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Canadian Tamil Congress
கனடியத் தமிழர் பேரமைவு
Congrès Tamoul Canadien
"Voice of Tamil Canadians"



28 November 2011

TO: [Permanent Mission of [country] to the United Nations [Office in Geneva]]
[Street / Floor Address]
[City / State]
[Country]

Dear Ambassador [last name],

Lessons Learnt and Reconciliation Commission (LLRC) and the UN Secretary-General's Panel of Experts Report on Accountability in Sri Lanka

Your Permanent Mission recently received a letter from the Government of Sri Lanka concerning the Lessons Learnt and Reconciliation Commission (LLRC) report, a letter which unfortunately we believe is not fully accurate and requires some clarification. The Government announced that on 20 November 2011 it received the report of the LLRC. The LLRC report, which comes after delays, represents the Government of Sri Lanka's response to the documented abuses and atrocities committed during the 2009 war, and the period of conflict from 2002-2009. The LLRC is an attempt to fulfill the Government's obligations under international law and its commitments in the joint communiqué with the UN Secretary-General.¹

In 2011, the UN Secretary-General received the Panel of Experts report that he had commissioned on issues of accountability during the final stages of armed conflict in Sri Lanka. This Panel found "*credible allegations*" that a "*wide range of serious violations of international humanitarian law and international human rights law was committed both by the Government of Sri Lanka and the LTTE.*" The Panel also determined "*a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka.*" It has been estimated that from September 2008 to May 2009 at least 30,000 people were killed and 280,000 were displaced in Sri Lanka.² The International Crisis Group (ICG) "*believes that all but a small portion of these deaths were due to government fire.*"

¹ Joint Statement at the Conclusion of the UN Secretary General's visit to Sri Lanka, 23rd May 2009 in UNSG's, Panel of Experts Report, page 123 http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf.

² ICG report refers to a minimum of 30,000 deaths, p. 5 fn. 23, see [http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf); UNSG's Panel of Experts Report refers to "multiple" estimates of 40,000 deaths, page 41.

We welcomed and endorsed the UN Secretary-General's Panel of Experts report when it was released.³ We fully supported the Panel of Experts' recommendations which included the setting up of an "effective domestic accountability process" in parallel with an "independent international mechanism" to monitor the domestic process, as well as to carry out its own investigations.

There have been strong concerns raised about the LLRC's mandate, processes and potential outcome by the UN Secretary-General's Panel of Experts and by reputable NGOs.⁴ We agree with their concerns. The Panel of Experts concluded that "*the LLRC fails to satisfy key international standards of independence and impartiality.*" Amnesty International has stated that "*In reality it's flawed at every level: in mandate, composition and practice.*"⁵ Moreover, the mandate of the LLRC fails to address the issue of accountability, as the Government has asserted "*the Lessons Learnt and Reconciliation Commission (LLRC) is inquiring into the conflict and its causes and is evolving recommendations to ensure that such a situation never arises again in Sri Lanka.*"⁶

We call upon the Government of Sri Lanka not to delay making the LLRC report public. The report cannot fulfill any purpose if it is kept as a secret document. Only upon publication of the report will the Sri Lankan people and the international community be able to assess its merit and make an informed judgment. To be credible the LLRC report must address the recommendations of the UN Secretary-General's Panel of Experts. The initial reports on the content of the LLRC are not encouraging, and recent Government statements on accountability have been ambiguous and non-committal. We call for the accountability of all those who committed crimes and serious violations of human rights and the laws of armed conflict at the end of the 2009 war. We reiterate our full and unqualified support for such accountability both for members of the Government and the LTTE for these crimes and violations.

While the Government has detained and will prosecute former members of the LTTE,⁷ it has not yet begun to seriously investigate and prosecute government officials and members of the military for the crimes and violations identified and addressed in the UN Secretary-General's Panel of Experts report. The members of our Tamil organizations wish to be very clear – we will fully assist the meaningful and independent investigation and prosecution of the crimes and violations covered by the Panel of Experts report, and call on the Government of Sri Lanka to also do so.

If the LLRC report and the Government's subsequent actions do not address accountability, we urge the UN Human Rights Council to take up the independent international monitoring and investigation recommended by the UN Secretary-General's Panel of Experts. We will fully support and cooperate with this process. We also urge individual countries to address the accountability of individuals accused of serious crimes who travel to their jurisdictions.

Accountability cannot be seen in isolation from the serious ongoing human rights abuses and forced demographic changes of today, occurring in the Tamil-majority areas in the North and

³ For UN press release, see www.un.org/News/Press/docs/2011/sgsm13524.doc.htm.

⁴ See Amnesty International's report on the LLRC, www.amnesty.org/en/news-and-updates/report/sri-lanka-inquiry-armed-conflict-fundamentally-flawed-2011-09-07.

⁵ See <http://www.amnesty.org/en/news-and-updates/report/sri-lanka-inquiry-armed-conflict-fundamentally-flawed-2011-09-07>.

⁶ Minister Samarasinghe addresses the 18th Session of the UN Human Rights Council in Geneva, 12 September 2011, see www.lankamission.org/content/view/2768/1/.

⁷ See report on Defence Minister's statement in *The Island*, Colombo, August 1 2011 (largest circulation English newspaper) http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=31492

East of Sri Lanka.⁸ The recent findings on Sri Lanka by the UN Committee Against Torture are damning in this regard.⁹ Our respective groups represent many of the Tamil communities that live abroad. Many of us do not live abroad by choice. As we are freer however than the people in Sri Lanka who are threatened, we feel it is our duty to speak out and support the UN process. We have a primary concern for the peaceful and prosperous future of Sri Lanka, and wish ours to be a community that accepts all groups, which is subject to the rule of law, and which respects all human rights.

Yours sincerely,

Dr. Elias Jeyarajah, President
United States Tamil Political Action Council (USTPAC)

Dr. Raj Rajeswaran, Chairman
Australian Tamil Congress (ATC)

K. Arumugam, Chair
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Dr. Nagalingam Iyngkaran, Chairman
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G. Jeganmohan, President
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⁸ State of Human Rights in Sri Lanka, Asia Center for Human Rights, 2010.
<http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-010-2010.pdf>, World Report, 2010 Sri Lanka, Human Rights Watch <http://www.hrw.org/world-report-2011/sri-lanka>, Annual Report: Sri Lanka, Amnesty International, 2011 <http://www.amnestyusa.org/research/reports/annual-report-sri-lanka-2011?page=show>.

⁹ Concluding Observations of the CAT, 25 November 2011 <http://www2.ohchr.org/english/bodies/cat/cats47.htm>.