

HUMANITARIAN LAW PROJECT
International Educational Development

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His Excellency Srgjan Kerim
President
United Nations General Assembly

Sir:

The Association of Humanitarian Lawyers joins us in expressing our deepest concern about the candidacy of Sri Lanka for reelection to the Human rights Council. We are aware that a number of non-governmental organizations have recently sent communications also expressing concerns. We write separately, not because we disagree with these other communications, but because we would like to emphasize issues not addressed in them relating to the application of humanitarian (armed conflict) law to the armed conflict raging in Sri Lanka.

In our view, many of the human rights violations occurring in Sri Lanka, and indeed most of those set out in the other communications, occur in the context of the armed conflict and accordingly must also be addressed as breaches and grave breaches of the Geneva Conventions and other fundamental principles of humanitarian law. Further, all States are under the obligations set out in Article 1 of each of the Geneva Conventions of 1949 to both respect the Geneva Conventions but also to ensure respect for them “in all circumstances.” The situation on Sri Lanka cannot legally be an exception as the word “all” does not allow for exceptions. Clearly, if a Member State ignores the serious and continuing grave breaches committed by the government of Sri Lanka and its armed forces, and then votes for Sri Lanka’s membership on the Human Rights Council, that State would violate its Article 1 obligations.

We also draw your attention to the fact that we have been in contact with Mr. Francis Deng, the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities, as well as his predecessor, because in our view the current government’s acts in the war targeting the Tamil civilian population, and its severe blockage and blockades of humanitarian aid to which civilians in armed conflicts are entitled is genocidal. Blocking food and medical aid to civilians in armed conflicts constitutes an element of the international crime of extermination under the Statute and Elements of the International Criminal Court. Further, over 60 persons working with international aid groups have been abducted and killed by the Sinhala authorities since Mr. Rajapakse came to power. We have also expressed concerns about the destruction by the Sri Lankan military forces of over 1000 of Tamil places of worship and other protected Tamil cultural facilities which also invoke the law of genocide. As former secretary-General Kofi Annan has observed, when there is a war involving ethnic groups, the international community should be alerted to the possibility of genocide. Clearly the “Sinhala only” stance and shrill anti-Tamil rhetoric by Sri Lanka leaders both in Sri Lanka and abroad against Tamils in Sri Lanka and in the diaspora should be ample warning that the armed conflict is becoming increasingly

genocidal. As you must be aware, United Nations mandate holders, including Mr. John Holmes and High Commissioner Louise Arbour, who even suggest that there may be violations of the rights of Tamils, are attacked as terrorist or terrorist sympathizers by government authorities. Non-governmental organizations have been subjected to bullying, seizure of funds, and other hostile acts if they show any sympathy with the Tamil people. We regard this as racist and genocidal.

Sadly, while there is international outcry over the restrictions by the authorities in Burma to allow aid for the thousands of victims of the recent cyclone, there was no similar response to the blockage of post-Tsunami aid to the Tamil areas in Sri Lanka. For example, the American Red Cross was told by both United States and Sri Lankan authorities that it could not distribute any humanitarian relief to the Tamil areas, even those under government control. We also regard this as racist and genocidal.

Unfortunately, high government officials are afforded invitations to many countries and events and are actively seeking to improve its international image while masking the gross violations of humanitarian law and indeed deflecting attention from the war itself in a concerted effort to convert it and to “terrorism and counter-terrorism.” We hope that the Member States are not fooled by this and will, accordingly, not vote for Sri Lanka.

We conclude with an excerpt from a recent statement by Nobel Laureate Desmond Tutu:

In the whole world, Sri Lanka stands out as the most clearly unqualified State seeking election to the Council this year, and the place where things are getting unambiguously worse.

Very truly yours,

Karen Parker, JD for
International Educational Development and the
Association of Humanitarian Lawyers

Cc/ Missions of Member States