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H.E. the Permanent Representative

**AMNESTY
INTERNATIONAL**



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To all members of the Security Council: the situation in Sri Lanka

Dear Ambassador,

We recall that the Security Council issued a press statement on Sri Lanka on 13 May 2009 expressing grave concern about reports of hundreds of civilian casualties; at reports of continued use of heavy calibre weapons in areas with high concentrations of civilians at the hands of the government; demanding that all parties respect their obligations under international humanitarian law; and calling on the government to cooperate with the United Nations, the International Committee of the Red Cross (ICRC) and other international humanitarian organizations in providing humanitarian relief and access to displaced persons as soon as they leave the conflict zone. The fighting has now ended and, contrary to earlier reports, over 20,000 civilians and others may have been killed. Amnesty International is deeply concerned that, even after the Secretary-General's recent visit to the country, the government of Sri Lanka has failed to act on the Council's calls or, at most, acted in part on some of them.

As the profound humanitarian and human rights crisis in Sri Lanka continues, and the estimates of the numbers killed have dramatically risen, we are writing to urge the Council to act to ensure the prompt implementation of its demands.

You will be aware that the Secretary-General pressed repeatedly during his visit for unhindered access to the camps of the internally displaced for international humanitarian organizations, including the United Nations. However, the International Committee of the Red Cross (ICRC) continues to be denied full access to the camps. OCHA still reports that the government restricts access to Menik Farm, although there is some improvement in access to Menik Farm site 4. On 1 June, the UN Spokesman in Colombo stressed that "more access is needed." Moreover, other international humanitarian organizations continue to complain about severe limitations imposed by the government that impede their humanitarian assistance efforts.

The government also continues to deny access to the international media although some reporters were temporarily allowed to accompany the Secretary-General only on a strictly guided visit. With the end of the fighting, the security concerns previously cited by the government for denying such access clearly no longer apply. International human rights organizations including Amnesty International continue to be refused access to Sri Lanka to assess the human rights situation in the camps for the displaced and elsewhere.

In this context, Amnesty International is seriously concerned about the protection needs of those affected by the recent fighting, especially the displaced who are effectively being held in internment camps without any legal safeguards. We continue to receive disturbing reports of family members

searching in vain for relatives who were forcibly separated from them at a government-controlled crossing point after exiting the conflict area or who were taken away apparently by paramilitary forces from the camps themselves. More than 9,000 suspected LTTE fighters are believed held in various locations without legal safeguards. We fear that those taken away are at high risk of grave human rights violations, notably torture and other ill treatment, and enforced disappearance, given established patterns of such serious human rights violations in Sri Lanka.

It is unacceptable that a government which, in a joint communiqué with the UN concluded during the Secretary-General's visit on 23 May 2009, professes its "strongest commitment to the promotion and protection of human rights, in keeping with international human rights standards and Sri Lanka's international obligations," continues to deny unimpeded access to the ICRC, the UN and other international humanitarian and human rights organizations. This happens in a situation where the protection of many thousands of civilians and detainees is severely at risk. Amnesty International therefore urges the Security Council to require that the government of Sri Lanka provides:

- immediate and full access for the UN, the ICRC and national and international humanitarian organizations to all those in need, especially at critical locations such as registration and screening points, all places of detention and all camps for the displaced;
- immediate and full access for national and international human rights non-governmental organizations to all relevant parts of the country to monitor the situation;
- and facilitates the deployment of an effective UN human rights monitoring mission to provide safeguards against violations and contribute to the long-term needs of human rights protection for everyone in Sri Lanka, notably the Tamil minority.

Accountability for crimes under international law

Amnesty International has received consistent testimony leading us to believe that war crimes were perpetrated against civilians on both sides in the conflict and the truth must be established. The Secretary-General has underlined the importance of an accountability process to address violations of international humanitarian and human rights law in the joint statement with the government on 23 May and urged the government to "recognize international calls for an inquiry". However, the joint statement with the UN simply concludes that "the Government will take measures to address those grievances". The government has failed to indicate what those measures may be and has dismissed international calls for an inquiry.

The Sri Lankan government has of course the primary responsibility to establish accountability. However, there are serious grounds to doubt the government's ability and willingness to address accountability in any manner that is credible and meets Sri Lanka's international obligations. Sri Lanka has a long-standing record of impunity for gross and persistent human rights violations and governmental obstruction to national mechanisms to establish accountability, combined with curbs on the independence of the judiciary and the activities of lawyers and other human rights defenders.

The Human Rights Council spectacularly failed to address this issue. The Special Session on Sri Lanka, concluded on 27 May 2009, adopted a deplorable resolution which praises the Sri Lankan government, entirely ignores the human rights violations committed by the government and disregards the need to establish accountability. In a display of double standards, the Council refused to establish an international fact finding commission such as the one it created in its previous Special Session dealing with the situation in Gaza. The UN as a whole has been tarnished by such an outcome.

Amnesty International urges the Security Council to:

- call for an independent and credible international investigation into allegations of violations of international humanitarian and human rights law by both sides, as the High Commissioner for Human Rights has recommended.

The need for such an international investigation is evident from the lack of clarity about the number of civilians and others killed, especially in the last days of the fighting. The Times of London and Le Monde

have published investigations, based on reliable data, suggesting that more than 20,000 civilians were killed in the last weeks of the fighting. While the LTTE were responsible for many crimes under international law, there is evidence that most of the civilians were killed as a result of shelling by artillery. Available evidence indicates that the Sri Lankan government continued to use artillery despite its assurances, first on 24 February and again on 27 April, that it had stopped using heavy weapons and after the Council had expressed its deep concern about the use of such heavy calibre weapons on 13 May 2009.

The steps outlined above are necessary not just to provide justice for the victims, but also to prevent further grave violations of international law and to ensure a peaceful future for Sri Lanka.

Amnesty International believes that current Council practice to discuss the grave situation in Sri Lanka in an - unprecedented - informal procedure without official outcome must be abandoned. Instead, the Council must address the situation in a formal session resulting in a strong, official outcome including, we strongly recommend, the steps outlined above. The Secretary-General's forthcoming briefing, expected later this week, on his visit to Sri Lanka provides an excellent opportunity for the Council to do so.

Yours sincerely,

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Head of Amnesty International Office at the United Nations