



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

SDIR • NUMBER 005 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, November 1, 2011

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Chair

Mr. Scott Reid

Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

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• (1310)

[Translation]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): I want to welcome you to this meeting of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. This is November 1 and this is meeting n° 5.

[English]

Today we will begin our study on human rights in Sri Lanka. I'll turn to our witness and introduce her in just a moment.

Before I do that, I want to alert members to the fact that on Thursday I have called for the meeting to be a planning meeting. It will be in camera. The purpose will be to try to settle our agenda for the upcoming weeks. We now have enough topics to keep us busy for quite a while. We also have enough proposed topics that have come forward in the form of motions to keep us busy for yet a longer while.

I think we need to make sure that we are working in a timely fashion on the issues that the consensus regards as being the most important. This can be achieved only by having a meeting to plan that. That's what we'll be doing on Thursday. If you have anything you need to bring forward and want to have on the agenda on Thursday, motions have to be submitted 48 hours in advance. You have until this afternoon, so bear that in mind, or else, as they say at weddings, forever hold your peace—or at least until the next meeting.

As our witness today we have Ms. Elaine Pearson, who is the deputy director of the Asia Division, Human Rights Watch. She is joining us from New York City. We welcome her.

Ms. Pearson, normally we invite our witnesses to give about 10 minutes of testimony. That's not a firm rule, but it's a suggestion to you. Then we'll turn things over to the members to ask questions, typically in rounds of questions and answers that are about six minutes long, although I'll determine that at the time, based on how much time is available.

Our members will ask questions in either English or French. Translation is provided.

May I invite you to begin, please?

Ms. Pearson.

Ms. Elaine Pearson (Deputy Director, Asia Division, Human Rights Watch): Thank you.

Good afternoon, Mr. Chairman and members of the committee. Thank you very much for inviting Human Rights Watch to testify at this important and timely hearing.

Over the last two decades, Human Rights Watch has documented human rights violations in Sri Lanka, especially those committed by security forces and the Liberation Tigers of Tamil Eelam, the LTTE, particularly during the conflict that ended in May 2009.

Today I'll talk a little bit about the lack of accountability for alleged war crimes, particularly during the final stages of the conflict, and also about the current human rights situation in the country.

With regard to the final stages of the conflict, Human Rights Watch has interviewed hundreds of victims and eyewitnesses to abuses. We have analyzed photos, video, and satellite imagery. Our findings are consistent with the investigations by other independent human rights groups, such as Amnesty International and the International Crisis Group, and more recently, a panel of experts appointed by the UN Secretary-General.

The panel's report, which was published in April this year, found strong and credible allegations that both the government and the LTTE committed serious violations during the final months. The report actually concludes that up to 40,000 civilians may have died during this period, the majority as a result of government shelling.

In terms of the specific abuses that we have documented, we documented abuses by the LTTE such as the use of civilians as human shields and deliberately firing on civilians to prevent them from fleeing to safety. The LTTE also forcibly recruited children.

On the government side, government forces killed civilians by widespread shelling. They committed numerous indiscriminate attacks, including attacks on the government-designated safe zones, including clearly marked hospitals, as well as humanitarian objects such as food lines and UN trucks that were trying to deliver aid. The government also deprived people in the conflict zone of humanitarian aid. Many more people died because of insufficient food and medical attention.

Some specific examples of war crimes that were committed by government forces are included in video footage that has now been released and was recently shown in a U.K. Channel 4 documentary, *The Killing Fields*. It included some footage of summary execution of prisoners on May 18, 2009.

Human Rights Watch has obtained a longer version of this video and photographs of the same incident from various different sources. We believe this footage is authentic. It shows what appears to be a summary execution of various prisoners by government troops. The footage also pans over about a dozen dead bodies in a field.

One of the dead bodies in the video and photographs is a woman named Isaipperiya, a 27-year-old reporter for the LTTE. Her body and the bodies of other women that appear beside her are partially naked, and soldiers who recorded the video make lewd comments, raising concerns that these women may have been sexually assaulted.

Despite the existence of such graphic evidence of alleged war crimes, the Sri Lankan government has taken no efforts to genuinely investigate these allegations.

Immediately after the war ended, in a joint communiqué issued in May 2009, the Sri Lankan government and the UN Secretary-General agreed to address accountability; however, since that time, there really have been zero good faith efforts on accountability by the Sri Lankan government for any of the extensive laws-of-war violations committed by both parties to the conflict.

The government has established a Lessons Learnt and Reconciliation Commission, but this lacks the mandate to investigate serious violations such as war crimes. Instead, the mandate of this commission is to look at what were the failings of the 2002 ceasefire agreement. The members of this commission also lack independence and impartiality. The UN panel report has described the process of the LLRC as deeply flawed.

The government has really used the LLRC as a delaying tactic. After several delays, the report is now expected to be presented to the Sri Lankan president on November 15 of this year. So far, interim recommendations that have been made by the commission have not contained a single recommendation relating to accountability.

• (1315)

Since 1977 the Sri Lankan government has established 14 government commissions, and usually these commissions have been established in response to international criticism of its human rights record. The work of these commissions has been tainted by political interference and has mainly served to exonerate government security forces.

The last such commission prior to this one was the Independent International Group of Eminent Persons, the IIGEP, which had a broad mandate, but even they in the end terminated their work, citing a lack of political will on the part of the government to take any action on their findings and recommendations.

If we return to that example of the video of summary executions aired on Channel 4, there is information posted on the website of the Ministry of Defence of Sri Lanka implicating the 53rd division of the Sri Lankan army in the killing of several of these individuals. Yet

there has still been no credible investigation, either by the military or by the civilian authorities. Incredibly, the government continues to dismiss the footage as fake, despite several UN experts who have found it to be authentic.

Now I will turn to the current human rights situation in the country. The human rights situation in Sri Lanka remains bleak, despite the end of the war. Constitutional amendments passed last year have expanded the president's powers and reduced the independence of key institutions such as the judiciary, the National Human Rights Commission, and the Elections Commission.

The Rajapaska family has really consolidated power and extended their authoritarian rule. They hold key government portfolios, and about 94 government departments are in control of various members of the family.

Severe restrictions on free expression remain. People are unable to express views opposing those of the government. This year there have continued to be several reports of independent journalists and editors who have been severely beaten or threatened. Opposition political candidates have also faced violence in Sri Lanka.

The armed forces continue to have police powers, and there's a strong military presence in the north. While most of the internally displaced people have left the detention camps, there hasn't been a permanent durable solution for those who come from areas where the final stages of the fighting occurred.

While emergency regulations in Sri Lanka lapsed at the end of August, there continue to be very strict counter-terrorism laws that remain in place and that allow for up to 18 months of preventive detention. Several thousand suspected LTTE members are still being held under the lapsed emergency regulations and have not been brought to trial.

This repressive government has really shown no serious effort to address accountability, and it still fails to protect the fundamental rights of its people. Instead of investigating these alleged violations, the Sri Lankan government has engaged in an aggressive public relations offensive against anyone who calls for accountability, summarily dismissing a lot of these allegations as fake or LTTE propaganda.

The Government of Canada has recently taken a number of positive steps with regard to its foreign policy on Sri Lanka. Canada's Prime Minister said recently in Perth that he intended to boycott the 2013 Commonwealth heads of government meeting to be held in Colombo unless Sri Lanka really shows progress in addressing human rights issues and accountability.

Human Rights Watch supports this move and, together with other groups, we have suggested various benchmarks that really need to be met before Sri Lanka can host the Commonwealth heads of government meeting.

Firstly, there needs to be an effort at criminal investigations into alleged war crimes that have been committed. It has long been evident that justice and accountability in Sri Lanka cannot simply rely on the government, but depend on strong and concerted actions by the international community. What's really needed is an international accountability mechanism, as recommended by the Secretary-General's panel of experts, to investigate war crimes that were committed in the final stages of the war.

The Canadian government has already expressed support for this recommendation. What we need to see now is for Canada to show some leadership on this issue by mobilizing other countries ahead of the next Human Rights Council session in March. We would certainly welcome Canada's leadership in establishing such a mechanism.

Given Sri Lanka's dismissive approach, there needs to be international oversight of any domestic accountability measures that may result from the Lessons Learnt and Reconciliation Commission. The victims of Sri Lanka's war crimes have waited long enough and deserve nothing less.

Thank you.

● (1320)

The Chair: Thank you very much.

Now we'll go to questions. Given the fact that you've wrapped this up in a very timely fashion, I believe we'll have time for two rounds of questions. The first will be seven minutes long, including the question and the answer. The second round will be five minutes long.

We'll begin with Mr. Marston, from the New Democratic Party.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

Ms. Pearson, I want to commend you on your work and the work of Human Rights Watch. This is not the first time we have crossed paths with your organization. I've received some of your members in my office on a number of occasions. This is not one of the glowing times.

For those of us who have seen the Channel 4 video, it was so hard to watch, although I think there was a responsibility to watch it. There's one question I would have off the top. I presume you have seen the video. Do you believe in the validity of the video?

Ms. Elaine Pearson: In terms of the Channel 4 video, I have watched it, too many times. It's difficult to watch those incidents. We have been able to substantiate some of the individual incidents that are reported in that video.

For instance, there is a scene that has been documented of several bound and naked Tamil men who are being brought to a field to be shot at point-blank range. We have received those photographs and those videos from various sources.

We believe it's authentic. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has also released a report about this video. He also believes it's authentic.

The Sri Lankan government, on the other hand, conducted their own investigations. However, all of the people who conducted the

investigations into the authenticity of the video were either members of the Ministry of Defence or Sri Lankan citizens living in other parts of the world, so we have quite a lot of concerns about their objections to the video.

In addition, as I mentioned, we have been able to identify a number of those victims in that video, such as one of the women whose dead body appears. If you go to the Ministry of Defence website, her name appears as being killed by Sri Lankan government forces, so there's no dispute, actually, that this woman was killed by government forces.

But the question that remains is why the government hasn't conducted any further investigations.

● (1325)

Mr. Wayne Marston: In the summer we started a petition drive in Canada to call on our government to press the United Nations to proceed with an independent investigation, and the High Commissioner wanted to attend our press conference. I mean, there are a lot of pressure tactics out there.

You've written very clearly on the government's efforts to mask what has happened there. Are you seeing much of a reaction on the international front? The international community, when they look at the LLRC, see that it's clearly a whitewash. Have you seen this starting to evolve into action?

Ms. Elaine Pearson: The UN panel of experts report came out in April and was very damning of the alleged war crimes. Then there was the Channel 4 video. Since these sources have come to light, we've seen stronger statements coming from various governments, particularly from Canada, Australia, the United Kingdom, and the United States. They are saying that enough is enough.

There has been an opportunity to establish domestic accountability mechanisms, but these haven't happened.

At the same time, I think a number of these governments are waiting to see what will happen with the LLRC report, which is due to be presented to the president in just a couple of weeks, on November 15. I don't think we even need to wait until that report is presented to know what will be included. Based on the experience of past commissions, we know that there's going to be no serious accountability effort.

We don't even know if the report is going to be made public at the time that it's presented to the president, so our advice to governments has been simply to press ahead with an international accountability mechanism as a result of all of this mounting evidence.

Mr. Wayne Marston: The government members who sit on this committee more times than not agree on issues of human rights, so I'm looking forward to the conversation that we're going to have on this situation. We often talk about impunity in the various governments of the world that assault their own citizenry.

In Sri Lanka, it's clear that both sides were stained in this war. We can't solely look at the government side, but we have an opportunity via the United Nations to address impunity. Here's a government trying to hide or bury these stories and change the history.

I'm looking forward to our deliberations.

I want to thank you for your input here today.

Ms. Elaine Pearson: Thank you.

The Chair: We will turn to Mr. Daniel, please.

Mr. Joe Daniel (Don Valley East, CPC): Thank you very much, and thank you for being represented here.

I listened with interest to your comments, in particular your comment that both sides actually committed atrocities. There seems to be very little documentation, very little publicity, and very little follow-up on the LTTE crimes that were committed. Can you comment on that? Is there more documentation around?

It's all well and good having all of this stuff against the Sri Lankan government, but a balanced view of this would be very useful.

Ms. Elaine Pearson: Sure, I would be happy to comment.

My organization has produced a series of reports that look at the abuses committed by both the LTTE and the government forces. We've released one. Actually, I have a copy of it here, "Besieged, Displaced and Detained", which particularly looks at abuses by the LTTE.

It's true that there has been a lot of attention focused on government security forces. I think that is because the LTTE, as a result of this war, does not exist anymore. It does not have a leadership. It's very difficult to present the accounts of those abuses to an armed group, as we do in a number of other conflicts where we work.

However, there is a need for accountability on both sides. As I mentioned, there are several thousand suspected members of the LTTE in government custody right now in Sri Lanka. None of those people has been brought to trial. They've been held for a period of time, coming up to two and a half years now.

There really is a need to look at both sides of the conflict and at all of these abuses, but also to remember that it's the responsibility of the Government of Sri Lanka to ensure there is accountability.

Particularly, knowing that this government had control over its security forces, it really needs to engage in a serious, good-faith effort to ensure that there are criminal investigations into the activities of its military. We simply haven't seen this come to pass, even when they've been presented with graphic video evidence taken by Sri Lanka's own armed forces that displays some of these alleged war crimes.

• (1330)

Mr. Joe Daniel: I kind of beg to differ with you with regard to the LTTE leadership, because a lot of the LTTE leadership wasn't actually in Sri Lanka. They were in North America raising funds and creating all sorts of issues here.

There is actually a YouTube video floating around at the moment of a Canadian LTTE person declaring war on Canada. There are three LTTE people in jail in the U.S. for trying to acquire a million dollars' worth of weapons.

So I'm not confident that all the LTTE leadership was actually destroyed or whatever in the conflict. Have you any thoughts on that?

Ms. Elaine Pearson: I was talking about the members of the leadership who were actually involved directly in committing a lot of these abuses on the ground in Sri Lanka. We're talking about quite horrific abuses: the use of civilians as human shields; the fact that anyone who tried to escape from that zone was shot; and the fact that these people were also forced to participate in the hostilities.

The LTTE really blurred the line between civilians and combatants, which also made it difficult for the government to identify who was an LTTE suspect.

Human Rights Watch has cooperated in a number of international prosecutions of the LTTE. For instance, at the moment, in Holland, there has been a prosecution regarding illegal fundraising for a criminal terrorist organization, and we have provided evidence to the prosecutors. We have provided testimony because we have also done our own reporting on this issue.

Certainly I totally agree that more needs to be done in terms of holding both sides of the armed conflict to account. Right now we have an opportunity with the government to set up some kind of international mechanism, and it's important that this mechanism look not simply at government security force abuses but at the role of the LTTE as well.

Mr. Joe Daniel: Have I more time?

The Chair: You have two and a half minutes.

Mr. Joe Daniel: With that in mind, and with the thought in mind of actually trying to move forward on the whole situation, what sort of recommendations would you make to the Canadian government and to the international community in general on some form of reconciliation process that we could all rely on and that could actually be implemented?

Ms. Elaine Pearson: On the issue of reconciliation, I think there has also been a number of problematic aspects. Although the government has claimed that the LLRC is tasked with both addressing accountability and reconciliation efforts, we haven't seen talks move very far with some of the groups, particularly in the north.

I know that some of the political groups have expressed frustration in dealing with the government because of the centralization of power in Colombo. I think this is certainly something that Canada should look at—to what extent there has been a devolution of power to the north—in order to ensure that people are really able to participate in their local government and decision-making.

What we continue to see in the north is a very high military presence. Where once you had the presence of the LTTE that was monitoring and surveilling people's movements, now it's the presence of the army. Again, this is quite problematic.

If there's going to be any kind of genuine effort at reconciliation, then there also needs to be a movement away from such a high military power in the north. We are particularly concerned about this because there has been a number of reports of abuses by the security forces in the north continuing.

The whole area of reconciliation is not something where Human Rights Watch has so much expertise. Our expertise is really in the documentation and moving forward in addressing human rights abuses and ensuring that there's accountability.

• (1335)

Mr. Joe Daniel: Is there any opportunity for the UN, Canada, or other Commonwealth countries to actually establish some kind of totally independent reconciliation process that brings both parties together, so it's not biased one way or the other?

Ms. Elaine Pearson: As I said, as a human rights organization, we generally don't get into making recommendations on peace processes because it's really outside our mandate.

Looking at what has been happening and the fact that there haven't really been effective measures taken by the government to include a number of other political parties and views, there needs to be a bit more action in this regard, but it is something that really goes beyond the mandate of my organization.

The Chair: Thank you.

We'll move to the next questioner.

Professor Cotler, please.

Hon. Irwin Cotler (Mount Royal, Lib.): Thank you, Mr. Chairman.

I want to express my appreciation for your comprehensive presentation this morning. I have a question which you've actually been addressing, but more specifically, and it's not on the LTTE or otherwise. I'm wondering about the extent to which the Tamil community has been engaged in the reconciliation process and in the reform process, such as it is.

I have a broader, not unrelated, question: what is the extent of systemic discrimination against the Tamil community? What steps have been taken, if any, to address that systemic discrimination?

Ms. Elaine Pearson: Again, this is an issue where there are still a lot of problems in terms of discrimination faced by the Tamil population, particularly in northern parts of Sri Lanka.

We've seen this discrimination in all sorts of areas, even from universities that have shown discrimination particularly in how they address history in textbooks, to other discrimination in terms of representation in local governments and authorities, and in terms of policing in the northern areas and ensuring that there is equal opportunity and representation for the Tamil community in Sri Lanka.

There have certainly been some efforts by some Tamils to make some recommendations at the Lessons Learnt and Reconciliation Commission, the government commission that has been set up, so there have been some opportunities for people to air their grievances. But this does not act as a fact-finding, investigatory body, and this has been partly problematic.

Perhaps one of the efforts made by the commission has been to provide some space to Tamils to air their grievances and air some of the things they have faced.

Hon. Irwin Cotler: What about the situation with regard to internally displaced people? To what extent has the Government of

Sri Lanka been involved in helping to reintegrate the internally displaced people? What is their situation at this point?

Ms. Elaine Pearson: I think the vast majority of people have returned to their communities, but not all of them have returned to their homes. After being detained in these IDP camps, most of them have gone back now. However, there are still major problems because they don't have homes. A lot of these people are still living in temporary accommodation, quite like tent accommodation. There is a high military presence in a lot of these communities, which has caused some problems, particularly because a lot of these households are now headed by women.

Human Rights Watch has been doing a bit of documentation around cases of sexual assault, and also around the fact that, in some cases, women are trading sex in order to obtain some protection, sometimes from local members of the security forces and the military, because they're facing sexual abuse not only from the security forces, but also from other people in their own community.

So there are certainly a lot of issues around vulnerability, lack of protection and really, again, still around a real lack of humanitarian access and space to afford the right kinds of protections to these communities.

Hon. Irwin Cotler: To what extent do you think, after the recent Commonwealth meeting in Perth, and given the fact that Sri Lanka is to host the next one, that Sri Lanka will be more forthcoming regarding accountability mechanisms now? Will they allow, for example, an international commission of inquiry to visit Sri Lanka, both in terms of oversight of the LLRC but also in terms of an overall inquiry into the violations of human rights that have been committed?

• (1340)

Ms. Elaine Pearson: I think the Sri Lankan government has made its position very clear. Even just reading the newspapers this morning after the Commonwealth heads of government meeting, we see that the local pro-government papers were declaring it a victory for Rajapaska. They have been fighting tooth and nail against any type of international mechanism, any type of international accountability.

Even during the time when the war was going on and organizations like Human Rights Watch were concerned about the level of abuses, we were fighting for a UN human rights office presence to monitor what was happening in the field. The government fought that. There was never any High Commissioner for Human Rights presence able to do that monitoring. We've seen the same kind of approach again now against an international commission of inquiry.

I think we really need to recognize that the government isn't necessarily going to cooperate, but that there are a lot of effective ways in which such an international mechanism can still conduct its investigations, even if it doesn't have cooperation from the Sri Lankan government.

The Chair: You have another minute, Mr. Cotler.

Hon. Irwin Cotler: Do you think there's any problem with an international investigative committee getting consent to go into Sri Lanka to begin with?

Ms. Elaine Pearson: Well, this was actually an issue with the UN panel of experts report. I think they were granted some permission to go to Sri Lanka, but it was under such conditions that would not allow them to do independent kinds of questioning, so they were not able to visit Sri Lanka.

As you would well know, a large proportion of people have left the country. There's enough information now available to be able to conduct investigations, and to conduct interviews among the Tamil population outside the country, and there are other ways of also conducting interviews with people inside.

Obviously, it's far better for any commission of inquiry to have access to the country, but there are still ways to conduct an effective investigation.

Hon. Irwin Cotler: Thank you.

The Chair: Thank you very much.

We're down to the five-minute rounds now, and Mr. Sweet is next.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Thank you, Mr. Chair.

Thank you for being with us today. Just to capitalize on the last question of my colleague, Mr. Cotler, are there also sources of Sinhalese Sri Lankans who have left and who you can interview as well?

Ms. Elaine Pearson: Yes. Human Rights Watch has been able to conduct a lot of interviews since the conflict ended, and while some of these have taken place inside the country, a lot of them have taken place outside.

There are people who you're able to interview. For instance, even in the Channel 4 documentary, *The Killing Fields*, they interviewed a number of members of the Sri Lankan military who have now left the country. So there are certainly other Sinhalese sources who you would be able to interview.

Mr. David Sweet: Did you monitor the recent local elections? Did you observe whether they were free and fair?

Ms. Elaine Pearson: We didn't observe the local elections, but we did notice that back in June there was a particular incident we were concerned about, concerning the activities of the Tamil National Alliance. They had been campaigning in Jaffna, and members of that group had actually been attacked by army personnel who were wielding batons, rods, and sticks.

So we are still quite concerned about restrictions on political space and restrictions on political activities for some groups and in some parts of the country.

Mr. David Sweet: So your observations have been that the Sri Lankan government has been really disingenuous as far as any efforts are concerned. It's not just a case of omitting; they really are active in making sure that any human rights activists, any contrarian political opinions, are actually wiped out.

● (1345)

Ms. Elaine Pearson: Yes. Freedom of expression has come under severe attack. At one point during the conflict, I think Sri Lanka was number two compared to Iraq in terms of being one of the most dangerous places for journalists to work. We saw that at least a dozen

journalists disappeared and, in some cases, were murdered. We haven't seen any accountability for that.

We've also seen a lot of censorship of international and independent media. While there is a little bit of space for civil society, there are certain topics and certain issues about which any kind of criticism of the government is quite harshly dealt with. We've seen a number of cases of intimidation, of threats. Again, there has been no accountability for the murders and disappearances of journalists and others.

Mr. David Sweet: Has there been any continuation of any human rights abuses to date in Sri Lanka?

Ms. Elaine Pearson: Yes. Just this year, we've documented several cases of independent journalists who have been harassed or beaten up. In one case, the brother of a newspaper editor who was killed during the final stages of the conflict also received what amounted to a verbal threat from President Rajapaksa. In his own words, he said he was basically threatened and told that if he continues to personally attack the president, he also will find himself the subject of personal attacks.

We haven't seen perhaps quite the same level of disappearances of journalists, but there are fewer people who are actually willing to speak out now about the situation. A lot of those who were very critical of the government have had to leave the country, have had to seek asylum abroad. There really is quite a shrinking space in terms of the ability to criticize and speak publicly about these problems.

Mr. David Sweet: Thank you.

For my final question—I'm thinking about our report—you mentioned in your opening remarks that you have satellite evidence: could you just share with us briefly what the nature of that is?

Ms. Elaine Pearson: This was not our satellite imagery but the UN satellite imagery, particularly of the areas during the final stages of the conflict. By analyzing that satellite imagery, we were able to estimate the numbers of the population. During the final stages of the conflict, the government continually said that the number of civilians trapped in that area was much smaller than what was being presented by others.

Our independent analysis of that showed that actually the number was quite significant—in the hundreds of thousands. I have reports here. I had presented some written testimony, but I understand that it couldn't be translated in time. I'd be very happy to also submit to you those written materials, if that's possible.

The Chair: Thank you.

We would be grateful for that. One of the restrictions we have here is that we are obliged by our rules to ensure that everything is translated into both English and French prior to distribution. In addition to your material, I have some material from the Transnational Government of Tamil Eelam, as well as from the Sri Lankan government, which we haven't yet been able to distribute to our members. We'd be grateful for anything you submit to us. We'll take care of translating it once we receive it.

Before I turn the floor over to Mr. Marston, who has the next round, could you tell us if it would be possible to include in your package of information to us the satellite imagery that you're referring to?

Ms. Elaine Pearson: Yes, I can send you the links to the satellite imagery.

The Chair: That would be very, very helpful for us.

Mr. Marston, please.

Mr. Wayne Marston: Thank you, Mr. Chair. After I get into this, I'm going to give a minute to Ève.

Mr. Daniel spoke about the abuses of the LTTE. I want to be very clear: nobody is trying to minimize the abuses. This was a most unfortunate situation. You had civilians crowded between two warring factions. I want to reiterate that the purpose of this hearing is to put us in a position where we can recommend to our government to call on the United Nations to proceed with a transparent, independent investigation, which has been called for by your organization and others.

We're not attempting to assign guilt one way or the other. It looks like there's plenty of guilt to go around in these particular circumstances.

But beyond requesting that the United Nations has its own investigation, do you have any specific suggestions for other things Canadian parliamentarians could do to aid in this cause? There's a human tragedy that took place. When you watch the Channel 4 video, and with your remarks about the satellite imagery, it is shown very clearly how the people were crowded into different areas. Could you suggest anything else specifically that could we do?

• (1350)

Ms. Elaine Pearson: Well, obviously, an investigation into these abuses is the number one demand now from organizations like us so that the victims of these abuses are able to have some measure of justice. At the same time, I think we are quite concerned about the current human rights situation and the way in which things have developed.

I think, in its relationship with Sri Lanka, that Canada could express concern over a number of these issues, such as the recent constitutional amendments that concentrate a lot of power with the president. One of our requests is that there should be a restoration of the previous constitutional provisions that would guarantee a separation of powers.

Secondly, it's also about ensuring a restoration of the ability of journalists, civil society, and other actors to freely express themselves and their commentary in the media and other places. One way is to ensure that there's accountability for the criminal attacks that have occurred on journalists, members of the political opposition, and so on.

Again, in a number of these cases where there has been quite clear evidence about who is responsible, we haven't seen any real progress in those prosecutions.

I think that raising these specific cases with the Government of Sri Lanka and inquiring about the progress in conducting criminal investigations would be a very helpful way of bringing these issues to the spotlight.

Mr. Wayne Marston: Thank you.

[*Translation*]

Ms. Ève Pécelet (La Pointe-de-l'Île, NDP): I am trying to understand the situation. The United Nations recommends the creation of an independent committee to carry out an investigation. There may be other impartial processes that could be used. For instance, people are talking at this time about an investigation to be carried out by the United Nations, but we know that other mechanisms might also be feasible.

Sri Lanka has not ratified certain treaties, in particular the International Covenant on Civil and Political Rights. Would it be impossible, under article 5 of the Rome Statute, which deals with personal responsibility, to bring to trial the leaders of the rebel groups or of the government? Could the Security Council not adopt a resolution to that effect? Is there a country that opposes the adoption of such a resolution?

I would like to know if other impartial mechanisms might be brought to bear if the United Nations General Assembly refuses to adopt a resolution. If the international community adopted that resolution through the United Nations General Assembly, would Sri Lanka be bound by that decision? Or would acceptance of that resolution still be at the discretion of the government?

There are several parts to my question; I am sorry about that.

[*English*]

Ms. Elaine Pearson: When the war ended, the UN Secretary-General made a visit to Sri Lanka. In a joint communiqué that was issued with the president, the Government of Sri Lanka committed to address accountability as well as the violations of international humanitarian law and human rights law that were committed during the conflict.

The government made an assurance that it would submit to accountability. However, in the time that has passed, what they have done is set up a Lessons Learnt and Reconciliation Commission.

The failure to address these issues is what led the Secretary-General to set up his own panel of experts to advise him on next steps towards accountability. That very panel of experts recommended that the domestic avenue, the Lessons Learnt and Reconciliation Commission, was deeply flawed, lacked independence, and was not a proper accountability mechanism.

In that report, the UN panel of experts recognized that, when a government fails in its duty to establish a genuine accountability mechanism, there is a duty for the international community to step in. That's why it really needs to be the UN, whether it's through the Human Rights Council or the General Assembly, that should take the next action.

The Secretary-General submitted the report of the panel of experts to the Human Rights Council in September of this year. In doing so, he said that he would welcome a mandate to set up a commission of inquiry.

A lot of the ability to do this is there, but what's really needed is the mandate from the Human Rights Council. That means states like Canada and other countries need to mobilize for effective action at the Human Rights Council.

•(1355)

The Chair: Mr. Hiebert.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you.

Basically you're saying that it could not be said that Sri Lanka is engaged in any serious process of reform or reconciliation. The Lessons Learnt and Reconciliation Commission is really not seeking to find the truth or to make changes. Is that your assessment?

Ms. Elaine Pearson: Yes, that is our assessment regarding accountability. The Lessons Learnt and Reconciliation Commission has not submitted its final report yet, but from what we've seen of the interim recommendations, there's not been a word on accountability.

Based on the experience of past commissions, the 14 previous commissions that had been set up in Sri Lanka, there's only ever been a handful of perpetrators that have been convicted, and they tended to be low-level members of the security forces involved in abuses. This is over a period of 30 years.

Mr. Russ Hiebert: When the Canadian government, our Prime Minister, other countries, the UN, or other bodies ask for accountability, what's the reaction of the Sri Lankan government? Is it to acknowledge their concern? Is it simply silence? Is it a promise to do something? What are they saying in response to these calls?

Ms. Elaine Pearson: Right now, the Sri Lankan government's response has been to wait and see. They want to wait and see what happens with the LLRC and they want to take a bit more time.

The response has actually changed. Previously, the government refused to admit there were any civilian casualties whatsoever. In their propaganda offensive, they continued to claim that in the final stages the war was a humanitarian effort by the Sri Lankan government to rescue civilians, and that there were no civilian casualties in that effort.

Since the release of the UN panel of experts report and the Channel 4 footage, that position has been hard for them to maintain. Now they admit that there may have been some civilian casualties, but they want to wait and see. They want to wait and see what happens with the LLRC report.

Mr. Russ Hiebert: Do we know when the LLRC will report?

Ms. Elaine Pearson: November 15 is the date they will submit the report to the president of Sri Lanka. It is unclear whether the president will immediately make the report public. In news reports today, though, the foreign minister is quoted as saying the president will make the report public, but we're not sure when that will happen.

Mr. Russ Hiebert: Do you believe that there are still serious human rights violations occurring in Sri Lanka on a large scale?

Ms. Elaine Pearson: Yes, I believe there are serious human rights violations occurring. I don't think they're in any way at the same level as during the conflict, but we are quite concerned, particularly because it's difficult for organizations like us to get access on the ground.

From the reports we have received from people who were able to go to the country and document human rights violations, we're

particularly concerned about freedom of expression, ongoing reports of sexual violence and sexual abuse in the north, other issues related to land, and various other human rights issues.

Mr. Russ Hiebert: Those are my questions.

Thank you.

The Chair: Thank you.

Mr. Hiebert was our last questioner.

We have a couple of minutes left. I wonder if the committee would indulge me by allowing me to ask a question or two.

By the way, members of the committee, I consult with our analysts, and if there's anything on the list of questions that they think hasn't been touched on, they direct me to them so I can make sure that we don't miss opportunities with regard to the information witnesses can provide us. They have suggested that I should ask about the culture of impunity that has existed in Sri Lanka.

Would an international commission deal with that or would it likely fail to do so?

•(1400)

Ms. Elaine Pearson: I think having an international commission of inquiry will go towards addressing impunity and will go further than what the UN panel of experts report has already done. It will examine whether war crimes took place, with a view to establishing who the perpetrators of these crimes were and holding them accountable.

So yes, I think our organization firmly believes that international commissions of inquiry have played a very important role, not only in addressing impunity for the abuses that have happened, but also in sending a very important message to security forces that if they commit such acts—summary executions, a sexual assault against prisoners they have in their custody—there will be repercussions for these acts. Simply having the record of these violations—and being able to document in detail that these events took place—is extremely important.

The Chair: For such a commission to be effective, it would presumably have to be able to go into the country and do some of its work on the ground. I assume there would be a certain amount of fear from those who might be able to provide testimony to it, in regard to their own well-being once the commission leaves. I don't know if there's a practical solution to that problem, but I'm inviting comment in the hope that you've thought this problem through and have some useful suggestions.

Ms. Elaine Pearson: Yes, witness protection is very important. Again, this was one of the issues with the government commission: that there was ineffective protection of people who were providing testimony. It meant that perhaps a lot of people who would otherwise have been willing to testify simply weren't willing to take the risk.

A number of these commissions of inquiry have taken place across Africa and East Timor. I think the UN has a lot of experience in conducting these types of inquiries and ensuring that victims and witnesses to abuses are afforded adequate protection in testifying and in sharing their information.

The Chair: Thank you.

That was very helpful to me and to all of us.

Ms. Elaine Pearson: Thank you very much.

Let me take the opportunity to thank you for being here. We appreciate your participation. Again, we invite you to submit any additional documentation to us. We'll make sure that all the members of the committee are able to take a look at it.

The Chair: If there are no other items of business, this meeting is adjourned. Thank you, everybody.

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