate human rights violations—some 14 commissions have been set up over the years. The work of these commissions has been tainted by political interference and mainly served to exonerate government security forces. Even in the rare cases where investigations have been thorough and identified the perpetrators, the authorities have failed to act on commission recommendations to set up a meaningful accountability process. With the exception of a handful of low level prosecutions of security forces, the perpetrators are still at large and victims have seen no redress. The last such commission established under the aegis of the International Independent Group of Eminent Persons (IIGEP) had a wide mandate but even they in the end terminated their work citing lack of political will on the part of the government to take any action on their findings or recommendations.

The complete absence of any credible criminal investigations and prosecutions, even in cases with abundant evidence, such as the video of summary executions aired on British television station Channel Four, demonstrates that the Sri Lankan government has failed to

⁷ http://www.hrw.org/sites/default/files/related_material/LLRC%20joint%20letter%20FINAL%2013%20Oct%202010.pdf

⁸ Human Rights Watch, Amnesty International and International Crisis Group declined an invitation to testify before the LLRC, <http://www.hrw.org/news/2010/10/13/joint-letter-llrc>

meet its obligations under international law. Information posted on the website of the Ministry of Defense implicates the 53rd Division of the Sri Lankan army in these executions. And yet, there has been no credible investigation. Incredibly, the government repeatedly has dismissed the footage as fabricated⁹ despite several independent UN expert reports finding it authentic.

Current human rights situation in Sri Lanka

The human rights situation remains bleak in Sri Lanka, despite the end of the war. Severe restrictions on free expression remain; people are unable to express views opposing that of the government. This year, there have been several incidents of independent journalists and editors severely beaten up or threatened. Gnanasundaram Kuhanathan, editor of a Jaffna-based newspaper, was beaten with iron bars by a group of unidentified youths in late July. He was severely injured and required hospitalization. In July, a team of Radio Netherlands journalists were harassed by police and later robbed and attacked at gunpoint by a gang in a white van, a notorious symbol of terror in Sri Lanka. Lal Wickrematunge, chairman of the *Sunday Leader* and brother of Lasantha Wickrematunge (who was gunned down in 2009), received a phone call from President Rajapaksa in response to an article on high-level corruption in which the president allegedly said, “You are writing lies, outrageous lies! You can attack me politically, but if you attack me personally, I will know how to attack you personally too.”

There have been no further developments regarding the killing of Lasantha Wickrematunge or the disappearance of Prageeth Ekneligoda, a contributor to Lanka e-news, who has been missing since January 24, 2010.

There has been no progress in the cases of enforced disappearances or killings of journalists that have occurred in previous years. In June, members and supporters of a political party, the Tamil National Alliance (TNA), campaigning ahead of local elections in Jaffna in June, were attacked by army personnel wielding rods, batons, and sticks.

Constitutional amendments passed in 2010 expanded the president’s powers and reduced the independence of institutions such as the judiciary, National Human Rights Commission, and the Elections Commission. Since the war ended, the government has centralized power in Colombo, with no devolution of power to the regions and little autonomy for the north. This undermines any potential reconciliation efforts. Although the government has engaged in talks with the TNA, there has been little progress on the crucial issue of power-sharing or devolution.

⁹ <http://www.lankamission.org/content/view/2576/49/>

The armed forces continue to have police powers, and there is a strong military presence in the north. The government says that international human rights groups cannot enter the country. While most of the internally displaced persons have left the detention camps, there still hasn't been a permanent durable solution for those who come from the areas where the final stages of fighting occurred—people still can't return there.

Over 1,000 people who renounced support for the LTTE remain detained in so-called “rehabilitation” centers. And several thousand suspected LTTE members are being held under the lapsed emergency regulations. They have not been tried, despite being held for more than two years. While emergency regulations in Sri Lanka lapsed at the end of August, strict counter-terrorism laws remain in place allowing for up to 18 months' preventive detention without charge.¹⁰

Reconciliation efforts, meant to address longstanding grievances of the ethnic Tamil population, have been slow at best. Local elections this year further consolidated the hold of Rajapaksa's ruling alliance, although the Tamil National Alliance (TNA) garnered significant victories in the north. The TNA and the government have been in negotiations to deal with, among other matters, devolution of powers to the provinces, a key issue underpinning the civil war. The talks have been rife with tension, with the TNA accusing the government of deceitful and facetious behavior, and the government accusing the TNA of issuing LTTE-type ultimatums as a result of its electoral victory in the north. The TNA walked out of talks with the government in August but has since returned to the table.

This repressive government has shown no serious effort to address accountability and still fails to protect the fundamental rights of its people. Instead of investigating alleged violations, the Sri Lankan government has been conducting an aggressive public relations offensive against those who call for accountability, summarily dismissing all allegations as fake or LTTE propaganda.

Recommendations

Canada's Prime Minister recently in Perth has said he intends to boycott the 2013 Commonwealth Heads of Government Meeting held in Colombo, Sri Lanka unless Sri Lanka's government shows progress on human rights and accountability issues. Human Rights Watch supports this move, and together with other groups, has suggested various benchmarks to be met before Sri Lanka can host the CHOGM.¹¹

¹⁰ <http://www.hrw.org/news/2011/09/07/sri-lanka-bait-and-switch-emergency-law>

¹¹ See http://www.hrw.org/sites/default/files/related_material/Join%20Civil%202011_SriLanka_CHOGM.pdf. These benchmarks could include:

1. Ensuring meaningful domestic implementation of the international human rights treaties to which the Government of Sri Lanka is party and bringing all legislation in line with international human rights standards;
2. Providing guarantees that all Sri Lankan people will be treated with dignity and respect as equal citizens and live in an environment in which they can enjoy all fundamental rights guaranteed by the Constitution of Sri Lanka;

It has long been evident that justice and accountability in Sri Lanka cannot rely on the government, but depends on strong and concerted action by the international community. What's needed is an international accountability mechanism as recommended by the secretary-general's panel of experts to investigate alleged war crimes during the last months of the war. The Canadian government has supported this recommendation. Canada should show leadership on this issue by mobilizing other countries to make this a reality ahead of the next Human Rights Council session. We would welcome Canada's leadership in establishing an international accountability mechanism. Given Sri Lanka's dismissive approach, there needs to be international oversight of any domestic accountability efforts. The victims of Sri Lanka's war crimes have waited long enough, and deserve nothing less.

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3. Restoring Constitutional provisions that guarantee separation of powers and re-instating the independence of the three wings of government;
 4. Restoring the independence of key government institutions, such as the National Human Rights Commission;
 5. Instituting effective mechanisms to protect journalists, civil society groups and human rights defenders who work for the promotion and protection of human rights;
 6. Supporting and cooperating with independent and credible domestic and international investigations into all allegations concerning violations of international humanitarian and human rights law in the country, especially related to the conduct of the conflict which ended in 2009; and
 7. Committing to collaborate with the Office of the UN Secretary General to initiate the implementation of the recommendations set out in the report of the UN Secretary General's Panel of Experts.