

HUMAN RIGHTS WATCH

Avenue des Gaulois, 7
1040 Brussels, Belgium
Tel: + 32 (2) 732-2009
Fax: + 32 (2) 732-0471
Email: hrwbe@hrw.org

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www.hrw.org

Copy of Letter sent to EU Foreign Ministers

Brussels, September 11, 2009

Dear Foreign Minister,

We are writing in advance of the upcoming meetings of the General Affairs and External Relations Council (GAERC) and the High Level segment of the United Nations General Assembly in New York to encourage you to keep the plight of more than 260,000 displaced persons detained in camps by the Sri Lankan government at the forefront of your discussions.

A quarter of a million vulnerable civilians illegally detained in overcrowded, sewage-infested camps, with the government controlling their every movement and with no independent protection mechanisms in place should be front page news and at the top of the international agenda. With the monsoon season fast approaching, the health and welfare of these civilians is increasingly at risk.

Four months after what OCHA's John Holmes described as a bloodbath in northern Sri Lanka, there has been no investigation or accountability for the widespread violations of international humanitarian law committed by the government and the Liberation Tigers of Tamil Eelam (LTTE).

Strong action by the European Union is now needed. We urge EU member states to take strong collective action to end the illegal detention of civilians and to improve their access to humanitarian aid. We also call upon the EU to insist on justice and accountability for serious violations of international humanitarian law by government forces and the LTTE and ongoing human rights violations in the country and press for the speedy establishment of an independent international commission of inquiry.

The EU has repeatedly expressed its concerns over the manner and conditions in which internally displaced Tamil civilians are being treated by the Sri Lankan government, including in your GAERC conclusions of May 18, 2009, the official EU statement following the vice-ministerial troika visit to Sri Lanka on May 12-13, Commissioner Benito Ferrero-Waldner's open letter of June 16, and in the official statement following the European Commission's 5 million euro humanitarian donation to Sri Lanka on June 23. The EU has also called for independent investigations into alleged violations of international law. In your GAERC conclusions of May 18, you called "for the alleged violations of these laws to be investigated through an independent inquiry," and insisted that "[t]hose accountable must be brought to justice." Furthermore, in a May 28 press statement, the EU "call[ed] for an independent investigation of human rights violations."

We appreciate these statements and now urge the EU to take concrete steps to follow up on its stated concerns and demands.

Situation in the Detention Camps

The quarter-century long armed conflict between the government of Sri Lanka and the LTTE forced hundreds of thousands of civilians to flee the conflict area in the northern part of the country. Since March 2008, the government has confined virtually all new internally displaced persons in government-run camps. While the Sri Lankan government euphemistically refers to these camps as “welfare villages,” they are effectively military-controlled detention centers for civilians.

In violation of international law, the government has denied those detained in these camps their rights to liberty and freedom of movement. Camp residents are allowed to leave the camps only for emergency medical care, and then frequently only with military escort. Although the majority of detainees have relatives who are able to provide them with care and housing, to date, only a few thousand camp residents have been allowed to leave.

Because of lack of adequate access for humanitarian agencies and overcrowding caused by the government’s refusal to release people from the camps, conditions in the camps currently fall short of UN standards. Conditions will continue to deteriorate with the onset of the monsoon season, causing additional hardship and suffering for the camp residents. Heavy rains in mid-August caused serious flooding and indicated the problems to come, as water destroyed tents and other shelter, made cooking impossible, and caused roads to collapse, preventing delivery of crucial aid such as drinking water. Water also flooded latrine pits, causing raw sewage to flow among the tents. Aid agencies are particularly concerned about the threat of disease due to flooding.

In May, Sri Lankan President Mahinda Rajapaksa, joined by UN Secretary-General Ban Ki-moon, assured the international community that these camps would be dismantled at the earliest possible time. That same month, the EU Council concluded that “[t]he civilian nature of the camps, freedom of movement and early return for IDPs [internally displaced persons] should be ensured. Full and unhindered access to all IDPs must be guaranteed and current restrictions on the humanitarian aid agencies, such as visa and checkpoint problems, should be removed.” Nearly four months later, none of this has happened.

Instead, the Sri Lankan government has deliberately prevented outside scrutiny of the camps, leaving camp residents vulnerable to abuse. It has denied access to aid organizations to independently assess medical needs. Reports that camp residents still do not know the whereabouts of relatives detained at checkpoints during their flight from the fighting or from the camps weeks and months after they were separated give great cause for concern. The government has prohibited staff members of humanitarian organizations working in the camps from talking with camp residents, preventing effective monitoring and protection. Human Rights Watch has received reports of enforced disappearances, arbitrary arrests and ill-treatment, but these reports cannot be corroborated because the camps are closed to human rights organizations, journalists, and other independent observers. We urge the EU to take the following measures to follow up on its stated concerns and demands:

- Demand that the government end the arbitrary detention of civilians and permit those who wish to leave the detention camps the right to do so immediately. Charge

suspected LTTE combatants in accordance with international standards and ensure that family members and humanitarian agencies have access to them;

- Publicly refer to the camps as “detention camps” to make clear their true character, and use every opportunity to express profound dismay and outrage at the lack of freedom of movement of the civilians detained there;
- Draw attention to the fact that poor camp conditions are in part a direct result of the government’s policy to detain the displaced rather than allow them freedom of movement;
- Insist that the government of Sri Lanka facilitate safe, unimpeded and timely access to humanitarian agencies and human rights organizations to camp residents and undertake protection and monitoring activities; and,
- Call upon the Sri Lankan government to implement a system for tracing missing relatives or allow an international humanitarian organization to undertake such work.

Concerning return and resettlement, urge the Sri Lankan government to:

- Respect and follow the UN Guiding Principles on Internal Displacement and abide by these principles in the return and resettlement process, including by ensuring the full inclusion and input of displaced persons in the planning and management of their return, resettlement and reintegration;
- Properly inform displaced persons of their right to voluntarily return to their homes, places of origin, or to relocate to another area of the country if they so choose, in safety and with dignity; and,
- Guarantee the right of displaced persons to make informed and voluntary decisions regarding their return home or resettlement;

Justice and Accountability

The armed conflict in Sri Lanka that ended with the defeat of the LTTE in May 2009 was characterized by serious violations of international humanitarian law by both sides. Despite repeated denials, government forces frequently shelled densely populated areas, including at least 30 attacks on hospitals in the government-declared “no-fire zone” – an area where it had urged civilians to take shelter. The LTTE violated the laws of war by using civilians as human shields, using lethal force to prevent their fleeing from the combat zone, and deploying their forces in and near densely populated civilian areas. However, because independent observers, including the media and human rights organizations, were prevented from operating near the war zone, the information available on the fighting, and potential laws of war violations by both sides, is limited.

A joint statement by Secretary-General Ban and President Rajapaksa on May 23, 2009, underlined the importance of an accountability process for addressing violations of international humanitarian and human rights law. The statement said that “[t]he Government will take measures to address those grievances.”

This has not happened. Four months after the end of the war, the government has made no attempts to investigate violations of international law. On the contrary, in several statements, the Sri Lankan government has dismissed the need for such an investigation, contradicting the promises it made in its joint statement.

In a July 14 interview with *Time* magazine, President Rajapakse, speaking about the war, said that “There was no violation of human rights. There were no civilian casualties.” Even with respect to a truth and reconciliation commission, the president said that he did not want to “dig into the past and open up this wound.”

The attitude of the Sri Lankan government towards accountability is also evident in its official reaction to a recently broadcast video which shows what appears to be Sri Lankan army soldiers summarily executing prisoners. Philip Alston, the UN Special Rapporteur on extra-judicial, summary or arbitrary executions, has called for an investigation of this video. The Sri Lankan government, however, dismissed the video out of hand, labeling it a fabrication and a “concocted story.”

The Sri Lankan government has a poor record of investigating serious human rights abuses and impunity has been a persistent problem. Despite a backlog of cases of enforced disappearance and unlawful killings going back two decades that run to the tens of thousands, there have been only a small number of prosecutions. Past efforts to address violations through the establishment of ad hoc mechanisms in Sri Lanka, such as presidential commissions of inquiry have produced few results, either in providing information or leading to prosecutions.

The most recent commission, investigating 16 major human rights cases including the August 2006 killing of 17 Sri Lankan aid workers with the Paris-based humanitarian agency Action Contre La Faim (ACF), highlights this failure. After having investigated just a few of their mandated cases, the commission concluded this year, finding no evidence of government wrongdoing, including in the ACF case. A group of respected international experts tasked with monitoring the commission withdrew from its role because it had “not been able to conclude ... that the proceedings of the Commission have been transparent or have satisfied basic international norms and standards.” The commission’s full report to President Rajapaksa remains unpublished.

Sri Lanka’s past record, recent statements, and the government’s lack of action in the last four months makes it clear that the government has no intention of impartially investigating violations committed during the war.

The EU and other like-minded EU partners with whom Sri Lanka still enjoys preferential trade status should not accept Sri Lanka’s blatant reneging on its commitments or its refusal to recognize its international legal obligations. Therefore, we urge the EU to:

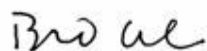
- Publicly denounce the clear unwillingness of the Sri Lankan government to investigate credible allegations of serious violations of international human rights and humanitarian law and bring to justice those responsible;
- Support the call of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN High Commissioner on Human Rights for an independent investigation into alleged abuses;
- Unequivocally press for the establishment of an independent international investigation into abuses committed by both government forces and the LTTE in the final months of fighting; and,
- Collectively call on the UN secretary-general, who had joined with President Rajapaksa in promising an inquiry into abuses, to promptly establish such a UN-

sanctioned investigation, and to take all necessary steps to facilitate its creation and execute its mandate.

The fighting in Sri Lanka may be over, but for more than a quarter of a million people, the suffering continues. There will be no reprieve and there will be no accountability unless the EU and others within the international community demand and seek it.

We thank you for your attention to these urgent matters.

Sincerely yours,



Brad Adams
Asia Director
Human Rights Watch



Lotte Leicht
EU Director
Human Rights Watch

CC:

EU Political Directors
Ambassadors to the EU's Political and Security Committee
Permanent representatives of EU member states to the United Nations in New York
Permanent representatives of EU member states to the United Nations in Geneva
EU member states' Ambassadors to Sri Lanka
EU member states' Asia Directors
Council Working Group on Asia, COASI
Council Working Group on Human Rights, COHOM
EU High Representative for the Common Foreign and Security Policy, Dr. Javier Solana
European Commissioner for Development and Humanitarian Aid, Mr. Karel De Gucht,
European Commissioner for External Relations, Ms. Benita Ferrero-Waldner
President of the European Parliament, Mr. Jerzy Buzek
Chair of the European Parliament's Development Committee, Ms. Eva Joly
Chair of the European Parliament's Subcommittee on Human Rights, Ms. Heidi Hautala
Chair of the European Parliament's Foreign Affairs Committee, Mr. Gabriele Albertini,