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Sri Lanka: The International Community Must Increase Pressure on the Government of Sri Lanka and the Tamil Tigers to Protect Civilians as the Armed Conflict Worsens

The International Commission of Jurists (ICJ) welcomes the UN Security Council statement of 13 May 2009 on the crisis in Sri Lanka, in which the Council voiced grave concern, particularly in relation to the recent reports of hundreds of civilian casualties, and ordered the Sri Lankan Government and the Liberation Tigers of Tamil Eelam (LTTE) to take urgent action to protect civilians. However, the Security Council statement is only an initial step and the international community must take further steps to ensure the Government of Sri Lanka addresses the dire humanitarian and human rights situation that is currently faced by up to 50,000 civilians who are trapped within the shrinking conflict zone in the Vanni district on the north-eastern coast and by the 196,000 internally displaced persons (IDPs) who have fled the conflict zone.

The United Nations (UN) must press for: the immediate cessation of hostilities on humanitarian grounds; the deployment of an international humanitarian and monitoring presence to the conflict zone; an inquiry into, and eventual accountability for, alleged war crimes by the Sri Lankan Army and the LTTE, and effective and unhindered humanitarian access and assistance to IDPs who have fled the conflict zone. As a matter of urgency, the UN Secretary-General should appoint an envoy to engage with the Government on prevailing humanitarian and human rights concerns and to brief the UN Security Council on a regular basis.

As the Sri Lankan Army closes in on the remaining forces of the LTTE UN officials have described the ongoing, and increasingly ruthless, fighting as "bloodshed". Numerous eyewitness accounts state that civilians are being used as human shields by the LTTE and are prevented from leaving the conflict zone where they are subjected to indiscriminate artillery fire by the Sri Lankan Army. All of these actions can amount to war crimes under international law.

Customary international humanitarian law and Article 3 common to the Geneva Conventions of 1949, govern the legal duties of all parties to the conflict in Sri Lanka, who are obliged to ensure the humane treatment, without adverse distinction, of all those persons who are not taking an active part in hostilities. Article 3 common to the Geneva Conventions requires that all parties to the conflict refrain from grave breaches of international humanitarian law, such as hostage-taking of protected persons or violence towards them. "With both sides to the conflict showing an utter disregard for civilian life, in violation of the most fundamental principles of international humanitarian law, it is incumbent on the Security Council to urge both parties to observe international law and insist on an immediate cessation of hostilities to allow humanitarian access to the conflict zone. A lack of resolute action may lead to further violations of international law and will result in thousands more casualties," said Roger Normand, ICJ's Asia Pacific Director.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

During the last four months, UN sources estimate that more than 7,000 civilians have been killed and double that number injured. Precise figures cannot be confirmed because the Government has refused journalists, aid workers and UN officials' access to the conflict area. Government spokespersons have dismissed all reports of civilian casualties as LTTE propaganda. However their denials have been contradicted by both satellite images and eyewitness accounts, including from civilians who have fled the fighting.

Reports from civilian eyewitnesses and Government medical personnel also indicate that the Sri Lankan Army has continuously launched artillery attacks on the two-kilometre area designated by the Government as a safe zone for civilians. Over 400 civilians were reportedly killed on 9 and 10 May, including 100 children. Doctors at Mullivaikal hospital in the "no-fire zone" have reported that the Sri Lankan Army has repeatedly shelled the hospital, killing 68 patients on 2 May, 49 on 12 May and more than 50 patients on 13 May.

"The Government is engaged in a deliberate strategy of denial and cover-up. It has rejected all accounts of army attacks inside the "no-fire zone," despite the number of testimonies to this effect, and is suppressing outside access to information," said Roger Normand. "While restricted media access makes allegations of war crimes difficult to verify, an independent and impartial inquiry must be undertaken with a view to eventually establishing accountability for such crimes reportedly committed through the indiscriminate shelling of civilians and targeting of civilians in the no-fire zone."

"Three factors have combined to create a major humanitarian crisis," explained Lukas Machon, ICJ Representative to the United Nations. "First, the LTTE has prevented civilians from leaving the conflict zone, and is thereby using them as human shields. Second, the Government has refused to cease hostilities and is continuing to use heavy artillery in densely populated areas, including in the no-fire zone established to protect civilians. Third, the Government has refused to provide the UN with humanitarian access to civilians inside the conflict zone and is hampering the delivery of humanitarian assistance to IDPs who have fled the conflict zone."

Those civilians who have managed to flee the fighting are facing additional hardships. More than 196,000 IDPs, mostly Tamils, are now confined to Government-run camps and prevented from moving freely. On 9 May, two British journalists from Channel Four were deported from Sri Lanka after providing the first uncensored information about appalling conditions inside the camps including rape, enforced disappearance, ill-treatment, and lack of food, water and medicine.

Sri Lankan officials have equated domestic criticism of the Government's policy of war against the LTTE with treasonous sympathy for the LTTE. Since 2006, over 18 journalists have been killed in Sri Lanka, and none of the perpetrators have been brought to justice. Human rights defenders and members of minority ethnic groups have complained of a Government campaign of intimidation and harassment and a widespread climate of impunity.

The ICJ is deeply concerned that the crisis in the Vanni, and throughout the country, will deteriorate even further unless the international community calls for immediate steps by both the Government of Sri Lanka and the LTTE to ensure respect for international law and the protection of civilians. To this end, the ICJ calls for:

- Compliance with international humanitarian law, including through a halt to Sri Lankan Army artillery fire that is killing and injuring civilians trapped in the conflict zone and an end to the use of civilians as human shields by the LTTE.
- An immediate cessation of hostilities to allow for civilians' safe and voluntary passage out of the conflict zone under the coordination of, and monitored by, the International Committee of the Red Cross and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

- Fair and humane screening procedures for IDPs, respect for their freedom of movement, and access to temporary IDP transit centres by UN agencies, aid organizations, and journalists.
- Deployment of a humanitarian assistance and monitoring presence led by OHCA in the combat zone.
- Establishment of an International Commission of Inquiry to investigate war crimes allegedly committed by both parties to the conflict.
- An immediate visit by the UN Secretary-General to Sri Lanka in order to assess conditions in the conflict zone and the temporary IDP transit centres, followed by the appointment of a UN Envoy to Sri Lanka empowered to engage with the Government of Sri Lanka on humanitarian and human rights concerns and to keep the Security Council informed.

“This is a moment when the United Nations, in particular the Secretary-General and the Security Council, need to overcome political obstacles and take a firm position in order to ensure that peace, security and human rights prevail in Sri Lanka,” said Lukas Machon. “A Special Session of the UN Human Rights Council is urgently needed, in which member States urge respect for international law by both the parties to the conflict and ensure accountability for the alleged war crimes. Major donors to Sri Lanka, such as the United States, the European Union, India, Japan, and China, have a particular responsibility to take steps to resolve this crisis which poses a threat to regional stability and challenges United Nations efforts towards a political resolution of the conflict.”

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