

JUSTICE FOR GENOCIDE: Sri Lanka's Genocide Against Tamils

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The Legal Case of the Tamil Genocide

Introduction

Sri Lanka's bloody ethnic conflict ended over five years ago, with thousands of Tamils killed. Despite the end of the war, there has been no accountability or justice for these deaths. This briefing document will analyze Sri Lanka's violations of international law, drawing primarily from reports from the United Nations and other public source materials. This briefing note begins by examining the legal definition of genocide and jurisprudence interpreting and applying the definition of genocidal intent. This note then provides a comparative analysis of Srebrenica and Sudan with the situation in Sri Lanka, offers an overview of the evidence demonstrating Sri Lanka's genocide against Tamils, and ends with requests from international human rights advocates for an international investigation into Sri Lanka's genocide.

I. Legal definition of genocide and jurisprudence interpreting genocidal intent

Article II of The Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) states:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.¹

The definitional element of intent is often referred to as *dolus specialis* or specific intent.² The International Criminal Court's (ICC's) Elements of Crimes states, "Existence of intent and knowledge can be inferred from relevant facts and circumstances."³ The International Criminal Tribunal for the former Yugoslavia (ICTY) has held that genocidal intent "may, in the absence of direct explicit evidence, be inferred from" circumstantial evidence.⁴ When proving genocidal intent based on an inference, "that inference must be the only reasonable inference available on

¹ United Nations Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 1951 U.N.T.S. 278, available at <http://treaties.un.org/doc/Publication/UNTS/Volume%2078/volume-78-I-1021-English.pdf>.

² Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), 2007 I.C.J. 43, ¶ 187 (Feb. 26), available at <http://www.icj-cij.org/docket/files/91/13685.pdf>.

³ Int'l Criminal Court, ELEMENTS OF CRIMES (2011), available at <http://www.icc-cpi.int/nr/rdonlyres/336923d8-a6ad-40ec-ad7b-45bf9de73d56/0/elementsofcrimeseng.pdf>.

⁴ Prosecutor v. Jelusic, ICTY Appeals Chamber Judgment, U.N. Int'l Trib. For Prosecution of Persons, No. IT-95-10-A, § 47 (2001), available at <http://www.icty.org/x/cases/jelusic/acjug/en/jel-aj010705.pdf>.

the evidence.”⁵ Having noted that genocidal intent must usually be inferred⁶ and will, in most cases, “be proved by circumstantial evidence,”⁷ the International Criminal Tribunal for Rwanda (ICTR) further elaborated:

the specific intent of genocide may be inferred from certain facts or indicia, including but not limited to (a) 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, (b) the scale of atrocities committed, (c) their general nature, (d) their execution in a region or a country, (e) the fact that the victims were deliberately and systematically chosen on account of their membership of a particular group, (f) the exclusion, in this regard, of members of other groups, (g) the political doctrine which gave rise to the acts referred to, (h) the repetition of destructive and discriminatory acts and (i) the perpetration of acts which violate the very foundation of the group or considered as such by their perpetrators.⁸

Inferring Genocidal Intent in Srebrenica, Sudan and Sri Lanka

A UN Panel of Experts appointed by Secretary-General Ban Ki Moon found evidence that the Sri Lankan government’s “campaign constituted persecution of the population of the Vanni The credible allegations support a finding of the crime against humanity of persecution insofar as the other acts listed here appear to have been committed on racial or political grounds against the Tamil population of the Vanni, which was perceived by the Government as supporting the LTTE.”⁹ The crime against humanity of persecution, when committed with the intent to destroy in whole or in part, an ethnic group, constitutes genocide. As the ICTY held: “From the viewpoint of *mens rea*, genocide is an extreme and most inhuman form of persecution. To put it differently, when persecution escalates to the extreme form of willful and deliberate acts designed to destroy a group or part of a group, it can be held that such persecution amounts to genocide.”¹⁰ This section analyzes the case studies of Srebrenica and Sudan to demonstrate that

⁵ Prosecutor v. Krstić, ICTY Appeals Chamber Judgment, U.N. Int’l Trib. For Prosecution of Persons, No. IT-98-33-A, § 41 (2004), available at <http://www.icty.org/x/cases/krstic/acjug/en/krs-aj040419e.pdf>.

⁶ Gacumbitsi v. Prosecutor, ICTR Appeals Chamber Judgment, U.N. Int’l Penal Trib., No. ICTR-2001-64-A, § 40 (2006), available at http://www.unict.org/Portals/0/Case/English/Gacumbitsi/judgement/judgement_appeals_070706.pdf.

⁷ Nahimana, Barayagwiza and Ngeze v. Prosecutor, ICTR Appeals Chamber Judgment, Int’l Criminal Trib. for Rwanda, No. ICTR-99-52-A, § 524 (2007), available at http://www.unict.org/Portals/0/Case/English/Nahimana/decisions/071128_judgement.pdf.

⁸ Prosecutor v. Seromba, ICTR Appeals Chamber Judgment, Int’l Criminal Trib. for Rwanda, No. ICTR-2001-66-A, § 176 (2008), available at http://www1.umn.edu/humanrts/instree/ICTR/SEROMBA_ICTR-2001-66/SEROMBA_ICTR-2001-66-A.pdf. See also, *Jelisić*, U.N. Int’l Trib. For Prosecution of Persons, No. IT-95-10-A, ¶ 47 (holding that “proof of specific intent . . . may, in the absence of direct explicit evidence, be inferred from a number of facts and circumstances, such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive and discriminatory acts”).

⁹ U.N. Secretary-General, *Report of the Secretary General’s Panel of Experts on Accountability in Sri Lanka*, ii, 69 (Mar. 30, 2011), available at <http://www.unhcr.org/refworld/docid/4db7b23e2.html> [Hereinafter UN Panel of Experts Report].

¹⁰ Prosecutor v. Kupreškić, Trial Chamber Judgment, U.N. Int’l Trib. For Prosecution of Persons, No. IT-95-16-T, ¶ 636 (2000), available at <http://www.icty.org/x/cases/kupreskic/tjug/en/kup-tj000114e.pdf>; see also, Prosecutor v.

Sri Lanka’s persecution of Tamils rose to the extreme level of willful and deliberate acts designed to destroy the Vanni Tamils, and thus constitutes genocide.

Srebrenica

Srebrenica was declared a United Nations safe area, designed to protect civilians from the war in Bosnia and Herzegovina. In 1995, between 7,000 – 8,000 Bosniak (Bosnian Muslim) men were systematically murdered there.¹¹ Bosniak women, children and elderly people were removed from the enclave. The ICTY found Radislav Krstic, a General-Major in the Bosnian Serb Army (VRS) and Commander of the Drina Corps, guilty of genocide and persecution, among other crimes.¹² The ICTY held, “[t]he intent requirement of genocide under Article 4 of the Statute is therefore satisfied where evidence shows that the alleged perpetrator intended to destroy at least a substantial part of the protected group.”¹³ The ICTY continued, “[i]f a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article 4.”¹⁴

Parallels between the Genocide in Srebrenica and Vanni

	Srebrenica	Vanni
Strategic significance of territory	Srebrenica was of “immense strategic importance to the Bosnian Serb leadership. Without Srebrenica, the ethnically Serb state of Republica Srpska they sought to create would remain divided into two disconnected parts, and its access to Serbia proper would be disrupted. The capture and ethnic purification of Srebrenica would therefore severely undermine the military efforts of the Bosnian Muslim state to ensure its viability, a consequence the Muslim leadership fully realized and strove to prevent.” ¹⁵	The Vanni region held strong strategic and symbolic significance for Tamils in Sri Lanka, as the headquarters of the <i>de facto</i> Tamil state of Tamil Eelam. Without Vanni, the Northern and Eastern provinces, which would constitute the state of Tamil Eelam, would remain divided. Earlier in the conflict, the LTTE controlled significant parts of the Northern and Eastern provinces. The LTTE strategically chose to withdraw to Vanni when it became untenable to control all the territory it once held.

Brdjanin, Trial Chamber Judgment, U.N. Int’l Trib. For Prosecution of Persons, No. IT-99-36-T, ¶ 699 (2004), available at <http://www.icty.org/x/cases/brdanin/tjug/en/brd-tj040901e.pdf>.

¹¹ *Krstic*, U.N. Int’l Trib. For Prosecution of Persons, No. IT-98-33-A, § 2.

¹² *Id.* § 3. The ICTY appeals chamber overturned his genocide conviction but affirmed his aiding and abetting genocide conviction. ICTY, *Case Information Sheet: Srebrenica-Drina Corps (IT-98-33) Radislav Krstic 9*, available at http://www.icty.org/x/cases/krstic/cis/en/cis_krstic.pdf.

¹³ *Krstic*, *supra* note 11, at § 12.

¹⁴ *Id.*

¹⁵ *Id.* § 15.

Symbolic significance of territory	“The elimination of the Muslim population of Srebrenica, despite the assurances given by the international community, would serve as a potent example to all Bosnian Muslims of their vulnerability and defenselessness in the face of Serb military forces. The fate of the Bosnian Muslims of Srebrenica would be emblematic of that of all Bosnian Muslims.” ¹⁶	Vanni, as the LTTE’s administrative center, held the headquarters of the Police of Tamil Eelam, political wing of Tamil Eelam, the Courts of Tamil Eelam, the Bank of Tamil Eelam, and other departments of LTTE bureaucracy. Vanni was the last bastion of the LTTE; destroying it would determine the fate of a separate state of Tamil Eelam.
Territory established as “safe”	Srebrenica was designated a “safe area” by the UN Security Council, to be “free from armed attack or any other hostile act.” ¹⁷	Three successive “no fire zones” were established by the Sri Lankan government. The Sri Lankan government even dropped pamphlets in Tamil around the region to encourage civilians to congregate in these “no fire zones.”
Small percentage of entire population targeted	The Bosnian Muslim population in Srebrenica amounted to approximately 40,000 people—a small percentage of the overall Muslim population of Bosnia and Herzegovina. ¹⁸	The Tamil population in Vanni amounted to over 250,000 people—approximately 7% of the island’s population. ¹⁹
Permanently prevent the targeted population from reconstituting itself in original territory	The decision not to kill all Bosnian Muslims, and to transfer the women and children, “eliminate[ed] even the residual possibility that the Muslim community in the area could reconstitute itself.” ²⁰	The government’s forcible transfer of Tamils into military-run Internally Displaced Person (IDP) camps, where they were to remain for up to three years, would eliminate the possibility that Tamils could reconstitute themselves in Vanni.

The Sri Lankan government claimed that 70,000 Tamils were trapped in the conflict zone, while the Red Cross estimated 250,000 people.²¹ The Sri Lankan government “deliberately used greatly reduced estimates [of the civilian population size], as part of a strategy to limit the

¹⁶ *Id.* § 16.

¹⁷ United Nations Security Council Resolution 819, UN Doc. S/RES/819 (Apr. 16, 1993).

¹⁸ *Krstic, supra* note 11, at § 15.

¹⁹ Ravi Nessman, *Sri Lanka Plans to House War Refugees for 3 Years*, FOX NEWS, Feb. 11, 2009, http://www.foxnews.com/printer_friendly_wires/2009Feb11/0,4675,ASSriLankaCamps,00.html.

²⁰ *Krstic, supra* note 11, at § 31.

²¹ Nessman, *supra* note 19.

supplies going into the Vanni, thereby putting ever-greater pressure on the civilian population.”²² The government intentionally understated the population size in order to hide the total deaths that occurred and to starve the population into submission. As Tamils fled the war zone in early 2009, they were detained in IDP camps that Human Rights Watch said were little better than prisons.²³ In February 2009, the Sri Lankan government released its plan to keep Tamil refugees in five IDP camps for up to three years.²⁴ The government wanted to construct 39,000 semi-permanent homes, as well as post offices and banks, in these “welfare villages” where refugees were forcibly detained.²⁵ Like the Bosnian Serb forces’ plan to prevent Bosnian Muslims from returning to Srebrenica, this plan would have prevented Tamils from reconstituting their community in Vanni.

The genocide against Vanni Tamils is most analogous to the genocide in Srebrenica, but significant parallels can also be drawn from Sudan, the genocide most recently acknowledged by international actors.

Sudan

Genocidal intent was inferred in the ICC’s indictment of Sudanese President Omar Al Bashir.²⁶ The prosecution “relie[d] exclusively on proof by inference to substantiate its allegations concerning Omar Al Bashir’s alleged responsibility for genocide.”²⁷ Specifically, the Court found that the prosecution provided three categories of factors from which to infer existence of the Government of Sudan (GoS)’s genocidal intent: i) the alleged existence of a government strategy to deny and conceal the crimes allegedly committed in the Darfur region against the members of the Fur, Masalit and Zaghawa groups; ii) official statements and public documents; and iii) the nature and extent of the acts of violence committed by GoS forces against the Fur, Masalit, and Zaghawa civilian population. Further, the Court found that Bashir was in full control of the ‘apparatus’ of the state of Sudan, including the armed forces and their allied Janjaweed militia, the police forces and other such state apparatus.²⁸ This provided the basis for “reasonable grounds to believe that the suspect acted with a specific genocidal intent as one of a number of reasonable conclusions,” with the Court concluding that “[t]he Chamber is therefore satisfied . . . that there are reasonable grounds to believe that Al Bashir acted with *dolus specialis*/specific intent to destroy in part the Fur, Masalit and Zaghawa ethnic groups.”²⁹ In the

²² UN Panel of Experts Report, at 39.

²³ Nessman, *supra* note 19.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Prosecutor v. Omar Hassan Ahmad Al Bashir, Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, ICC-02/05-01/09 (Mar. 4, 2009), *available at* <http://www.icc-cpi.int/iccdocs/doc/doc639096.pdf> (initial decision held grounds for charging Bashir with genocide did not exist); Prosecutor v. Omar Hassan Ahmad Al Bashir, Second Decision on the Prosecution’s Application for a Warrant of Arrest, ICC-02/05-01/09 (July 12, 2010), *available at* http://www.haguejusticeportal.net/Docs/Court%20Documents/ICC/Bashir_Second%20Decision%20for%20a%20Warrant%20of%20Arrest.pdf (holding that the previous Chamber misapplied the standard of proof required to charge Bashir with genocide and charging Bashir with three counts of genocide).

²⁷ *Al Bashir*, Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, ICC-02/05-01/09, § 147.

²⁸ *Id.* § 148.

²⁹ *Bashir*, Second Decision on the Prosecution’s Application for a Warrant of Arrest, ICC-02/05-01/09, §§ 4-5.

case of Sri Lanka all three factors proving intent in Sudan and Bashir's individual criminal responsibility can be found within statements and actions committed by Sri Lankan government officials.

i) The alleged existence of a government strategy to deny and conceal the crimes allegedly committed against Tamils:

Evidence has emerged that the Sri Lankan government is attempting to conceal the crimes committed in the Vanni, with Army personnel "deliberately and systematically" seeking to exhume and destroy mass graves.³⁰ The Public Interest Advocacy Center (PIAC), an Australian-based human rights group, issued an in-depth report regarding crimes allegedly committed by the Sri Lankan government and the LTTE during the war. PIAC obtained eyewitness information regarding the "systematic destruction of civilian mass burial sites in the post-conflict period."³¹ PIAC reported:

According to this witness, these **burial sites contained human remains from hundreds, and in some instances, thousands of men, women and children** who died during the conflict. The precise location of these, and other, burial sites, has been provided to ICEP. This witness has alleged that scores of civilian mass burial sites were systematically destroyed after the conflict. **According to this witness, the SFs [Security Forces], and specifically members of the Sri Lankan Police and Sri Lankan Army, are directly implicated in this conduct.** This witness believes that senior SFs officials knew that graves were being identified for the purpose of exhumation, and permanent destruction, over a period of more than a year.³²

This corroborates one Sri Lankan soldier's account of the Sri Lankan government bulldozing mass graves.³³ The former soldier told Channel 4:

Massive numbers of children, women and men were killed in the final stages of the war. When I say massive, in Puthumathalan alone, over 1500 civilians were killed. But they couldn't bury all of them. What they did was, they bought a bulldozer, they spread the dead bodies out and put sand on top of them, making it look like a bund. . . . They wanted to clear them [the dead bodies] that's why they brought that big vehicle. All they could do was just put sand on them. In some areas you couldn't go because there was

³⁰ Helen Davidson, *Sri Lankan Security Forces Destroyed Evidence of War Crimes, Report Claims*, THE GUARDIAN, Feb. 5, 2014, available at <http://www.theguardian.com/world/2014/feb/05/sri-lankan-forces-committed-flagrant-and-reckless-violations-of-human-rights-report-claims> (reporting on evidence "that suggests the Sri Lankan government may have deliberately and systematically sought to exhume bodies from mass graves in a bid to hide evidence of the mass killings").

³¹ PUBLIC INTEREST ADVOCACY CENTER: INT'L CRIMES EVIDENCE PROJECT, *Island of Impunity?* § 14.21-2 (Feb. 2014), http://www.piac.asn.au/sites/default/files/publications/extras/island_of_impunity.pdf.

³² *Id.* at § 14.22-3 (emphasis added).

³³ *The Sri Lankan Soldiers 'Whose Hearts Turned To Stone'*, CHANNEL 4 NEWS, July 27, 2011, <http://www.channel4.com/news/the-sri-lankan-soldiers-whose-hearts-turned-to-stone>.

such a terrible smell of decomposing bodies. They were just innocent Tamil civilians and did not belong to either warring party.³⁴

Additionally, the Sri Lankan government waited nearly two years to admit that any civilian casualties occurred during the final months of the war. Prior to this admission, the government repeatedly alleged that there were no civilian casualties during the war.³⁵

ii) Official statements and public documents

Statements made by high-ranking Sri Lankan officials provide a strong basis for inferring genocidal intent. They depict the anti-Tamil hostility underpinning Sinhala Buddhist chauvinism, which has long been a hallmark feature of Sri Lanka's ethno-nationalist politics. The government's construct of Sri Lanka is based on the primacy of the Sinhala identity, and fundamentally excludes Tamils. The extermination of Tamils, and particularly Vanni Tamils, who were considered the most ardent Tamil nationalists, and therefore most resistant to the Sinhalization of the Sri Lankan identity, facilitated the realization of the government's ideal Sri Lankan state. Such Sinhala chauvinist statements include:

We have removed the word minorities from our vocabulary three years ago. No longer are the Tamils, Muslims, Burghers, Malays and any others minorities. There are only two peoples in this country. One is the people that love this country. The other comprises the small groups that have no love for the land of their birth. Those who do not love the country are now a lesser group.

President Mahinda Rajapaksa (2005 – present) during the ceremonial opening of the Sri Lankan Parliament on 19 May 2009, cited in The Sunday Leader, 24 May 2009.

President Rajapaksa's statement captures the exclusionary nature of the Sri Lankan identity. The Tamil identity is no longer recognized—it has been subsumed into the Sinhala "Sri Lankan" identity.

There are no independent observers, only LTTE sympathizers. Radio announcements were made and movement of civilians started a month and a half ago.

Defense Secretary Gotabhaya Rajapaksa (2005 – present) in an interview to IBN on February 3, 2009.

Gotabhaya Rajapaksa's statement reflects his belief that all persons under attack by the Sri Lankan military were legitimate targets. He reveals his view that every individual who stayed in LTTE-controlled territory was an LTTE sympathizer, and was therefore no

³⁴ *Id.*

³⁵ President Mahinda Rajapaksa, Keynote Address to the Honorary Consuls of Sri Lanka Abroad (Jan. 19, 2009), (transcript available at <http://www.mea.gov.lk/index.php/en/media/statements/1561-keynote-address-by-president-mahinda-rajapaksa-to-the-honorary-consuls-of-sri-lanka-abroad->).

longer an “independent observer” or a civilian. His statement shows that ideological support for the LTTE alone was sufficient cause for death.

I strongly believe that this country belongs to the Sinhalese but there are minority communities and we treat them like our people . . . We being the majority of the country, 75%, we will never give in and we have the right to protect this country. . . . They can live in this country with us. But they must not try to, under the pretext of being a minority, demand undue things.

General Sarath Fonseka, the Commander of the Sri Lanka Army (December 2005 – July 2009) cited in National Post, 23 September 2008.

Fonseka’s statement demonstrates the entitlement Sinhalese feel over the island, and the false benevolence with which the Sinhalese will allow Tamils to live there.

After defeating terrorism, no country in the world had provided space to the political front of terrorism. They have taken legal and political actions to defeat such political fronts. But the Sri Lankan state did not take any such action against the Tamil National Alliance. The consequences of it are now reflected through the results of the Northern Provincial Council election. If the Tamil National Alliance is preparing to challenge the Sri Lankan state, people and its sovereignty nationally and internationally using the political victory achieved in Northern Province, the Tamil society and their future generation will have to revisit Nandikadal lagoon.

Patali Champika Ranawaka, Minister of Technology, Research and Atomic Energy and the leader of National Heritage Party (JHU) in a press statement following the election victory of the Tamil National Alliance, 23 September 2013.

The Tamil National Alliance (TNA) is the largest Tamil political party on the island, and is formed as a coalition of several different Tamil groups. They won an overwhelming victory in the Northern Provincial Council elections, held for the first time since the creation of provincial councils in 1987. Nandikadal lagoon was the site of the final military onslaught in May 2009 where thousands of Tamil civilians were killed. Ranawaka’s statement that the TNA will have to revisit Nandikadal if they start challenging the Sri Lankan state, its (Sinhala) people and sovereignty is a barely-veiled threat that Tamils will face slaughter if they agitate politically. That Ranawaka also threatens Tamils’ “future generations” is also significant—he is raising the spectre of exterminating the entire Tamil identity if the Sri Lankan state is challenged.

There are also historical examples of statements from key Sri Lankan leaders that evince intent to destroy the Tamil people.

I am not worried about the opinion of the Tamil people. . . now we cannot think of them, not about their lives or their opinion . . . the more you put pressure in the north, the happier the Sinhala people will be here . . . Really if I starve the Tamils out, the Sinhala people will be happy.

President J.R. Jayawardane (1977 – 1988), cited in Daily Telegraph, 11 July 1983.

Jayawardane's statement reflects the zero-sum mentality of successive Sri Lankan governments with respect to the Tamil people. He is conveying the sentiment that the Sinhalese are happier and more secure on an island without Tamils. He is also alluding to the government's oft-utilized strategy of depriving Tamils of food and humanitarian aid, seen in the embargos against the North-East throughout the decades of conflict, and of course in 2008-09.

Today you are brought here and given a plot of land. You have been uprooted from your village. You are like a piece of driftwood in the ocean; but remember that one day the whole country will look up to you. The final battle for the Sinhala people will be fought on the plains of Padaviya. You are men and women who will carry this island's destiny on your shoulders. Those who are attempting to divide this country will have to reckon with you. The country may forget you for a few years, but one day very soon they will look up to you as the last bastion of the Sinhala.

*The first Prime Minister D.S. Senanayake (1947 – 1952), addressing Sinhala colonists being settled in the traditionally Tamil Eastern Province in the early days of Ceylon's independence.*³⁶

Padaviya is in the district of Anurathapuram, located on the border between the traditionally Tamil region and the Sinhala region in the south of Sri Lanka. Government-sponsored colonization schemes have worked to alter traditional demographics on the island. Tamils habiting the contiguous Northern and Eastern provinces presented the gravest threat to the unity of the Sri Lankan state, so within years of receiving independence, the Sinhala government attempted to suppress this threat by financing land grabs in the East. Since independence, the amount of Tamils in the Eastern Province has decreased 10% while the Sinhalese population has increased 15%.³⁷

These historical statements provide the contextual background to the atrocities of 2009, and helps explain the willful silence and complicity of the Sinhala public in whitewashing these crimes after 2009.

iii) The nature and extent of the acts of violence committed by Government forces against Tamil population:

³⁶ As cited in H.M. Gunaratne, *FOR A SOVEREIGN STATE* 201 (Colombo: Sarvodaya Publications 1988).

³⁷ Pre-independence, the Eastern province was 49% Tamil, 39% Muslim, and 8% Sinhala. Today, it is 40% Tamil, 37% Muslim and 23% Sinhala. Robert N. Kearney, *Territorial Elements of Tamil Separatism in Sri Lanka*, 60 *PAC. AFFAIRS* 561 (1987-88). Ceylon Dep't of Census & Statistics, *Census of Ceylon, 1946* (1951).

According to a UN Internal Review Report, up to 70,000 Tamil civilians were killed in the final months of the war.³⁸ Mass graves continue to be unearthed throughout North-East Sri Lanka. In January, a grave with an estimated 31 bodies, many of whom were women and children, was found in a Tamil area near where the final stages of the war occurred.³⁹ These bodies are presumably among the thousands of civilians executed and covered up by Sri Lankan security forces. The nature and extent of Sri Lanka's violence against Tamils will be explored in greater depth in Section II below.

iv) Control of the state

According to recent reports, the Rajapaksa family has a total of 29 family and extended family members filling high-level civil service and industry positions, and control between 45% and 70% of the national budget.⁴⁰ President Rajapaksa's brother, Gotabaya, was appointed Defense Secretary in 2005 upon the President's election. He held office throughout and beyond the final months of Sri Lanka's civil war, and in 2011 two Sri Lankan Army soldiers testified that the final assault on the LTTE that resulted in thousands of Tamil civilian casualties was ordered by Gotabaya Rajapaksa.⁴¹ The testimony, coupled with circumstance, indicates high-level control of military resources as well as decisions that knowingly led to Tamil civilian casualties. Another brother, Basil Rajapaksa, is both Minister for Economic Development and the head of the "President's Task Force", a body appointed to rebuild the North, and responsible for coordinating the security forces in rehabilitation, resettlement and development.⁴² Between them, the three brothers control five of the largest government ministries. Chamal Rajapaksa, another brother, is the speaker of the Sri Lankan parliament. One of the largest news publishers, The Associated Newspapers of Ceylon, is managed by Upul Dissanayaka, who is also part of Mahinda Rajapaksa's extended family.⁴³

II. The Sri Lankan government's campaign against Tamils constitutes genocide

This section provides an overview of the evidence satisfying four of the five prongs of the Genocide Convention: 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, and imposing measures intended to prevent births within the group. This section does not attempt to be comprehensive; extensive public source information is also available elsewhere.

³⁸ Report of the U.N. Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka (Nov. 2012), available at http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf.

³⁹ Charles Haviland, *Sri Lanka Mass Grave Yields More Skeletons*, BBC NEWS, Jan. 18, 2014, <http://www.bbc.com/news/world-asia-25782902>.

⁴⁰ *Five Infographics About Sri Lanka*, SRI LANKA CAMPAIGN FOR PEACE & JUSTICE (Mar. 20, 2013), <http://blog.srilankacampaign.org/2013/03/five-infographics-about-sri-lanka.html>.

⁴¹ Jonathan Miller, *Sri Lanka 'War Crimes' Soldiers Ordered to 'Finish the Job'*, CHANNEL 4 NEWS, July 27, 2011, <http://www.channel4.com/news/sri-lanka-war-crimes-soldiers-ordered-to-finish-the-job>.

⁴² *Resettlement, Development and Security in the Northern Province: President Appoints Task Force Mandated to Report Within One Year*, MINISTRY OF DEF. & URBAN DEV. SRI LANKA (Dec. 30, 2010, 11:41 PM), http://www.defence.lk/new.asp?fname=20090514_03.

⁴³ *Five Infographics About Sri Lanka*, *supra* note 40.

A. Killing members of the group

- The UN Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka stated: "The Government shelled on a large scale in three consecutive No Fire Zones, where it had encouraged the civilian population to concentrate, even after indicating that it would cease the use of heavy weapons. It shelled the United Nations hub, food distribution lines and near the International Committee of the Red Cross (ICRC) ships that were coming to pick up the wounded and their relatives from the beaches. It shelled in spite of its knowledge of the impact, provided by its own intelligence systems and through notification by the United Nations, the ICRC and others. Most civilian casualties in the final phases of the war were caused by Government shelling."⁴⁴
- At the end of January 2009, 33 Tamil people were being killed each day, with these casualties increasing to 116 people per day that April. This toll surged, "with an average of 1,000 civilians killed each day until May 19, 2009."⁴⁵
- Mahinda Rajapaksa stated that the Army strategically cornered Tamils. According to the President, "[t]hese were not areas demarcated by the U.N. or somebody else; they were demarcated by our armed forces. The whole thing was planned by our forces to corner them. The Army was advancing from North to South, South to North, on all sides. So I would say they got cornered by our strategies."⁴⁶
- Callum Macrae, director of award-winning documentaries about Sri Lanka with UK's Channel 4, reported on "evidence that the attacks killing civilians were accurately targeted."⁴⁷
- The UN Panel of Experts reported on an elite unit within the Special Task Force (STF) of the police that was directly under the command of Defense Secretary Gotabaya Rajapaksa, which was implicated in organizing "white van" operations in which individuals were abducted, tortured, and often "disappeared."⁴⁸
- In addition to deliberate shelling of civilians, systematic executions demonstrate intent to kill Tamils. Macrae has also reported on evidence "depicting the systematic and cold-blooded execution of bound, naked prisoners—and which also suggests sexual assault of naked female fighters."⁴⁹
- At least 200 deceased and mutilated bodies, primarily of Tamil women and young girls, were observed by the employee of an international agency at the mortuary of a government hospital in February and March 2009. As reported to the International Crimes Evidence Project, "many of the bodies of the women were naked and bore physical evidence of rape and sexual mutilation, with knife wounds in the nature of long slashes, bite marks or deep scratches on the breasts, and vaginal mutilation by

⁴⁴ UN Panel of Experts Report, at ii.

⁴⁵ PEOPLES' TRIBUNAL, *Peoples' Tribunal on Sri Lanka* § 5.1.4.1(a) (Dec. 2013), available at http://ptsrilanka.org/images/documents/ppt_final_report_web.pdf.

⁴⁶ *We knew they would never lay down arms and start negotiating*, THE HINDU, July 7, 2009, available at <http://www.thehindu.com/todays-paper/tp-opinion/we-knew-they-would-never-lay-down-arms-and-start-negotiating/article222566.ece> (Mahinda Rajapaksa interview).

⁴⁷ Callum Macrae, *Sri Lanka: A Child is Summarily Executed*, THE INDEPENDENT, Mar. 11, 2012, available at <http://www.independent.co.uk/news/world/asia/sri-lanka-a-child-is-summarily-executed-7555062.html>.

⁴⁸ UN Panel of Experts Report, at § 100.

⁴⁹ *Id.*

knives, bottles and sticks The bodies also typically bore signs of gunshot wounds to the forehead, which appeared to have been inflicted at close range due to the lack of peripheral damage.”⁵⁰

B. Causing serious bodily or mental harm to members of the group

- The UN Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka found credible allegations that security forces committed rape and sexual violence against Tamil civilians while screening those leaving areas of conflict and in IDP camps.⁵¹ Human Rights Watch (HRW) found “disturbing patterns, strongly suggesting that [sexual violence] was a widespread and systematic practice,” and concluded that rape was a key element of more wide-ranging torture “intended to . . . instill terror in individuals and the broader Tamil population.”⁵² HRW stated, “[s]exual violence, as with other serious abuses committed by Sri Lankan security forces, was committed against a backdrop of deeply entrenched impunity.”⁵³
- A report released in March 2014 that Yasmin Sooka, one of the UN Secretary-Generals Experts on the Panel Report on Sri Lanka, led and authored, found: “Abduction, arbitrary detention, torture, rape and sexual violence have increased in the post-war period These widespread and systematic violations by the Sri Lankan security forces occur in a manner that indicates a coordinated, systematic plan approved by the highest levels of government.”⁵⁴ The report found “a pattern of targeting Tamils for abduction and arbitrary detention unconnected to a lawful purpose, involving widespread acts of torture and rape.”⁵⁵ This report was based on 40 sworn statements from witnesses who testified to their experiences of abduction, torture and sexual violence by Sri Lankan security forces between May 2009 and February 2014. The report “paints a chilling picture of the continuation of the conflict against the ethnic Tamil Community with the purpose of sowing terror and destabilising community members who remain in the country.”⁵⁶ The report identified “a practice of rape and sexual violence that has become institutionalized and entrenched in the Sri Lankan security forces.”⁵⁷ Survivors reported being raped by uniformed male officers from the Sri Lankan military.⁵⁸ A witness was told, “you Tamil, you slave, if we make you pregnant we will make you abort . . . you are Tamil we will rape you like this, this is how you will be treated, even after an abortion you will be raped again.”⁵⁹

⁵⁰ PUBLIC INTEREST ADVOCACY CENTER: INT’L CRIMES EVIDENCE PROJECT, *supra* note 31, at § 11.34.

⁵¹ UN Panel of Experts Report, at §§ 148, 152-53, 228.

⁵² HUMAN RIGHTS WATCH, *We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces* 29 (Feb. 2013), http://www.hrw.org/sites/default/files/reports/srilanka0213webwcover_0.pdf.

⁵³ *Id.* at 18.

⁵⁴ Yasmin Sooka, *An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009 – 2014*, the Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka 6 (March 2014), *available at* http://www.barhumanrights.org.uk/sites/default/files/documents/news/an_unfinihsed_war_torture_and_sexual_violence_in_sri_lanka_2009-2014_0.pdf.

⁵⁵ *Id.* at 53.

⁵⁶ *Id.* at 62.

⁵⁷ *Id.* at 37.

⁵⁸ *Id.* at 36.

⁵⁹ *Id.* at 38.

- A report from Human Rights Watch released February 2013 documented 75 cases of politically motivated sexual assaults of primarily Tamil detainees. HRW found that sexual violence committed by security forces was widespread and systematic.⁶⁰
- Systematic attacks on hospitals during the 2009 military campaign caused serious bodily and mental harm to Tamils. Human Rights Watch documented at least 30 attacks on permanent and makeshift hospitals in the combat area after December 2008.⁶¹ Gotabaya Rajapaksa, Sri Lanka's Defense Secretary, told Sky News that any hospital that was not within the unilaterally declared "no fire zone" set up by the government was a legitimate target.⁶²
- Investigators with the U.S. Centers for Disease Control and Prevention (CDC), United Nations Children's Fund (UNICEF), and Sri Lanka Ministry of Healthcare and Nutrition conducted a health survey of Jaffna District residents between July and September 2009. They found that the "prevalence of PTSD (13%), anxiety (48.5%), and depression (41.8%) symptoms among currently displaced Jaffna residents is more comparable with postwar Kosovars and Afghans."⁶³ As noted by the Permanent Peoples' Tribunal on Sri Lanka, "continuous displacement and endless trauma caused by protracted war had a devastating impact" on mental health among Tamils.⁶⁴
- The government has imposed restrictions on psychosocial support services in Tamil areas,⁶⁵ which further exacerbates serious mental harm.

C. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

- The UN Panel of Experts Report found that the government deliberately understated the Tamil population size "as part of a strategy to limit the supplies going into the Vanni."⁶⁶ The Panel of Experts Report continued: "A senior Government official subsequently admitted that the estimates were reduced to this end. The low numbers also indicate that the Government conflated civilians with LTTE in the final stages of the war."⁶⁷

⁶⁰ HRW, *'We Will Teach You a Lesson': Sexual Violence against Tamils by Sri Lankan Security Forces* (Feb. 26, 2013), available at http://www.hrw.org/sites/default/files/reports/srilanka0213webwcover_0.pdf.

⁶¹ HRW, *Sri Lanka: Repeated Shelling of Hospitals Evidence of War Crimes* (May 8, 2009), <http://www.hrw.org/news/2009/05/08/sri-lanka-repeated-shelling-hospitals-evidence-war-crimes>.

⁶² Alex Crawford, *Packed Sri Lanka Hospital Shelled*, SKY NEWS, Feb. 2, 2009, <http://news.sky.com/story/667068/packed-sri-lanka-hospital-shelled>.

⁶³ F. Husain et al., *Prevalence of War-Related Mental Health Conditions and Association with Displacement Status in Postwar Jaffna District, Sri Lanka*, 306 JAMA 522 (2011), available at <http://www.cdc.gov/globalhealth/gdder/ierh/publications/srilankastudy2011.pdf>.

⁶⁴ PEOPLES' TRIBUNAL, *supra* note 45, at § 5.1.4.1(b).

⁶⁵ Opening remarks by UN High Commissioner for Human Rights Navi Pillay at a press conference during her mission to Sri Lanka Colombo (Aug. 31, 2013), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673> (stating, "Because of the legacy of massive trauma, there is a desperate need for counseling and psychosocial support in the North, and I was surprised and disappointed to learn that the authorities have restricted NGO activity in this sector. I hope the Government can relax controls on this type of assistance.").

⁶⁶ UN Panel of Experts Report, at 39.

⁶⁷ *Id.*

- Refusing “to allow adequate food and medical supplies into the Vanni despite being aware of the devastating effect it would have on civilians, which could have amounted to inhumane acts or persecution, or both”⁶⁸ demonstrates the government’s deliberate infliction of conditions of life calculated to bring about the physical destruction of Tamils.
- Callum Macrae, director of award-winning documentaries about Sri Lanka with UK’s Channel 4, found evidence of “the deliberate denial of adequate humanitarian supplies of food and medicine to civilians trapped in those grotesquely misnamed No Fire Zones. To justify this policy, the government systematically underestimated the number of civilians trapped in the zones. At the end of April 2009, for example, President Rajapaksa told CNN that there ‘there are only about 5,000 . . . even 10,000’ civilians left in the zones. In fact, according to UN figures, there were more than 125,000 still trapped. The President himself had endorsed the inaccurate figures that were being used to justify what almost certainly constitutes a war crime—a crime that left thousands of civilians catastrophically short of food and water—and allowed hundreds to die unnecessarily in makeshift hospitals because of desperate shortages of supplies including blood and anesthetics.”⁶⁹
- Amnesty International’s Asia director, Sam Zafiri, stated that the government’s policy of obstructing aid was deliberate and illegal, noting “[i]nternational law bans medieval sieges—you can’t subject a population to hunger, famine or plague as a means of military victory.”⁷⁰
- A military blockade against Tamil areas, in place since 1990 except for ceasefire periods, has contributed to the impoverishment and isolation of the Tamil community. The blockade has prevented ordinary items such as cement, gasoline, candles, and chocolate from entering Tamil areas.
- The Peoples’ Tribunal on Sri Lanka found that the situation faced by Tamils “shows clear signs of continuing deterioration in terms of health, food and social security.”⁷¹ In the North-East areas, the malnutrition level has reached 50%, “corresponding also with the alarming poverty rate measured at 58.7%”⁷² in those regions.
- The systematic expulsion of victims from their homes is one means of inflicting conditions of life calculated to bring about the physical destruction of a group, as stated by the International Criminal Tribunals.^{73, 74} This is seen in Sri Lanka’s treatment of Tamils. Private lands belonging to Tamils are being confiscated by the Sri Lankan government.⁷⁵ In May 2013, 1,474 northern Tamils filed a petition against the government’s confiscation of their land,⁷⁶ stating that 6,381 acres were

⁶⁸ International Crimes Evidence Project, *supra* note 35, at § 5.28.

⁶⁹ Macrae, *supra* note 33.

⁷⁰ *Id.*

⁷¹ PEOPLES’ TRIBUNAL, *supra* note 45, at § 5.1.5.

⁷² *Id.*

⁷³ Prosecutor v. Akayesu, ICTR Trial Chamber Judgment, Int’l Criminal Trib. for Rwanda, No. ICTR-96-4-T, § 506 (1998), available at <http://www.unict.org/Portals/0/Case/English/Akayesu/judgement/akay001.pdf>.

⁷⁴ PEOPLES’ TRIBUNAL, *supra* note 45, at § 5.1.5.

⁷⁵ *Id.*

⁷⁶ *1474 Northern Tamils Petition Appeal Court To Help Prevent Grab Of Their Homes By Rajapaksa Regime*, COLOMBO TELEGRAPH, May 15, 2013, available at <https://www.colombotelegraph.com/index.php/1474-northern-tamils-petition-appeal-court-to-help-prevent-grab-of-their-homes-by-rajapaksa-regime/>.

appropriated to build another Army base in Jaffna. A large number of them were refused permission to return to their lands, and were forced to remain in the “welfare villages.” This has enabled the government to claim the owners of these lands are “unidentifiable.”⁷⁷

- Even 5 years after the end of the war, Sri Lanka announced a defense budget of \$1.95 billion for 2014 (12% of the overall 2014 state budget).⁷⁸ The Sri Lankan military’s current reach includes police powers throughout the country, with search and detention authority. In Tamil-speaking areas, the Sri Lankan military is “increasing its economic role, controlling land and seemingly establishing itself as a permanent, occupying presence.”⁷⁹ The heavy militarization of the North-East areas has led to the drastic increase in Sinhalese settlers, land grabs, construction of Buddhist temples, conversion of village names and street signs from Tamil to Sinhalese, and unrestricted Sinhalese enterprise, all of which threaten to permanently alter the local demography and exacerbate ethnic tensions, as noted by the International Crisis Group.⁸⁰ Evidence related to the “escalation of militarisation, colonisation and forcible imposition of Sinhala Buddhist culture in the Eelam Tamil areas” contributed to a finding of genocide by the Peoples’ Tribunal on Sri Lanka.⁸¹

D. Imposing measures intended to prevent births within the group

- In May 2007, a confidential cable from the United States Embassy in Colombo stated, “Father Bernard also told us of an EPDP [Eelam People’s Democratic Party, a pro-government paramilitary organization] medical doctor named Dr. Sinnathambi, who performs forced abortions, often under the guise of a regular check-up, on Tamil women suspected of being aligned with the LTTE.”⁸²
- A Health Department report from the Northern Province in 2012 found a 30-times higher rate of birth control implants of Tamil women in Mullaitivu, compared to the much more densely populated Jaffna.⁸³ In August 2013, government health workers forced mothers to accept surgically implanted birth control in the Tamil villages of Veravil, Keranchi and Valaipaddu in Kilinochchi in the Northern Province.⁸⁴ When the women objected, the nurses said that if they did not agree to the contraceptive, they could be denied treatment at the hospital in the future.⁸⁵

⁷⁷ *Id.*

⁷⁸ Jon Grevatt, *Sri Lanka outlines 2014 defence spending*, IHS JANE’S 360, Oct. 22, 2013, <http://www.janes.com/article/28793/sri-lanka-outlines-2014-defence-spending>.

⁷⁹ INT’L CRISIS GRP., *SRI LANKA’S NORTH II: REBUILDING UNDER THE MILITARY* (Mar. 16, 2012), <http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/220-sri-lankas-north-ii-rebuilding-under-the-military.aspx>.

⁸⁰ *Id.*

⁸¹ PEOPLES’ TRIBUNAL, *supra* note 45, at § 5.1.5.

⁸² Cable from Robert Blake, *Sri Lanka: GSL Complicity in Paramilitary*, WIKILEAKS (May 18, 2007), <http://wikileaks.org/cable/2007/05/07COLOMBO728.html>.

⁸³ DEP’T OF HEALTH SERVS., N. PROVINCE, *ANNUAL HEALTH BULLETIN (2012)*, available at http://www.healthnp.org/progress/pdhs_1.pdf (Sri Lanka).

⁸⁴ The Social Architects, *Coercive Population Control in Kilinochchi*, GROUNDVIEWS, Sept. 13, 2013, <http://groundviews.org/2013/09/13/coercive-population-control-in-kilinochchi/>.

⁸⁵ *Id.*

- According to the Home for Human Rights (HHR), an organization of lawyers devoted to protecting the fundamental rights of those living in Sri Lanka, more than 80 percent of Tamil women in central Sri Lanka were offered a lump sum payment of in return for their ability to reproduce. After receiving this payment, women underwent surgical sterilization. Typically 500 rupees, these payments were significant to these women, who are predominantly plantation workers. The population of this Tamil group has dropped annually since 1996 by five percent, whereas the population of the country overall has grown by 14 percent.⁸⁶
- In contrast, police and Army officers have been encouraged to have a third child through payment of 100,000 rupees from the government. The police and Army are overwhelmingly Sinhalese, and thus those taking advantage of this offer are Sinhalese.⁸⁷
- “This systematic pattern of authority-sanctioned coerced sterilizations may amount to an intentional destruction . . . of the Tamil estate population,” as noted by the Home for Human Rights.⁸⁸

III. An investigation into genocide has been requested by international human rights advocates

Members of the governments of Australia, Canada, the United Kingdom, India and Tamil MPs in Sri Lanka have requested an investigation into Sri Lanka’s genocide. International human rights advocates and organizations such as Yasmin Sooka, an expert who served on the UN Secretary General’s Panel of Experts on Sri Lanka, Arundhati Roy, a prominent South Asian activist, and the International Crisis Group, Catholic Justice and Peace Commission and the Public Interest Advocacy Center have similarly noted the need to investigate genocide. A list of individuals and organizations that have requested an investigation into Sri Lanka’s genocide is enclosed in the Appendix.

IV. Recommendations

The Preamble to the Statute of the International Criminal Court provides that one of the core goals of the Statute is to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, which “must not go unpunished.”⁸⁹ The post-war situation in Sri Lanka reflects a deteriorating human rights situation with rampant rights abuses. Impunity breeds further injustice.

The Genocide Convention obligation to prevent and punish genocide is not a matter of political choice or calculation, but one of binding international law. The OHCHR Investigation on Sri Lanka should investigate and report on the charge of genocide in its submission to the UN Human Rights Council in March 2015. The UN Security Council should refer Sri Lanka to the International Criminal Court for prosecutions based on war crimes, crimes against humanity and genocide. Alternatively or concurrently, domestic courts in countries that may exercise

⁸⁶ *Demographic Engineering by the Government of Sri Lanka: Is this Eugenics?*, THE SRI LANKA CAMPAIGN (Sept. 12, 2011), <http://blog.srilankacampaign.org/2011/12/demographic-engineering-by-government.html>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Preamble, Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9 (July 12, 1999).

jurisdiction over the events and alleged perpetrators, including but not limited to the United States, should prosecute these crimes. Top Sri Lankan officials, starting with President Mahinda Rajapaksa and Defense Secretary Gotabaya Rajapaksa, must be brought to justice.

APPENDIX

List of Individuals and Organizations Noting the Need for an Investigation into Genocide (Listed alphabetically)

All-Party Parliamentary Group for Tamils (UK) (A group of 69 MPs from all political parties.)

“APPGT strongly urges the UN to the creation of an International Commission of Investigation into the allegations of War crimes, Crimes against Humanity and the Crime of genocide against the Tamil people in Sri Lanka.”⁹⁰

Heidi Alexander, MP (UK)

“The need for international independent investigation into the crimes and atrocities that have taken place in Sri Lanka is clear from your exhibition and the UK has a responsibility to act to make this happen.”⁹¹

P Chidambaram, former Finance Minister of India

“The Centre will not rest until a genuine, detailed investigation is initiated against genocide and the perpetrators are brought to justice.”⁹²

“None can deny that there was genocide.”⁹³

Andrew Dismore, MP (UK)

“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.”⁹⁴

Jim Karygiannis, MP (Canada)

“It takes three parties to create a genocide—the perpetrators, the victims and those who stand by. The international community must stop standing idly by. While the killing has stopped, we must tell the Sri Lankan government to stop the cultural genocide and submit to an international inquiry into the 2009 war.”⁹⁵

⁹⁰ Press Release, The All Parliamentary Group for Tamils, Calling for an International Independent Investigation (Mar. 2013) (available at <http://britishtamilconservatives.co.uk/wp-content/uploads/2013/03/THE-ALL-PARTY-PARLIAMENTARY-GROUP-FOR-TAMILS-statement-re-UNHRC-MARCH-13.pdf>).

⁹¹ *Westminster Exhibition on Tamil Genocide Brings MPs to Voice for International Investigations*, TAMILNET, Feb. 5, 2012, <http://www.tamilnet.com/art.html?catid=79&artid=34852>.

⁹² G. Pramod Kumar, *Will Chidambaram's Bold Sri Lanka Move Work for the Congress?*, FIRSTPOST, Dec. 3, 2013, <http://www.firstpost.com/politics/will-chidambarams-bold-sri-lanka-move-work-for-the-congress-1264007.html>.

⁹³ *India Won't Rest till Implementation of the 13th Amendment: P. Chidambaram*, DNA INDIA, Nov. 30, 2013, <http://www.dnaindia.com/money/report-india-wont-rest-till-implementation-of-13th-amendment-p-chidambaram-1927423>.

⁹⁴ Andrew Dismore, *Stop Sri Lanka's Bloody Civil War*, THE GUARDIAN, Mar. 4, 2009, <http://www.theguardian.com/commentisfree/2009/mar/04/sri-lanka>.

⁹⁵ The Honorable Jim Karygiannis, 30th Anniversary of Black July Statement (July 21, 2013) (transcript available at http://www.karygiannismp.com/article.php3?id_article=2186).

Bruce Haigh, MP (UK)

“The gift of Australian naval vessels to Sri Lanka, the willful labelling by Australia of asylum seekers from Sri Lanka as economic migrants and their enforced return to a place of danger, known legally as sur place . . . makes Australia complicit in the crime of genocide.”⁹⁶

Robert Halfon MP (UK)

“As a Jewish person, all I can do is to support Nations who have suffered from Genocide.”⁹⁷

“We must stop the genocide of the Tamils. The world must stop the barbarism of the Sri Lankan regime.”⁹⁸

“I urge the UK Government to recognise the terrible genocide that took place in Sri Lanka, and ask for an independent investigation by the UN into war crimes.”⁹⁹

Rachel Joyce, Parliamentary Candidate (UK)

“I believe that since independence the acts perpetrated by the Government of Sri Lanka on the Tamils including the burning down of the Jaffna Library, the refusal to act on the Vattakottai resolution, disappearances of Tamil individuals, refusal to allow Tamil to be an official language of Sri Lanka, firing on the so-called ‘safe zone,’ the relocation of Tamils and moving in of Sinhalese into traditional Tamil areas, and the use of concentration-style camps for internally displaced Tamils should be classed as Genocide.”¹⁰⁰

Justitia et Pax (Catholic Justice and Peace Commission)

“A genocide is happening against the Tamil population in Sri Lanka.”¹⁰¹

Alan Keenan (International Crisis Group)

“I would think that would there ever to be, as I hope there will be, an independent investigation into the incidents leading up to the end of the war, and preferably also post-war, the question of genocide should be included among those issues.”¹⁰²

⁹⁶ Bruce Haigh, *Government Turns Blind Eye to Tamil Genocide*, THE CANBERRA TIMES, Feb. 7, 2014, <http://www.canberratimes.com.au/comment/government-turns-blind-eye-to-tamil-genocide-20140206-324ap.html#ixzz2sdGxfRRA>.

⁹⁷ *Jewish Conservative MPs in UK voice against Tamil Genocide*, TAMILNET, May 21, 2011, <http://www.tamilnet.com/art.html?catid=13&artid=33978>.

⁹⁸ *Westminster Exhibition*, TAMILNET, *supra* note 91.

⁹⁹ *British Tamils Remember Mullivaikkal Massacre*, TAMIL GUARDIAN, May 20, 2012, <http://www.tamilguardian.com/article.asp?articleid=4876>.

¹⁰⁰ Adam Jones, *British Candidate Calls Tamils Victims of Genocide*, GENOCIDE STUDIES MEDIA FILE (Apr. 27, 2010), <http://jonestream.blogspot.co.uk/2010/04/sri-lanka-united-kingdom.html>.

¹⁰¹ *Justitia-et-Pax-Kommission Prangert ‘Völkermord an Tamilen’ an*, AGENZIA FIDES (Oct. 23, 2013), http://www.fides.org/de/news/32943ASIEN_SRI_LANKA_Justitia_et_Pax_Kommission_prangert_Voelkermord_an_Tamilen_an#.Uwp4i_khBv8.

¹⁰² *Genocide Needs Investigation but Separation Contextually Unwise: Alan Keenan*, TAMILNET, Oct. 9, 2012, <http://www.tamilnet.com/art.html?catid=79&artid=35646>.

M.I.A., Musician (United States)

I was there [in Sri Lanka] during when the war started and fled as a refugee to England. And basically since I've fled till now,—there has been a systematic genocide Now it's just escalated to the point there's 350,000 people who are stuck in a battle zone and can't get out. Aid is banned, and humanitarian organizations are banned, and journalists are banned from telling the story.¹⁰³

Northern Provincial Council (Sri Lanka)

Sri Lanka's ethnic Tamil-run provincial administration said it intends to prove that the central government carried out an operation "akin to genocide" to win a long civil war against Tamil rebels.¹⁰⁴

Population Research Institute (USA)

"Forced contraception and sterilization are nothing short of acts of genocide. Sadly, these are regular occurrences in the island nation of Sri Lanka."

"Local health officials are belatedly trying to cover up their crimes. They are coercively and retroactively forcing already sterilized Tamil women to sign affidavits. Such affidavits should not convince anyone that these 'birth control experiments' are anything other than genocide. Far from convincing, false affidavits of consent instead add insult to injury by suggesting that the dead women voluntarily submitted themselves to the procedure."¹⁰⁵

Permanent People's Tribunal (Germany)

The tribunal found that the evidence established beyond any reasonable doubt that the following acts were committed by the government of Sri Lanka:

Killing members of the group, which includes massacres, indiscriminate shelling, the strategy of herding civilians into so-called "no fire zones" for the purpose of killings, targeted assassinations of outspoken Eelam Tamil civil leaders who were capable of articulating the Sri Lankan genocide project to the outside world.

Causing serious bodily or mental harm to members of the group, including acts of torture, inhumane or degrading treatment, sexual violence including rape, interrogations combined with beatings, threats of death, and harm that damages health or causes disfigurement or injury.

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or part, including expulsion of the victims from their homes; and seizures of private lands; declaring vast areas as military high security zones to facilitate the military acquisition of Tamil land.¹⁰⁶

¹⁰³ PBS, *Tavis Smiley Interview with M.I.A.*, TAVIS SMILEY, Jan. 28, 2009, <http://www.pbs.org/wnet/tavissmiley/interviews/hip-hop-artist-m-i-a/>.

¹⁰⁴ AP News, *Sri Lanka: Tamil Leaders Vow to Prove 'Genocide' in Civil War*, ASIAN CORRESPONDENT, Jan. 28, 2014, <http://asiancorrespondent.com/118991/sri-lanka-tamil-leaders-vow-to-prove-genocide-in-civil-war/>.

¹⁰⁵ Population Research Inst., *Tamil Women Coerced into Contraception by Sri Lankan Authorities*, LIFESITENEWS, Feb. 3, 2014, <http://www.lifesitenews.com/news/tamil-women-coerced-into-contraception-by-sri-lankan-authorities>.

¹⁰⁶ Bruce Haigh, *Tribunal Delivers Sri Lanka's Guilty Verdict*, THE CANBERRA TIMES, Jan. 2, 2014, <http://www.canberratimes.com.au/comment/tribunal-delivers-sri-lankas-guilty-verdict-20140101-305zf.html>.

Public Interest Advocacy Center—International Crimes Evidence Project (Australia)

“Certain alleged crimes committed during the final months of the war involved such flagrant and reckless disregard for the laws of war, which strongly suggests there was intent to commit those crimes. For example, with effective control of all land, sea, and air approaches, the disciplined, well-trained and well-armed Sri Lankan SFs [Security Forces] conducted indiscriminate artillery bombardments of areas of known civilian concentrations, also striking hospitals and humanitarian sites.

...

[T]he evidentiary material collected by ICEP indicates that there are reasonable grounds to suspect that the following crimes against humanity and war crimes under the ICC Statute were committed in Sri Lanka in the period from September 2008 to May 2009: . . . Crime against humanity of persecution [T]he acts constituting the crime against humanity of persecution, could constitute genocidal acts if the additional requisite elements for this crime are found to be present through further investigation.”¹⁰⁷

Stephen Pound, MP (UK)

“40,000 innocent Tamils lost their lives—I say this was genocide.”¹⁰⁸

Suresh Premachandran, MP and Tamil National Alliance Spokesperson (Sri Lanka):

“If 7,000 deaths in Kosovo could be described as genocide, why can’t the deaths in Mulliwaikkal be?”¹⁰⁹ Premachandran charged that “genocide” or obliteration of a community was continuing with Tamil lands being “grabbed” by the armed forces and livelihoods of locals not being restored. “Tamils are trying to flee the country. The remaining will get assimilated by the Sinhalese!”¹¹⁰

Yashwant Sinha, MP, former Finance Minister of India

“Go from mandal to mandal, house to house and tell the people how Sonia Gandhi and Manmohan Singh have been responsible for the genocide in the immediate neighbourhood of north Lanka.”¹¹¹

Yasmin Sooka, an Expert on the UN Secretary General’s Panel of Experts on Sri Lanka

“I do think that when the [forthcoming OHCHR] inquiry takes place they will need to probe this question because many Tamils have often spoken about the fact that this is a genocide, and that it has genocidal tendencies—the way in which this war prosecuted I think all of us in the Panel [of Experts] that were confronted with this question have always raised that there is a real need for a proper investigation when it happens to test this issue [genocide].”¹¹²

¹⁰⁷ PUBLIC INTEREST ADVOCACY CENTER: INT’L CRIMES EVIDENCE PROJECT, *supra* note 31, at § 1.8, 5.6-7.

¹⁰⁸ Press Release, Tamils for Labour, Labour MPs Call for Urgent Independent, International Investigation into War Crimes in Sri Lanka (June 17, 2011) (available at <http://tamilsforum.co.uk/wp-content/uploads/2011/06/Press-Release-Tamils-for-Labour-16Jun2011.pdf>).

¹⁰⁹ P.K. Balachandran, *Can’t Brush Aside Genocide in Sri Lanka, Indian MPs Told*, THE NEW INDIAN EXPRESS, Apr. 11, 2013, http://www.newindianexpress.com/world/Can%E2%80%99t-brush-aside-genocide-in-Sri-Lanka-Indian-MPs-told/2013/04/11/article1539645.ece#.Uwp_YPkhBv8.

¹¹⁰ *Id.*

¹¹¹ Sva Prasanna Kumar, *Tamil Elam is Not Far Away: Yashwant Sinha*, DECCAN CHRONICLE, Apr. 4, 2013, <http://archives.deccanchronicle.com/130404/news-politics/article/tamil-eelam-not-far-away-yashwant-sinha>.

¹¹² *Sexual Violence Against Tamils ‘Systematic’, Part of Policy Framework’ – Yasmin Sooka*, TAMILGUARDIAN, June 10, 2014, <http://www.tamilguardian.com/article.asp?articleid=11198>.

Tamil Nadu State Government Resolution (India)

There should be an impartial, international and independent probe for the alleged war crimes and genocide in Sri Lanka. “Based on this investigation, those found guilty should be tried in the international court of law and punished.”¹¹³

Arundhati Roy, Prominent Human Rights Activist (India)

What happened in the war [in Sri Lanka], cannot be called anything short of a genocide. And perhaps as horrific as what happened there, has been the silence that has followed it.¹¹⁴

Alan Weinberg, Councillor (UK)

“It cannot be right that the genocide against the Tamils is a forgotten genocide.” Councillor Weinberg has also pledged to continue to “fight so that Tamils can live free.”¹¹⁵

¹¹³ R. Satyanarayana, *Jayalalithaa Calls for a Referendum on Separate Eelam*, TIMES OF INDIA, Mar. 27, 2013, <http://timesofindia.indiatimes.com/india/Jayalalithaa-calls-for-a-referendum-on-separate-Eelam/articleshow/19239891.cms>.

¹¹⁴ TamilHumanrights, *Sri Lanka Committed Genocide of Tamils: Arundhati Roy*, YOUTUBE (June 12, 2011), <https://www.youtube.com/watch?v=LrSfK6Pm-5M>.

¹¹⁵ *British Tamils remember Mullivaikkal Massacre*, *supra* note 99.