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PRESS STATEMENT

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Global Tamil Forum on LLRC

Global Tamil Forum (GTF) welcomes the long delayed publication of the 'Lessons Learnt and Reconciliation Commission' (LLRC) report. Its findings only serve to emphasise the importance of establishing an international, independent accountability mechanism to investigate whether Government forces and the Liberation Tigers of Tamil Eelam (LTTE) breached any international law, committed war crimes and crimes against humanity in the last months of the war.

Whilst the LLRC has received extensive criticism, it must be stated that some of its judgments and recommendations deserve acknowledgement. In particular, GTF welcomes the statement from the Commission "that the root cause of the ethnic conflict in Sri Lanka lies in the failure of successive Governments to address the genuine grievances of the Tamil people." However, the LLRC's conclusions on the prosecution of the conflict contradict many of the findings of the United Nations Panel of Experts (PoE) report on Sri Lanka.

Rights Groups say LLRC report falls short

Amnesty International (AI) has said "The report's major shortcoming is in addressing alleged violations of the laws of war, where the LLRC appears to have taken the government's responses uncritically. The LLRC admits what the Government of Sri Lanka has assiduously denied – that civilians, including those in hospitals, suffered directly as a result of LTTE and government shelling, but the LLRC's blanket rejection of government targeting of civilians and its deliberate downplaying of the numbers of civilians caught in the final phase of the conflict is not warranted by the evidence, including that presented to the LLRC". Brad Adams, Asia director at Human Rights Watch (HRW) has said "The commission's failure to provide a road map for investigating and prosecuting wartime perpetrators shows the dire need for an independent, international commission."

Discrepancies with the PoE report

The PoE found credible allegations, which if proven, indicate that war crimes and crimes against humanity were committed both by Sri Lankan forces and by the LTTE. Some of the key findings in the UN report, in relation to the actions of the Government, state that they deliberately shelled on civilian areas and No Fire Zones (NFZs), as well as food distribution lines and "systematically" shelled frontline hospitals and deprived people of humanitarian



aid. According to the Panel of Experts, “most civilian casualties from the final phases of the war were caused by Government shelling.”

The LLRC stated it was unable to draw a definitive conclusion that one Party or the other was responsible for the shelling of hospitals but in the same report however was able to conclude that the Security Forces did not deliberately target civilian concentrations in the No Fire Zones (NFZs) or elsewhere. In order to determine “questions of State responsibility,” the Commission goes on to note that an “international tribunal” would be unhelpful because there just is not enough evidence about what actually happened during the final phase of the conflict. Essentially, it would be “next to impossible” for a “re-construction in front of a tribunal of all the conditions under which the ‘combat action’ took place”.

LLRC states that the Government took “all possible steps” to ensure the supply of humanitarian relief to civilians in conflict areas despite being unable to verify the estimates of the number of civilians in the NFZ with documentary evidence. The Commission failed to acknowledge that the Government sent food and medical supplies on the basis of 70,000 civilians remaining in the NFZ and then confirmed that over 290,000 civilians were interned in camps after the end of the war, admitting that inadequate supplies had been sent.

Ignoring evidence of war crimes

Even after many family members of civilians and LTTE cadres gave testimony that their loved ones surrendered to the military straight after the end of armed conflict and have not been heard from since, the LLRC has ignored those witness statements and has not acknowledged the alleged ‘white flag’ incidents in its report.

LLRC even raised “significant doubts” about the authenticity of Britain’s Channel 4 documentary, which alleged soldiers shooting and abusing prisoners and whose footage was verified by the UN Special Rapporteur on Extrajudicial Killings as depicting “*definitive war crimes*”.

LLRC’s recommendations

In the few instances where the report does describe allegations by witnesses of Government forces being complicit in killing civilians, GTF welcomes the Committee’s conclusion that such incidents must be investigated “*and if such investigations disclose wrongful conduct, to prosecute and punish the wrong doers*”.

As positive as some of these recommendations are, GTF has no confidence that they will be implemented by the Sri Lankan government. The LLRC report laments the fact that many of its interim recommendations offered a year ago and those proffered by previous Commissions investigating human rights abuses have failed to be enacted by the authorities. The publication of a list of those in detention, and the disarming of paramilitary groups was



raised by the LLRC last year. Also, a clear policy statement by the Government saying that private lands would not be used for settlements by Government agencies has not been made. In relation to the unwillingness of the Government to enact a mechanism to address the issue of enforced disappearances, the LLRC highlights that the *“continued failure to give effect to such critical recommendations of past commissions give rise to understandable criticism and skepticism regarding Government appointed Commissions”*. Indeed, GTF believes that it is the failure of domestic efforts to adequately investigate war crimes allegations that is feeding the on-going culture of impunity on the island.

The need for an independent international investigation

GTF maintains that all the allegations of abuses committed by both sides during the conflict must be investigated and that, if proven, those responsible must be held to account for their actions. However, given the degree of discrepancy between some of the key findings of the LLRC and the PoE report, an independent, international commission of inquiry is necessary to investigate and clarify these issues. The fact that the Government of Sri Lanka maintained its *“zero civilian casualties”* stance for two years after the war clearly indicate that a free and fair hearing on these issues is not possible within Sri Lanka’s domestic institutions.

An investigation under international auspices is also essential given the serious concerns raised regarding the mandate, lack of witness protection, independence and impartiality of the LLRC. The UN PoE concluded that it is *“deeply flawed [and] does not meet international standards for an effective accountability mechanism.”* In addition, International Crisis Group (ICG), AI and HRW, were not willing to testify before the LLRC as they believed that the Sri Lankan government was unable to conduct a credible investigation into its own conduct during the war.

Ground reality

Whilst the LLRC reports that the Government has made *“much progress”* on post conflict reconciliation, this is not substantiated by realities on the ground in Sri Lanka. The areas of the North and East, the traditional homeland of the Tamils, have now been heavily militarised by the Sri Lankan authorities. State sponsored colonisation of these areas through resettlement programs and erection of Buddhist temples have left many Tamils without livelihoods and in fear that their cultural identity is under existential threat. Thousands of suspected ex-combatants are still being detained without trial or access to legal representation and the ICG, amongst other organisations, have criticised the pace of rehabilitation and resettlement since the war, with many civilians being sent *“to areas devoid of the most basic amenities”*. In addition, constitutional reform has centralised power in the hands of President Rajapaksha which has undermined the independence of key institutions, including the judiciary system.



International response

Tamils in Sri Lanka and around the world are grateful to some of the international governments, senior politicians and world bodies for taking principled and just stance against injustices leveled upon the Tamil people. However GTF now calls upon the same to fulfill their commitments and hold Sri Lanka to their obligations under international humanitarian law.

We sincerely welcome the decision by the UN Secretary-General, Ban Ki Moon, to refer his PoE report to the United Nations Human Rights Council (UNHRC). The Secretary-General said in April when the report was released that he would welcome a mandate from the UNHRC, Security Council or General Assembly to launch an international probe into allegations of possible war crimes, the main recommendation of the PoE. Australian Foreign Minister Kevin Rudd said the UNHRC must address accusations that Sri Lankan troops killed tens of thousands of civilians in their final offensive against the LTTE in 2009.

U.S. Assistant Secretary of State Robert Blake has emphasised that accountability is an essential part of any reconciliation process. GTF commends his stance that if Sri Lanka cannot establish a transparent accountability process that meets international standards then “there will be mounting pressure for an international mechanism”.

We praise the message by the UK’s Foreign Office Minister for South Asia, Alistair Burt MP, following the airing of the Channel 4 documentary that “if the Sri Lankan government does not respond we will support the international community in revisiting all options available to press the Sri Lankan Government to fulfill its obligations”. This statement has also been echoed by the New Zealand Foreign Minister, Hon Murray McCully MP. Significantly, the African National Congress Party in South Africa, the majority party in a country that has benefited greatly from its own, credible Truth and Reconciliation Commission, has expressed its support for the recommendations made in the UN Panel’s report. GTF also appreciates the efforts of the Malaysian parliamentarians who visited Sri Lanka to see for themselves the situation on the ground following the end of the war.

GTF commends the principled stand taken by the Canadian Prime Minister, Rt. Hon Stephen Harper MP, to boycott the next Commonwealth Heads of Government Meeting (CHOGM), to be held in Sri Lanka, if the Government does not investigate and provide accountability for the perpetration of alleged war crimes and take steps to reconcile with the Tamil community. It has been encouraging that Mr. Harper’s lead has been reiterated by Britain’s Prime Minister, Rt. Hon David Cameron MP, who has warned that other nations could also boycott the next CHOGM if Sri Lanka fails to act on the allegations of human rights abuses and war crimes.

GTF is deeply grateful to all those who have spoken out on Sri Lanka. The international community continues to have a vital role to play to ensure a credible mechanism of

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accountability for violations of international human rights and humanitarian law is established in Sri Lanka. GTF firmly believes that only an international, independent investigation can ensure truth and accountability for what happened during the war, to help end the culture of impunity and to lay the foundations for reconciliation and lasting peace between all communities on the island.

In the words of HRW's Brad Adams, "It is clear that justice for conflict-related abuses is not going to happen within Sri Lanka's domestic institutions. The government has been playing for time by appointing the LLRC. That time has now run out."

"The way the war was ended in Sri Lanka must not be made into a positive example that other governments are encouraged to pursue or allowed to pursue....One of the major advantages of an international investigation would be to lay out in a credible way just how destructive that approach was." said Alan Keenan, Sri Lanka Project Director for the International Crisis Group.

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Media Contact: Suren Surendiran
Tel: +44 (0) 7958 590196 or +1 917 512 2992
Email: media@globaltamilforum.org

Notes to Editors:

Global Tamil Forum (GTF) was established in 2009 by a number of grass-roots Tamil groups following the end of the armed conflict in Sri Lanka. It is the largest Tamil diaspora organisation with members drawn from fifteen countries on five continents. GTF is absolutely committed to a non-violent agenda and it seeks a lasting peace in Sri Lanka, based on justice, reconciliation and a negotiated political settlement. For more information please contact info@globaltamilforum.org and/or visit: www.globaltamilforum.org