

HUMANITARIAN LAW PROJECT

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Mme Louise Arbour
United Nations High Commissioner
for Human Rights
Palais Wilson
Geneva, Switzerland

Madam High Commissioner:

Today Nadarajah Raviraj, a Tamil Parliamentarian, Human Rights defender and former Mayor of Jaffna was assassinated by an unidentified gunman outside his residence in Colombo. This has happened immediately after the day he had organised a demonstration drawing the attention of the international community, to the massacre at Vaharai.

Day before yesterday (08.11.06) the Sri Lanka armed forces launched a horrific attack on a school in a camp for internally displaced Tamils in Kathiraveli, killing at least 65 persons, many of them children, and wounding more than 300 others.

The wounded could not be taken to the nearby hospital in Vaharai, as that was also under attack by the Sri Lanka armed forces, and the patients there were forced to flee. After initially blocking the Sri Lanka Monitoring Mission (SLMM) and the International Committee of the Red Cross (ICRC) access to the site, both the SLMM and the ICRC were able to reach the site. UNICEF, also blocked from entering, has, at time of writing, not reached the site.

The school has hosted about 1500 Tamil displaced families. At time of writing we do not know the condition of the survivors of this attack, nor the situation of the wounded -- over 300 of which were taken to hospitals some distance away.

International Educational Development (IED) and the Association of Humanitarian Lawyers (AHL) jointly appeal to you to act with great urgency on this attack, which constitutes "wilful killing . . . or wilfully causing great suffering or serious injury to body or health" (Geneva Convention IV, article 147) and hence a grave breach of the Geneva Conventions -- war crimes in international humanitarian law. We also consider this attack as extensive destruction of property carried out

“unlawfully and wantonly” and hence doubly a **war crime according to Article 147**. Finally, we view this attack as an act intended to terrorize the Tamil civilian population, and hence a violation of Geneva Convention IV, Article 33, Protocol Additional I to the Geneva Conventions, Article 51.2 and Protocol Additional II to the Geneva Conventions, Article 4.2(d).¹

This attack also follows a number of other recent **grave breaches of the Geneva Conventions** carried out against Tamil civilians and aid workers by the armed forces of the Government of Sri Lanka (GOSL), such as the air assault just last week (02.11.06) on civilians near a hospital in Kilinochchi that left 5 dead in one family and caused much damage to the hospital and the August 12, 2006 bombing of an orphanage, killing over 60 and wounding several hundred other teenage girls gathered at that site for a course in first aid. The August attack took place just one week after 17 aid workers from the French group Action contre le faim were assassinated execution style. A number of aid workers from the Tamil Relief Organization (TRO) who were kidnapped earlier in the year (31.01.06) are still not accounted for.

Since the election of the current government and in spite of the Cease Fire Agreement (CFA), illegal military operations targeting Tamil civilians, hospitals and international humanitarian aid workers have escalated dramatically. In this regard, please see our attached briefing paper presented to the Human Rights Council at its second session.

We also bring to your attention the urgent situation of several hundreds of thousand of Tamil civilians sealed off from land delivery of food, medicine and water since August 2006, when the GOSL blocked highway A-9 into the area. These Tamils are in grave danger of starvation. By failing to ensure basic subsistence of Tamil civilians, wherever they are in need, the government is in violation of Articles 55 and 59 - 63 of Geneva Convention IV. Purposeful withholding of food and medicine from the civilian population is also a grave breach according to Article 147 of Geneva Convention IV in that it too wilfully causes great suffering or serious injury to body or health. Starvation of the civilian population is prohibited in Protocol Additional I, Article 54 and Protocol Additional II, Article 14. We bring to your attention that in addition to blocking urgently needed foodstuffs, the GOSL is targeting coastal fishing vessels and fisherman, also a serious humanitarian law violation: protection of coastal fishing vessels is a long-recognized rule of humanitarian law, recognized, *inter alia*, by the US Supreme Court in its 1900 decision *The Paquete Habana*.² Finally in this regard we draw to your attention

¹ Our organizations maintain that the Tamil people have the right to self-determination because of their historic governance in their traditional homelands prior to colonization, their ethnic and linguistic differences from the Sinhala people, and both their capacity and will for independence, and because of the fifty-plus-year oppression of the Tamil people by the Sinhala majority. Even if the armed conflict is viewed as an internal armed conflict, however, the basic rules and protections of humanitarian law apply.

² The food and medicine situation is also affected by the fact that the American Red Cross was told by the United States government that the funds it collected in the United States could not be sent to assist that Tamil victims of the Tsunami as such disbursement would be characterized as aiding and abetting terrorists. TRO was allowed to disburse funds it collects (mainly from the Tamil diaspora), but at present, TRO funds in Sri Lanka have been frozen by the GOSL.

that due to the placement of the High Security Zones (HSZ) traditional farming is hampered, adding to the dire shortage of foodstuffs. We consider this using food as a weapon.

What is most disturbing about the long war in Sri Lanka is the seeming impunity with which the GOSL has committed grave breaches against the Tamil people. The relative silence of the international community regarding this war as a whole and war crimes in particular is unprecedented in UN history.³ Our organizations have been working on the armed conflict in Sri Lanka since the July 1983 massacre of Tamils in Colombo, and we are fully aware that there has not been a single resolution from UN human rights bodies on the situation since 1987 -- nearly 20 years ago. This silence is in spite of statements, reports and letters presented by us and many other non-governmental organizations regarding violations directed at Tamil civilians. Recent interest in the conflict has focused on the perhaps orchestrated attempt to raise the child soldier issue, which, regrettably, is used to demonize the Liberation Tigers of Tamil Eelam as well as the Tamil people, and to keep attention away from the actual ground reality of Tamil civilians. This has been a major factor in the current impunity. In this regard, please see our written statement E/CN.4/2006/NGO/209 that we also attach. In the context of the overall situation of Tamil children victims of armed conflict, the "child soldier" one is indeed trivial.

We conclude by expressing our dismay that the GOSL has usurped the Human Rights Council and its intent to have an impartial team investigate the actual reality in Sri Lanka. If the Human Rights Council is blocked in its efforts to address the urgent situation as it sees fit, than in addition to being a party to the annihilation of the Tamil people in Sri Lanka, the Council will have indicated to the international community that application of human rights and humanitarian law is subject to the political interests of a few States -- some of them, as is case of Sri Lanka, rogue States.

Thank you for your kind attention to this matter.

Sincerely yours,

Karen Parker, JD
Chief Delegate, IED
President, AHL

Cc Paul Hunt, Special Rapporteur on the Right to Health
Jean Ziegler, Special Rapporteur on the Right to Food

³ To illustrate this point, we draw attention to the statement issued by the Tokyo Co-Chairs ambassadors about the above-mentioned attack in Kilinochchi that does not indicate (1) who made the attack; (2) who the victims were; or, (3) that this was a violation of the Geneva Conventions. In fact the perpetrators were the GOSL armed forces, the victims were Tamil civilians, and the attack clearly violated humanitarian law.