



November 9, 2011

Mr. Secretary-General Ban Ki-moon
United Nations
2 United Nations Plaza
New York, N.Y. 10017

Re: Suspend General Silva's Credentials to Promote Justice

Dear Mr. Secretary-General:

We write to ask you to urge the United Nations Credentials Committee to recommend that the General Assembly suspend the credentials of General Shavendra Silva to appear at the United Nations as a Representative of Sri Lanka. As you know, General Silva is being sued in the Southern District Court of New York for the extrajudicial killing of a civilian in the bombing of a hospital and for the torture and extrajudicial killing of a person *hors de combat*.

Overwhelming evidence showing that the Government of Sri Lanka perpetrated war crimes and crimes against humanity compels the suspension of General Silva's credentials. This evidence has been collected under your direction by the Panel of Experts and was presented to you in an in-depth report. That report identified serious violations of international law and concluded that Sri Lanka's conduct during the war amounted to an assault on the legal regime designed to protect civilians and mitigate atrocities during armed conflict. Last month, in an acknowledgement of the severity of the evidence, you forwarded the Panel's report to the Human Rights Council. These U.N. efforts have raised victims' hopes for justice and accountability for Sri Lanka's war crime atrocities.

Although the Sri Lankan Government has an obligation to investigate and redress these crimes, it has failed to establish a mechanism for accountability that meets international standards, and has instead relied on its widely condemned Lessons Learnt and Reconciliation Commission. Rather than investigate General Silva for his responsibility in committing war crimes, the Government has rewarded him with a diplomatic position. Similarly, Sri Lanka has posted 22 former high-ranking military officials to diplomatic posts around the world, from the United States to Australia to Germany. Efforts to bring them to justice where they are posted are now proliferating, as the global movement for accountability grows. Sri Lanka should not be rewarded with unlimited immunity for war crimes for militarizing its diplomatic positions.

Inaction regarding General Silva's credentials would impede the course of justice. Victims of war crimes in Sri Lanka deserve better from the largest international body designed to protect peace and justice. The world is closely watching these developments. As many do, we fear that permitting General Silva to retain his credentials would send a message to law-breaking governments around the world that the United Nations will not defend the cause of justice and that it will shelter war criminals and perpetrators of mass atrocities.

By encouraging the Credentials Committee to recommend to the General Assembly that General Silva's credentials be suspended during the pendency of the New York litigation, you will protect justice and the rule of law. The plaintiffs in this suit seek only their day in court before a jury of neutral fact-finders — an opportunity that does not exist anywhere else in the world, currently or for the foreseeable future. If the General Assembly decides to suspend or revoke General Silva's credentials, this will help allow a neutral jury to assess the case against him. I urge you to encourage the Credentials Committee to recommend to the General Assembly that General Silva's credentials be suspended, and thereby ensure that the victims of torture and war crimes have their day in court.

Sincerely,

SPEAK Human Rights and Environmental Initiative

UNROW Human Rights Impact Litigation Clinic at
American University Washington College of Law

Center for Constitutional Rights

Allard K. Lowenstein International Human Rights Clinic at Yale Law School

Human Rights USA

World Organisation Against Torture (OMCT)

European Center for Constitutional and Human Rights

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