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**AMNESTY
INTERNATIONAL**



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Dear Ambassador Wickramasuriya

Thank you for your recent public invitation to Amnesty International to discuss current human rights concerns in Sri Lanka and the challenges of securing accountability for past violations. I will be in the United States from 18 to 21 April and would welcome the opportunity to meet with you during my visit, as we have met with your colleagues in other Sri Lanka missions around the world.

In your letter you highlighted two areas of Amnesty International's work: our campaign for accountability in Sri Lanka, and our efforts to end arbitrary detention and ill-treatment of prisoners. These are in fact very high priorities for Amnesty International and its more than 3 million members worldwide and I welcome the opportunity to raise our concerns with you directly.

Based on our decades of work in Sri Lanka, as well as in other conflict and post-conflict situations around the world, we recognize that recovery from decades of armed conflict is a daunting task. The need for lasting peace and reconciliation in Sri Lanka is undeniable. Amnesty International's experience is that neither can be secured without justice. In May 2009 President Rajapaksa vowed that all people in Sri Lanka would live in safety without fear and suspicion, and with equal rights. He noted that Sri Lanka needed international cooperation to bring a better life to its people. Amnesty International believes that this should include cooperation to protect rights and secure justice for Sri Lankans harmed by the decades of conflict.

Accountability

Amnesty International has drawn attention to abuses committed by the Liberation Tigers of Tamil Eelam (LTTE) for many years. During the recent conflict, the organization received credible and consistent reports that the LTTE committed violations of international humanitarian law. The LTTE forcibly recruited children as soldiers, used civilians as human shields against the Sri Lankan Army and attacked civilians who tried to flee, particularly during the final months of the fighting. It is vital that an international independent investigation documents the abuses of the LTTE, to help provide accountability for the LTTE's many victims.

Sri Lankan government forces also face mounting, credible allegations of serious violations of international human rights and humanitarian law, yet the Sri Lankan government refuses to acknowledge this. Despite evidence of war crimes and crimes under international law, not to mention other violations of international law, no members of the security forces have been brought to justice.

The complete failure to hold to account those who abuse human rights must stop. Victims and their families deserve to know the truth and get justice for the violations they have suffered. Unfortunately, such truth and justice have not been forthcoming from the Sri Lankan government regarding the country's long list of human rights violations, not just during the final stages of the recent fighting but over the past many years.

We have long been concerned about impunity in Sri Lanka, and the failure of *ad hoc* inquiries to promote justice, as we highlighted in our 2009 report, *Twenty Years of Make-Believe: Sri Lanka's Commissions of Inquiry* (Index: ASA 37/005/2009). To cite just one example, consider the failure of the Presidential Commission of Inquiry established in 2006 to investigate 16 cases of what the government deemed to be "serious violations of human rights". The Presidential Commission of Inquiry wrapped up its operations almost two years ago, but its report to the President was never made public, and the authorities have not pursued prosecutions in the cases it examined. The lesson is clear: Over the years, various Sri Lankan governments, including the current administration, have demonstrated neither the political will nor the technical ability to provide justice for the country's numerous serious human rights violations.

With this lesson in mind, there is no justification to delay calls for an independent international investigation into alleged war crimes in Sri Lanka pending conclusion of another *ad hoc* effort, such as the Lessons Learnt and Reconciliation Commission (LLRC). This Commission may help identify root causes of conflict and potential points of communal reconciliation. However, it is neither mandated nor equipped to deal with international crimes of the magnitude alleged in the final phase of Sri Lanka's armed conflict with the LTTE (crimes unacknowledged by Sri Lanka's highest authorities).

The LLRC has provided a useful public forum for civilians from the north and east who have suffered enormously in the context of the war, and it has made practical recommendations aimed at addressing some of their grievances. It has highlighted the need to resolve detention cases, and encouraged people in positions of prominence to reflect on the root causes of Sri Lanka's protracted ethnic conflict. These steps are important, but the LLRC cannot replace a robust and functional justice system and effective criminal investigations, and it does not negate the need for an international inquiry. The failure to bring alleged perpetrators of war crimes in Sri Lanka to justice – whether they were members of the LTTE or of the Sri Lankan government forces – would constitute a colossal affront to principles of accountability and would set an extremely bad precedent both in Sri Lanka and internationally. We believe in the long run the lack of accountability would make true reconciliation between communities impossible.

Detention

You also referred to our ongoing campaign against arbitrary detention and ill-treatment of detainees in Sri Lanka. Arbitrary detention and ill-treatment of prisoners are longstanding problems in Sri Lanka, made worse by persistent reliance on special security laws intended for emergency situations but imposed routinely for decades. Sri Lanka's Prevention of Terrorism Act violates international standards of due process by permitting preventive detention, which is by definition arbitrary, by allowing for secret detention, and by reversing the burden of proof when torture is alleged. Prisoners have been detained for months or years without charge or trial.

In May 2010 Sri Lanka's Prime Minister announced that 1,900 PTA prisoners would remain in detention despite the relaxation of certain emergency regulations. Since then there have been some releases announced, but we have discovered that hundreds of those "released" prisoners who had been detained by the Terrorism Investigation Division of the Sri Lankan Police – including 400 in Omanthai and 260 in Boosa – were slated for transfer to "rehabilitation" sites and thus remain arbitrarily detained. This practice violates Article 13 of the Sri Lankan Constitution. Sri Lanka's state of emergency remains in place despite the end of armed conflict almost two years ago. Like the PTA, the Emergency Regulations also circumvent normal legal protections against arbitrary detention and ill-treatment. As of February, some 4,000 people remain in nine so-called "rehabilitation" sites; many will have reached the two-year maximum permissible period of detention under the Emergency Regulations by May. Amnesty International has called for these laws to be repealed.

Once again, we welcome your invitation to dialogue and look forward to meeting with you soon. Amnesty International remains eager to engage with Sri Lankans both in Sri Lanka and abroad on these and other issues of mutual concern, and have requested (but not received) the government's permission to conduct proper research missions to explore these questions. We look forward to receiving permission to conduct research and campaigning on the human rights situation inside Sri Lanka. Many thanks for your letter. Please contact my office directly to arrange for a meeting, and feel free to contact me if you have any queries or comments.

Yours Very Truly

Sam Zarifi
Asia Pacific Director
Amnesty International