

STATEMENT OF BRUCE FEIN, ATTORNEY, TAMILS AGAINST
GENOCIDE*

BEFORE THE SENATE FOREIGN RELATIONS SUBCOMMITTEE ON
MIDDLE EAST AND SOUTH ASIA

RE: RECENT VIOLENCE IN SRI LANKA

FEBRUARY 24, 2009

*www.tamilsagainstgenocide.org

Dear Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to share my views on the recent violence in Sri Lanka; and, to make recommendations as to how the United States should respond to diminish or end the daily horrors inflicted on innocent civilians outside any conceivable war zone.

- I. The Government of Sri Lanka (GOSL) has compounded the difficulty of knowing what is happening by an impenetrable media blackout and eviction of all outside observers. Best estimates from neutral persons in Sri Lanka place the death toll of innocent Tamil civilians in the predominantly Tamil northeast over the past two months at more than 2,000. The number of injured probably exceeds 10,000. The number of displaced persons most likely approximates 350,000. None of these figures, however, can be confirmed at present with direct testimony. The Sinhalese Buddhist GOSL is the reason we are reduced to conjecture. It has imposed a media blackout. It has evicted all NGOs. It has evicted all humanitarian aid workers. It has evicted the Sri Lanka Monitoring Mission. It has evicted the International Committee of the Red Cross. No independent news reporter or neutral witness may observe the conflict

between the all Sinhalese “Tamil free” armed forces and security services of Sri Lanka and the Tamil Tigers. Neither are there outside eyewitnesses to the; nor the indiscriminate violence that rains down daily on innocent Tamil civilians whether in hospitals, temples, churches, schools, or “safe zones” - an Orwellian term to describe the forced concentration of Tamil civilians into a tiny area to increase the efficiency of their physical destruction in whole or in substantial part by the Sinhalese majority.

The GOSL accuses the Tamil Tigers of responsibility for the atrocities and worse against Tamil civilians. The LTTE and Tamil civilians maintain the opposite. Who is telling the truth? There can be no conclusive answer based on direct eyewitness testimony because the GOSL has compounded the fog of war with the fog of censorship—making the Tamil northeast a virtual black hole. If the GOSL’s assertions were true about LTTE culpability in the killings of Tamil civilians, it would have all the incentive in the world to lift both the censorship and the media blackout and place the northeast under a public spotlight. It has hundreds of military camps in the north and northeast. Its roadblocks are omnipresent. It controls population movements more tightly through National Identity Cards and

otherwise than South Africa did during apartheid. It could easily create safe passage for foreign reporters and NGOs to testify about responsibility for the grim Tamil civilian casualties and conditions of life.

From the circumstance that the Sinhalese Buddhist GOSL has drawn a figurative iron curtain around the northeast and the so-called “safety zone”, a persuasive inference can be drawn that it is hiding something terrible: its primary or complete responsibility for the recent ongoing murders and sister atrocities against Tamil civilians.

II. A Page of History is Worth Volumes of Logic. Accordingly, to understand Sri Lanka’s contemporary ethnic conflict, the history of Sinhalese Buddhist persecution of Tamil Hindu/Christians must be briefly recounted.

Sri Lanka’s Tamils in the Jaffna peninsula and in the North-East have been victims of Sinhalese Buddhist persecution and genocide since independence sixty-one years ago. Sri Lanka uniquely sports a culture of genocide. *But for a few quislings and Tamils willing to accept vassalage or serfdom, every living Tamil in the Jaffna peninsula and the North-East has been displaced, physically injured, or persecuted by the Sinhalese Buddhist*

majority—an unprecedented victimization rate approaching 100%.

A genocidal culture seeks to destroy a minority racial, ethnic, or religious group not only by extrajudicial killings, but also by disintegrating their political and social institutions, language, national identity, religion, and economic existence; undermining their personal security, liberty, health, education, communications, mobility and dignity; and, creating a permanent state of psychological or emotional trauma or anxiety through never-ending displacements or otherwise.

Sri Lanka's culture of genocide was born in part from a paranoid imagination that more than fifty million Tamils from Tamil Nadu state in India would be perpetually plotting to overrun Sri Lanka's Sinhalese Buddhists by sheer numbers. Building on that fear, three elements combined. The first was the Mahavamsa, the Sinhalese Buddhist equivalent of the Christian New Testament or the Muslim Holy Koran. The Mahavamsa myths teach that Sinhalese Buddhists are the sole rightful occupiers of Sri Lanka; and, that Tamils and all others are inferior interlopers who must be destroyed to honor Buddha.

The second was the Buddhist monk dogma that religion and state were indivisible; and, that Sinhalese Buddhism and politics on the island should merge.

The third was the Sinhalese Buddhist racial supremacist doctrines of the venerated Sinhalese Buddhist monk Dharmapala. They exalted a pure Sinhalese Buddhist race in Sri Lanka to the exclusion of all others. The race purity creed surfaced contemporaneously with Hitler's goal of making Nazi Germany pure Aryan.

Reminiscent of white racist politicians in the South during Jim Crow in the United States, Sri Lankan prime ministerial or presidential candidates routinely pledge to be more genocidal towards Tamils than their campaign rivals to win Sinhalese Buddhist votes. Each political contest culminates in higher plateaus of Tamil genocide than had been set by its predecessor.

At independence, Sri Lanka's population was then generally divided into two ethnic-religious groups. The commanding majority were Sinhalese Buddhists with a smattering of Sinhalese Christians. They constituted an approximately 77% voting majority, and resided predominately

in the west and south. Tamil Hindus with a small percentage of Tamil Christians comprised approximately 18% of the population. They resided primarily in the north and east. The remainder consisted of Tamil-speaking Muslims who largely resided in the east.

Like Jews in Nazi Germany, Tamils are excluded from service in the Sri Lankan armed forces, security services, or law enforcement agencies. In the Jaffna peninsula and the North-East, Tamils are exposed to conditions of life intended to lead to their physical destruction in whole or in substantial part. Those conditions include, but are not limited to, starvation; malnutrition; disease; chronic displacements; lack of housing, medical care, education, and communications; abject poverty, and permanent physical and economic insecurity.

Since Sri Lanka's birth, only one non-trivial crime perpetrated by a Sinhalese Buddhist against a Tamil has ever been prosecuted and seriously punished; and, no Tamil has ever been compensated for injuries inflicted by the GOSL for its orchestrated riots or crimes.

Long before the LTTE came into being, Tamils had been viciously persecuted and slaughtered by Sri Lanka's Sinhalese

Buddhist majority with impunity. Mahatma Gandhi-like peaceful protests by Tamils against subjugation were answered with brutality.

In 1956, the Sinhalese-Buddhist majority enacted the “Sinhala Only Act.” It made Sinhalese the exclusive official language of Sri Lanka and stripped the Tamil language of equal dignity or respect. The exaltation of Sinhalese severely compromised the ability of Tamils to compete professionally, academically, and politically, and handicapped their legal protection because all complaints or testimonies must be in Sinhalese.

Two-hundred Tamils peacefully assembled on Galle Face Green, which faces the Sri Lankan parliament, to protest the Sinhala Only Act on June 5, 1956. Led by junior minister Rajaratna, Sinhalese mobsters attacked the Tamils and pelted the protestors with stones while the Sinhala police gazed on in amusement. Rioting against Tamils soon spread nationwide, including the major cities of Colombo, Batticaloa, Trincomalee, and Gal Oya. When the rioting ended, approximately 150 Tamils were dead. The GOSL neither attempted to prosecute the Sinhalese attackers nor compensated the Tamil victims. No apology for the rioting was offered.

After the conflict with the LTTE commenced, the Sinhalese Buddhist GOSL routinely responded to military attacks by massacring the Tamil civilian population, like Hitler's destruction of Lidice in World War II. "Black July" of 1983 was emblematic.

In response to an LTTE attack in the Jaffna Peninsula on Sri Lanka's Army that killed 13 soldiers, the GOSL orchestrated the mass murder of Tamil civilians and destruction of their properties. They were removed from buses and cars to be hacked and burned alive. In Colombo alone, more than 2,000 were slaughtered and 70,000 displaced. Elsewhere, more than 1,000 were slain and 150,000 were displaced and driven into refugee camps. When the rioting concluded, 18,000 homes had been damaged, 20,000 Tamil shops had been ravaged, and more than 100 Tamil industrial plants had been destroyed. In Jaffna alone, 175 homes had been set ablaze by policemen. Thirty-nine Hindu and Tamil places of worship were destroyed. No Sinhalese Buddhist culprit was prosecuted, and, no Tamil victim was compensated. Then GOSL President Jaywardene sneered to a British reporter in an interview republished in the government-run Sunday Observer on July 17: "I am not worried about the opinion of the Jaffna [Tamil] people now...Now we

can't think of them. Not about their lives or their opinion about us.”

III. Violence perpetrated by the incumbent Sinhalese Buddhist Government of Sri Lanka against Tamil civilians has crossed the line into genocide, which justified a criminal investigation under United States laws. The crime of genocide under the United States Genocide Accountability Act of 2007 (GAA) is defined as physically destroying or attempting to destroy in whole or in substantial part a racial, ethnic, religious or national group, as such, through extrajudicial killings, serious bodily injury, or the creation of conditions of life intended to cause the physical destruction of the targeted group.

In spearheading the enactment of the GAA, Senator Richard Durbin (D. Ill.), had in mind the cases of U.S. dual citizen Gotabaya Rajapaksa, Sri Lanka's Defense Secretary, and U. S. permanent resident Sarath Fonseka, Sri Lanka's Army Commander. The Senator elaborated: “What we are saying to those around the world who are engaged in uncivilized and barbaric conduct is do not even consider coming to the United States as your retirement home...There is no place for you to hide.” Then Senators Barack Obama (D. Ill.), Joseph Biden (D.

Del.), and Hillary Clinton (D. N.Y.) supported Senator Durbin and the GAA.

On February 5, 2009, I had delivered to U.S. Attorney General Eric H. Holder a three-volume, 1000 page model 12-count genocide indictment against Rajapaksa and Fonseka charging violations of the GAA. (An executive summary is attached as Exhibit 1). Derived from affidavits, court documents, and contemporaneous media reporting, the indictment chronicles a tale of Sinhalese Buddhists attempting to make Sri Lanka “Tamil free.” Rajapaksa and Fonseka assumed their current offices in December 2005. They exercise command responsibility over Sri Lanka’s mono-ethnic Sinhalese security forces. On their watch, they have attempted to physically destroy Tamils in whole or in substantial part through more than 3,800 extrajudicial killings or disappearances; the infliction of serious bodily injury on tens of thousands; and, the creation of conditions of life intended to lead to the physical destruction of Tamil civilians, including starvation, withholding medicines and hospital care, humanitarian aid embargoes, bombing and artillery shelling of schools, hospitals, churches, temples; and, the displacements of more than 1.3 million civilians into camps, which were then

bombed and shelled. This degree of mayhem inflicted on the Tamil civilian population because of ethnicity or religion ranks with the atrocities in Bosnia and Kosovo that occasioned genocide indictments against Serbs by the International Tribunal for the Former Yugoslavia.

During the past two months, a virtual reenactment of the Bosnian Srebrenica genocide of more than 7,000 Muslims has unfolded. Sri Lanka's armed forces employed indiscriminate bombing and shelling to herd 350,000 Tamil civilians into a government-prescribed "safe zone," a euphemism for Tamil killing fields. There, more than 2,000 have been slaughtered and a greater number have been injured by continued bombing and shelling. As a preliminary to the horror, roads and medical aid were blocked and humanitarian workers and all media were expelled. During a BBC radio interview on February 2, 2009, Rajapaksa declared that outside the "safe zone" nothing should "exist." A hospital was repeatedly bombed killing scores of patients. Rajapaksa further proclaimed that in Sri Lanka any person not involved in fighting on behalf of the Government of Sri Lanka was a terrorist, and that any person who criticized the GOSL should anticipate a death squad. General Fonseka is no less definitive that Sri Lanka is Sinhalese Buddhist (not a

multi-ethnic) nation. In a September 23, 2008, interview with Stewart Bell of the Canadian *National Post*, Fonseka conceded: “I strongly believe that this country belongs to the Sinhalese....”

Under Article 5 of the Genocide Convention of 1948, ratified by the United States Senate in 1986, the United States is obligated to provide “effective penalties” for genocide. That imposes an obligation on signatory parties to investigate and to prosecute credible charges.

The predictable GOSL defense of counter-terrorism will not wash. Not a single Tamil victim identified in the genocide indictment was involved in the longstanding ethnic civil war between the Government of Sri Lanka and the LTTE—including the victims who were attacked in hospitals, schools, temples, churches, and displaced person camps.

Former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen recently published a report placing genocide on the national security agenda. The State Department lists Sri Lanka as an investigatory target in its Office of War Crimes. The New York based Genocide Prevention Project last December labeled Sri Lanka as a country of “highest concern.” President Barack Obama has made the case for

military intervention in Sudan or elsewhere to stop atrocities. The justification for opening a genocide investigation of citizen Rajapaksa and permanent resident Fonseka is thus compelling. In addition, an investigation or indictment, despite little current prospect of extradition from Sri Lanka for trial in the United States, would probably deter the GOSL from some of its most gruesome killing tactics.

IV. Recommendations for stopping the genocide or slaughter of Tamil civilians by the Sinhalese Buddhist GOSL.

I would suggest the United States consider the following measures:

- Seek an international arms embargo on Sri Lanka in the United Nations Security Council under Chapter 7 of the United Nations Charter;
- List Sri Lanka (along with Sudan, Iran, Syria, and Cuba) as a state sponsor of terrorism under United States laws, which would trigger various sanctions;
- Freeze the United States assets of Gotabhaya Rajapaksa and Sarath Fonseka;

- Deny visas to the GOSL leadership, including President Mahinda Rajapaksa;
- Vote against economic aid to the GOSL at the World Bank and IMF;
- Deny Sri Lankan goods favorable tariff treatment;
- List Mahinda Rajapaksa, Gotabhaya Rajapaksa, and Sarath Fonseka as specially designated terrorists under Executive Order 13224.
- Support a “One country, two systems” political solution to the ethnic conflict in Sri Lanka.
- Withdraw the United State Ambassador from Colombo until the genocide and indiscriminate killing of Tamil civilians by the Sinhalese Buddhist GOSL ceases.

Conclusion

For decades, the primary horrors in Sri Lanka have been inflicted on Tamil civilians by the GOSL. Like triage, their plight should be addressed first through genocide prosecutions or otherwise.

Exhibit1

Executive Summary

Model Indictment Charging U.S. Citizen and Sri Lankan Defense Secretary and U.S. Permanent Resident and Commander of Armed Forces

Bruce Fein¹, attorney for Tamils Against Genocide (TAG), has gathered evidence that the crime of genocide under United States law has been committed against the indigenous civilian Tamil population of Sri Lanka outside of any conceivable war or conflict zone, for example, temples, churches, schools, or hospitals. The evidence is collected in a three-volume, 1,000 page pro model indictment which charges U.S. citizen and Sri Lankan Defense Secretary, Gotabaya Rajapaksa, and U.S. permanent resident and Commander of the Sri Lanka Army, Lt. General Saratha Fonseka, with 12 counts of genocide, and 106 counts of war crimes and torture, in violation of U.S. domestic statutes 18 USC § 1091, 18 USC § 2441, and 18 USC § 2340A.

TAG submitted the model indictment to the U.S. Department of Justice on February 5, 2009 for the US Attorney General to initiate a grand

¹ Bruce Fein is former associate deputy attorney general under President Ronald Reagan and author of Constitutional Peril: The Life and Death Struggle for our Constitution and Democracy.

jury investigation aimed at filing a federal criminal case in the U.S. District Court for the Central District of California.

A recent US statute now makes it a crime for US citizens and permanent residents to be responsible for the crime of genocide committed even outside US borders. If filed, this case would be the first test of the United States Genocide Accountability Act of 2007 sponsored by Senator Richard Durbin (D. Ill.), and supported by then Senators Barack Obama (D. Ill.), Joseph Biden (D. Del.) and Hillary Clinton (D. N.Y.)

The Sinhala-dominated government has discriminated against and persecuted the civilian Tamils of Sri Lanka since independence in 1948. Since the ethnic conflict erupted between the Sri Lankan armed forces and Tamil rebels in 1983, the Tamil areas of the North-East have been subjected to harrowing destruction. The Tamil people there have been indiscriminately killed, disappeared, kidnapped, raped, and otherwise persecuted with the intent to destroy Tamil groups in whole or in substantial part because they are not Sinhalese Buddhists.

Command Responsibility for Genocide, War Crimes and Torture

The model indictment organizes all relevant crimes committed against Tamils in Sri Lanka between December 5, 2005 and January 29, 2009. By compiling legal evidence, this document intends to prove that the defendants are individually criminally responsible for genocide, war crimes, and torture

as recognized and punishable under U.S. domestic law. Genocide is the deliberate and systematic destruction or attempted destruction, in whole or in substantial part, of an ethnic, racial, religious, or national group, as such. War crimes are the violation of the laws and customs of war and include the murder, ill-treatment or deportation of civilians, the wanton destruction of cities, towns and villages, and any devastation not justified by military necessity.

As detailed in the model indictment, the specific crimes of genocide, war crimes, and torture committed against Tamils during the period from December 5, 2005 to January 29, 2009 (Eelam War IV), from the gang-rape of Tharshini Illayathamby to the Senchulai school bombing, were committed under the military command responsibility of the defendants through the following non-exhaustive list of methods which were systematically employed in Sri Lanka by the Sri Lankan armed forces and government-sponsored paramilitaries:

Murder, massacre, torture, mutilation and maiming, disappearance, abduction, rape, gang-rape, sexual abuse and assault, arbitrary or indefinite detention, indiscriminate aerial bombardment, indiscriminate artillery shelling, a permanent cycle of displacement and re-displacement, starvation, deprivation of essential goods, medicine, education and public services, harassment, intimidation, and other stark conditions of life intended to cause the physical destruction of Tamil groups in whole or in substantial part.

These crimes have brought the Sri Lankan Tamil community to substantial physical destruction, as the model indictment details:

- “Every living Tamil in the Jaffna peninsula and the North-East has been displaced, physically injured, and/or persecuted by the Sinhalese Buddhist majority—an unprecedented victimization rate approaching 100%.”
- “During more than two decades of war, including Eelam War IV, in predominantly Northeastern provincial territories, all Hindu/Christian North-East Sri Lankan Tamil villages have been fully depopulated at least once.” “The economic blockade and military attacks worked in tandem with a media blackout, and confinement of Tamil civilians in the North-East intensified. The GOSL continued their genocidal strategy of killing Tamils in concentrated locations and imposing stringent conditions of life with shortages of food, medicine, energy, or housing to destroy Tamils physically through starvation, malnutrition, disease, and exposure to the elements.”
- In one four-year period alone “Sri Lankan forces destroyed 150,000 homes, created six thousand widows, orphaned 4,000 children in the North-East, damaged 700 temples through

bombings, and removed various icons or holy Hindu images from sixty-three temples.”

- “Poverty, displacement, and garrisoning of entire towns and villages by Sri Lanka’s armed forces caused Jaffna’s student population to plunge by 100,000 since 1995, the Government Agent for the northern district reported. Before Eelam III, the student population in Jaffna was 240,000. By 2004, it had dropped to 140,000.”
- “Genocide [was also accomplished] in Jaffna and the North-East, respectively, in part through colonization, militarization, and Sinhalization.” A population which had some of the best indicators of civilian well-being in South Asia, including literacy and infant mortality rates has now become one of the poorest areas. For instance, “In 1991, of the total 148,080 tons of essential foods needed in Jaffna, only 43,080 tons were supplied – a 71% shortfall. Paddy production plunged 83%.” “Before Eelam War II and the blockade, 700-1000 tons of food was unloaded annually at Point Pedro Port in Jaffna; during Eelam War II, that quantify fell to 100 tons.” “The fishing sector provided subsistence and livelihoods for 200,000 Tamils. Annual fish production in this sector fell from 104,300 tons to 1,094

tons, a drop of 98.95%, occasioned by national security restrictions. Local consumption before the blockade annually required 6,605 tons of fish. Only 16.6% of that tonnage was caught after 1990.” In 2002, “[t]he SLA destroyed 50,000 palmyra trees on the route joining Thalaimannar to Mannar. Approximately forty thousand Tamil families depend on palmyra plantations while another twenty-five thousand families’ livelihood depends on toddy production, handicrafts, as well as other tree products.” “In the 10-months from June 1990 to April 1991, North-Eastern hospitals required 220 million rupees to operate, but the GOSL only supplied 7% – 15 million – of the required amount, and did so irregularly.” During the same period, “Amparai, whose Sinhala population had risen since independence due to state-sponsored colonization, received funding and treatment for 90% of their needs.” “In the Jaffna peninsula, for example, the SLA’s Operation Whirlwind in May 1992 bombed 8 hospitals and surrounding infrastructure.”

- “The Mannar Bishop and human rights activists lamented [in 1998] that the CSU [Counter Subversive Unit] habitually arrests women such as Sivamani and Wijikala from various parts of the Mannar district to rape and exploit brutally under the pretext of interrogation and extended detention pursuant to

the Prevention of Terrorism Act and the Emergency Regulations.”

- Colonization of Sinhalese into Tamil areas has continued apace. For instance, “The GOSL began construction of a Buddhist shrine in Vilankulam, a traditional Tamil village in 2002... In a companion act of religious bigotry, [nearby, two weeks later] the GOSL banned renovation of the historic Hindu temple at Kanniya, in Trincomalee.” In 2007, “[w]hile a majority of the 222 Tamil families from the traditionally all Tamil Raalkuli village in Muthur division in Trincomalee District had been displaced due to SLA and SLAF attacks, by this date, a Colombo-based Buddhist organization laid the foundation stone for 138 houses intended for the settlement of Sinhala-Buddhist civilians in the village.”
- “The fact is that not a single member of the security forces had, at the date of the Mission, been convicted of murder... A culture of impunity has developed, with perpetrators of grave violations being convicted of minor offenses or, in most cases, not at all.” -- Centre for the Independence of Judges and Lawyers in Geneva, 1997. “Torture has been facilitated by widespread impunity of the perpetrators. To date, no member of the security forces has

been brought to justice for committing torture." -- Amnesty International, 1998

The Eelam War IV genocidal motivation can be understood only when juxtaposed with the post-independence pattern of facts and historical events which show the persistent intent of successive democratically elected Sinhala-Buddhist regimes to commit deliberate acts of genocide with the intent to destroy in whole or in substantial part the Hindu/Christian North-East Sri Lankan Tamil national, ethnic, racial, religious group, as such, in the North-East provincial territories of Sri Lanka, which includes the heavily populated Jaffna peninsula.

Genocide and War Crimes

Proof of genocidal motivation is occasionally direct, as with Defendant Fonseka's assertion that Sri Lanka is a Sinhalese nation—not a multi-ethnic nation. Other evidence of motivation is circumstantial, for example, no Tamils serve in the security forces; and, no Sinhalese Buddhist perpetrator of extrajudicial killings, torture, rape, and other atrocities has ever been both prosecuted and punished in more than 60 years, with one minor exception.

12 counts of genocide are charged in the model indictment, followed by 106 counts of war crimes and torture. These introduce the option of legal action which charges the defendants for acts of war crimes and acts of torture

where, unlike the counts of genocide, the proof of intent to physically destroy on whole or in substantial part a Tamil group is not required.

The indictment charges violations of U.S. criminal laws, not international law. The institutions entrusted with enforcing international criminal prohibitions, for instance, the International Criminal Court or the International Court of Justice, are routinely hijacked by big-power politics. China would frustrate any effort to call the Defendants to account before international bodies, just as it has for its own crimes against Tibetans or Uighurs.

Recourse is being made to prosecuting these crimes in US courts because the government of Sri Lanka, controlled by the island's Sinhala-Buddhist majority, has been an impediment to delivering any justice for crimes against Tamils in Sri Lanka. Further, the defendants are a U.S. citizen and U.S. permanent resident, whom the United States has a special responsibility for prosecuting under the Genocide Convention of 1948, which was ratified by the U.S. Senate in 1986. United States courts are fiercely independent, and will not be distracted in a genocide prosecution about arguments over the listing of the LTTE as a terrorist organization or other irrelevancies to the crime that the defendants would attempt to interject.

The Counts

Genocide Counts

The charges of genocide in the model indictment are separated into 12 counts as discernable by the differing methods of genocide in different territorial areas of North-East Sri Lanka. The 12 counts of genocide are comprised of 5 region-level counts and 6 village-cluster levels of genocide. The 5 regions are listed below:

Region-level Genocide

1. Non-Government-Controlled Northern Territory (NGNT)

Vanni Region, which includes Mullaithivu and
Kilinochchi districts (as of January, 2008)

2. Government-Controlled Northern Territory 1 (GNT-1)

Jaffna peninsula that includes the Jaffna district and the Jaffna islets

3. Government-Controlled Northern Territory 2 (GNT-2)

Vavuniya District, Mullaithivu District and Mannar
District

4. Eastern Territory (ET)

Trincomalee District, Batticaloa District, Amparai
District

5. Southern Territory (ST)

Western Province, Central Province, Sabaragamuwa
Province, and the Southern Province

Village Cluster-level Genocide

The 6 village clusters of the village-cluster level genocide counts 6-11, whose villages where acts of genocide occurred are listed in the charging section of the model indictment are

- a. **Sampoor village cluster**
- b. **Mannar/Manthai village cluster**
- c. **Vavuniya North village cluster**
- d. **Mullaithivu South village cluster**
- e. **Poonakari village cluster**
- f. **Pallai-Vadamaradchi East village cluster**

War Crimes and Torture

The war crimes under the War Crimes Act of 1996 and the U.S. criminal prohibition of torture in fulfillment of the Convention Against Torture listed in this model indictment are not comprehensive. They will be supplemented with new evidence that TAG expects to be generated by the model indictment example. In U.S law, the new charges would be contained in what is called a “superseding indictment.”

In this model indictment, there are 106 counts of war crimes and torture. Each act of torture, murder, rape, mutilation or maiming, sexual abuse or abuse, is charged separately by individual.

The 106 counts include, in no particular order, all Tamil civilian victims of the following:

- Separate acts of torture in the areas of Jaffna, Batticaloa, and Colombo carried out through a non-exhaustive list of torture methods used by the Sri Lankan armed forces and government-sponsored paramilitaries;
- Murder of Tamil civilian male Joseph Pararajasingam;
- Trinco-5 massacre;
- Allaipitti massacre;
- ACF-17 massacre;
- Senchulai bombing;
- Rape of Tharshini Illayathamby;
- Murder, decapitation, and body mutilation by dismemberment of Tamil civilian male Fr. Jim Brown;

- Murder and decapitation of a 5-month old Tamil male infant by an indiscriminate aerial bombardment of a Tamil civilian area; and,
- Sexual assault of 51 Tamils in Boosa Detention Camp.

Explaining Tamil Genocide

All previous well-known genocides which have occurred since the end of World War II have been characterized by a massive number of murders in a small defined locality occurring in a short time period and carried out by an actor seeking the total physical extermination of a particular ethnic group. The post-1945 genocide cases often cited are: the Holocaust, , the Kurds in Iraq, the Srebrenica massacre, and Rwanda.

By contrast, Sri Lanka's genocide against Tamils has taken place over a number of years and is more characterized by widespread, prolonged displacement and destruction of the community's physical and cultural base than murder. For this and also wider geopolitical reasons, the destruction of the Sri Lankan Tamils is less well-understood in the world at large as a case of genocide.

The 2007 US Genocide Accountability Act defines genocide as an attempt to physically destroy a group in whole or in substantial part because of race, religion, ethnicity, or nationality, as such, by employing the following

tactics: extrajudicial killings or disappearances; the infliction of serious bodily harm; or, the creation of conditions of life intended to cause the physical destruction of a racial, religious, ethnical, or national group in whole or in substantial part. The evidence collected and organized in the model indictment establishes a prima facie case that Eelam War IV is genocide masquerading as counter-insurgency. *Every incident of genocide chronicled in the indictment was inflicted on Tamil civilians outside any conceivable war zone and uninvolved in the ethnic conflict between the LTTE and the government.*

The central difference between the Tamil genocide and other post-1945 genocides is that in Sri Lanka the culture of genocide seeks to physically destroy Tamils in substantial part, not in whole, if the Tamil survivors are willing to accept vassalage or serfdom to Sinhalese Buddhists.

Eelam War IV, and the Tamil genocide between December 6, 2005 and January 29, 2009 as detailed and alleged in the model indictment, inherits and continues a post-1948 Sinhala-Buddhist culture of genocide against Sri Lankan Tamils which fundamentally seeks to create a racially pure Sinhala-Buddhist state as prophesied in the 13th century pseudo-historical text of Sri Lankan Sinhala-Buddhism, the “Mahavamsa.” It is widely taught, read, and revered today among Sinhalese Buddhists as incontrovertible truth..

From the first to the last page of the model indictment, the evidence is mountainous that the ascendant Sinhalese Buddhist power structure has invariably acted on the conviction that Sri Lanka is a mono-ethnic-religious nation and that all other groups are aliens or interlopers whose physical existence (when it is tolerated) is at the grace of the government.