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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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• (1315)

[English]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): Order, colleagues. We're now in public.

Today we have with us as a witness an honoured colleague from the other place, Senator Hugh Segal. The senator has served with distinction here in Canada as both a parliamentarian and, before that, as a commentator and expert on a very wide variety of subjects. He has also served as our special envoy to the Commonwealth and has insights, based on that, into the situation in Sri Lanka.

Senator, you know more than most people what the procedure is at these committees. The length of time that is left over after you're finished with your initial comments will be divided equally among the questioners. That will determine how long they have for questions and you for your answers.

I turn the floor over to you. Please proceed.

Hon. Hugh Segal (Canada's Special Envoy to the Commonwealth, As an Individual): Thank you, Mr. Chairman.

[Translation]

Thank you for the opportunity to appear before the committee today.

I was in Sri Lanka from late March to early April as Canada's Special Envoy to the Commonwealth. My role was not to comment on a sovereign nation's domestic affairs or on the bilateral relations between Canada and Sri Lanka, but rather to assess the situation on the ground with regard to the Commonwealth's fundamental values. Those values include the rule of law, freedom, human rights, judicial independence and freedom of the press.

My mission was to report to the Minister of Foreign Affairs, Mr. Baird, and to the Prime Minister of Canada.

[English]

While in the country, Mr. Chairman, I met with senior government ministers, the leader of the parliamentary opposition, clergy from different faiths, civil society in the south and the north, the military high command in the north, Muslim leadership, law societies, students, journalists, and senior public servants. I spent time in Colombo and in the north, in the east, and in the south. I visited displaced persons camps, and was assisted in this respect by the helpful staff of the United Nations High Commissioner for Refugees.

While I found the armed forces to be well trained, disciplined, and professional, it was also apparent that they have adopted the PLA Chinese army approach of expanding in the north to monopolize good farmland, the fisheries, and key areas of business and enterprise, leaving no room for Tamils to regain their land or rebuild their economic prospects as individuals, families, or communities.

What I found was a soft ethnic cleansing and de-Tamilfication process that is clearly under way with government support and encouragement. Lands held for demining—lands promised to the Tamils once the demining was completed so they could return to their homes—were seized under national security provisions for the construction of family homes for the broadly Sinhalese army and their dependants, who now live in the south and will be moved to the north.

A Tamil-language newspaper of record that I had the privilege of visiting, whose publisher is an elected Tamil MP in Colombo, was shot up, with computers destroyed and staff beaten to the point of hospitalization a few days following my visit.

Although we were invited to meet with whomever we wished by Sri Lanka's distinguished High Commissioner in Ottawa, Her Excellency Madam Wagswara, as well as their High Commissioner in London, Chris Nonis, we were tailed and followed by minders everywhere we went, including in the official Canadian High Commission vehicle.

Members of Sri Lankan civil society, invited to our High Commissioner's official residence in Colombo to offer advice and counsel, had their licences taken down by Sri Lankan police outside our High Commissioner's official residence.

In Jaffna a group of citizens interested in peaceful reconciliation were afraid to come to our modest hotel to meet with the Canadian delegation. The High Commissioner and I drove to the centre of the city after dark in a taxi, while the official Canadian vehicles were dispatched to the other end of town, so as not to put at risk the group of former civil servants, professors, students, and clergy who were offering us a briefing. This was at their request, because of their fear for their own safety.

I very much wanted to meet with the former chief justice who had been set aside by the government for rendering a decision that went against the government's preferences. I was advised that it would not be safe for her for me to call upon her in a Canadian-flag vehicle, and that a telephone conversation was the only means by which we might safely communicate. This was for the safety of her and her own family.

I met with the Minister of Economic Development, the Deputy Speaker of the House, and the leader of the parliamentary opposition. The Minister of Economic Development is a brother of the President. The Ministry of Defence and urban affairs—they're the same ministry—is under a minister who is another brother of the President. The third brother is the Speaker of Parliament in Colombo.

• (1320)

When we visited residents of the displaced persons camp in Kilinochchi, we found hovels that lacked electricity, water, sanitation, or floors. These homes were largely made of cardboard, tin, and burlap. But let me say this about the residents who were living in such difficult circumstance. The hovels were spotless and clean in every respect. These were proud people who merely wanted a chance to go home to their own land and their own communities.

We saw Buddhist temples that had been built in parts of the north where there are no Buddhists living. This, we were told, was a way of marking the territory and letting the Hindu Tamil population know that it's not a territory where they can feel safe to live.

During our visit, we heard of intimidation and violence against the Muslim community. After a speech by the Minister of Defence at a radically nationalist Buddhist temple, thugs proceeded from that temple to the neighbouring Muslim part of town in the east and burned down stores and factories because they were Muslim-owned, while the police stood with their arms folded.

Colleagues, let me end by making this final point. What happens within Sri Lanka is the business of the people of Sri Lanka and certainly beyond my remit as an envoy to the Commonwealth. But what happens within the Commonwealth in violation of core Commonwealth values, signed by Her Majesty in the new charter of the Commonwealth that was accepted by all heads of government, including Sri Lanka, is the business of the Commonwealth and every one of its members.

The Commonwealth Secretary-General, while no doubt well-meaning, has been absent and impotent on this file. This is in direct opposition to the tradition of leadership established by former secretary-general Sir Shridath Ramphal who, with the prime minister of India, two successive Canadian prime ministers, and the front-line states in sub-Saharan Africa, led a vigorous campaign of sanctions and engagement in opposition to apartheid. The Commonwealth that Canadians have always believed in expelled Nigeria when it had a military coup and readmitted it when democracy was reinstated. It suspended Pakistan when it fired its supreme court and its president couldn't decide if he was running a democracy or a military junta. When democracy came back, it was welcomed back into the family, as was South Africa after Mandela.

The Commonwealth has no role to play in the internal affairs of its members. On this I am in agreement with G. L. Peiris, Sri Lanka's foreign minister. But the Commonwealth has the responsibility to maintain its own rules and sustain the integrity of its own fundamental principles. When it fails to do that, it raises serious questions about its own relevance.

Sri Lanka has been backsliding and in violation of core Commonwealth principles for some time. The Colombo CHOGM has been viewed as one of the least successful in the history of the Commonwealth, with fewer heads of government showing up than at any other Commonwealth meeting in the Commonwealth's history. That absence was added to by the absence of Her Majesty Queen Elizabeth II, this country's head of state.

The reality now facing the Commonwealth is one of crisis, in my judgment. It either steps up to the table and becomes a force for good, as it has tried to be in the past, or it lives in this "go along to get along" ignorance of what's happening on the ground. In Sri Lanka, journalists are being murdered and people are being white-vanned if they're seen to be dissidents, disappearing with no investigation as to where they are. There has been a move to a kind of authoritarianism that has little to do with democracy and even less to do with the traditions of the Commonwealth.

Mr. Chairman, I am in the hands of you and your colleagues. I will do my best to answer questions.

The Chair: Thank you, Senator.

We have enough time for six-minute questions and answers in each round.

Before we go to the other members, I just have a quick background question. You and a number of witnesses before you have made reference to the fact that the Queen was not present at this Commonwealth heads of government meeting. Is this the first one she's been absent from?

Hon. Hugh Segal: No, it's not.

About 40 years ago, she did not attend a meeting after Prime Minister Heath had agreed to sell arms to the apartheid regime of South Africa. For various reasons her schedule didn't make her presence possible at that session, but to the best of my knowledge, that is the only time since the inception of this organization and her titular headship of it that she has been unable to attend.

The Chair: Okay, thank you.

We begin with Ms. Grewal.

Please feel free to start.

• (1325)

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Chair.

Thank you, Senator Segal, for your time and your presentation. Certainly we do appreciate that.

In a recent article that you wrote in *The Globe and Mail*, you mentioned that you saw some evidence of development in the country. From your observations, has this development kind of contributed to the process of reconciliation and the development of national unity?

Hon. Hugh Segal: There's no question about it. I said in my report to the minister and the Prime Minister that there has been significant investment by the Colombo administration in what I would call the infrastructure of economic growth and opportunity—roads, hospitals, schools. There has been almost no investment in the infrastructure of civility and rule of law. With the help of the Chinese, who are dominant investors now in that part of the world, they are finding the capacity to make these hard investments. On the issues of genuine reconciliation, rule of law, and accountability, there is simply no evidence of progress.

In fact, even among the recommendations of their parliamentary Lessons Learned and Reconciliation Commission, which did a lot of hard work and tried to make constructive recommendations, the recommendations of substance have simply not been acted upon. The Canadian expression I would use is there's an active program of ragging the puck on those issues, which are most fundamental to the rights and privileges of the people of Sri Lanka.

Mrs. Nina Grewal: Senator Segal, many witnesses who have come here earlier to our committee have testified to the Sri Lankan government's lack of action in implementing the recommendations such as full reconciliation and protecting human rights. In your opinion, has the recent Commonwealth heads of government meeting had any impact on this government's attitude towards reconciliation and securing human rights?

Hon. Hugh Segal: The only development that I have seen is the notion of having a “census of the dead”. The hope is that there would be some record that might begin to put into hard data who disappeared and when they disappeared. There are many families who have no idea where their civilian family members are as a result of the war that ended in 2009. All they can find out is that someone they knew was missing for four or five years and may have died in a particular prison.

We have a huge problem. For many Sri Lankans, particularly from the Tamil community, there are huge gaps in their family and community—children who are missing, sons and aunts and brothers and fathers. There really has been no substantive effort to address that question that I could see or find. Let's hope that the census of the dead will be a beginning. But it will be a very long time before it gets to any of the names that are most pressing for the families who are so concerned.

Mrs. Nina Grewal: The Sri Lanka government has recently announced that they would conduct an island-wide census to determine the number of dead and missing people, as well as to assess the damage done from the civil war. In your opinion, will this help in the process of reconciliation? How does this reflect on the current government's attitude towards reconciliation?

Hon. Hugh Segal: As was said to us by one of the law professors with whom we met, you cannot have a process of reconciliation until someone admits that something bad happened. It may have happened on both sides. There may not be just one group of people at fault. But we should look at the remarkable example set by our

commonwealth brothers and sisters in South Africa, with their Truth and Reconciliation Commission. It was based upon the premise that people admitted that something bad had happened during the time of apartheid, that people were brutalized, that their rights were crushed, that individuals were killed in police and other actions that were excessive.

Someone must be prepared to make admissions. To be fair, the absence of accountability exists on both sides. There's been no accountability for the Tamil Tigers, who are a brutal terrorist organization. Nor has there been any accountability on the part of the Sri Lankan government, its armed forces, and its authorities. This is why the United Nations Human Rights Council said that if Sri Lankans do not begin their own inquiry into excesses around torture and war crimes, the UN will be seeking to have an international inquiry developed.

I want to point out that the Prime Minister of the United Kingdom has indicated that if there is not sufficient action by the Sri Lankans themselves, the United Kingdom will be very supportive of any proposals that would come forward for an international inquiry on that issue.

● (1330)

Mrs. Nina Grewal: Senator, is there any way the Canadian government and the other international communities can help Sri Lanka to overcome all these challenges they are facing today?

Hon. Hugh Segal: As some members of the committee may know, Canada has been providing funding for the translation into Tamil of the reports of the LLRC, for example, so that Tamil Sri Lankans can have access to those documents and understand them, and they can therefore assess how they might engage.

I don't think there would be any concern on my part if there was a proposal made by the Sri Lankan government for assistance with the Truth and Reconciliation Commission for example. I'd be surprised if Canada and others were not prepared to be constructive. I do know from my time in the country the South Africans have been giving substantial advice and counsel to their Sri Lankan colleagues about how one might structure this kind of truth and reconciliation commission, and they have offered substantive assistance.

So I think the Commonwealth if it were properly engaged would not have been worrying about the logistics of a conference and who sits where. Rather, real progress on these issues is where the Commonwealth should be playing a much more activist role than it is as we sit here today.

The Chair: Mr. Marston, please.

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

And welcome Senator. In these days, you're giving a very clear demonstration of some very good work that comes through the Senate of Canada.

I just want to say to you, sir, that you have also confirmed something I've suspected for a bit of time since our witnesses have been coming forward, that is, the problems you are describing within the Commonwealth, and the inaction, and to some degree an abdication of an opportunity, to build on what happened in South Africa.... The Truth and Reconciliation Commission there was seen as a template, and it would be such a shame that the reputation that evolved from that is tainted to some degree by the LLRC.

It leads me to ask you this. Looking at the LLRC, do you see as worthwhile the recommendations that have come out of there? It's not just window dressing?

Hon. Hugh Segal: No. To be fair there were some recommendations in the LLRC about reconciliation, about actually dealing with the hundreds of names that are still missing. Some people estimate they are in fact in the thousands. The notion of having a process whereby war crimes can be addressed, they have made these recommendations, and I think they are worthwhile.

The Government of Sri Lanka has not shown the slightest interest in engaging on any of the substantive recommendations. They have been ragging their puck around the edges, but not really engaging on matters that would be most substantial in building a measure of confidence that this is a genuine effort to go forward together with due respect for all the ethnic groups in the country, not just the Sinhalese.

If I may say, the problem has been in a sense a terrible terrorist-driven war for 30 years. There have been things like suicide bombers. This was not invented in the Middle East. This was invented in Sri Lanka. There's a lot of relief about the war coming to an end, but we also have to understand the Tamil Tigers were as brutal with large parts of the Tamil population as they were with their perceived enemies.

One can understand the sense of relief, but the notion of going forward by trying to build some common sense of citizenship, of trying to work through these problems together, there is no simply no indication of that, and I'd be very surprised if we saw any from the present administration in that country.

Mr. Wayne Marston: I put a note down here as you spoke. You have the former Tamil Tiger group over here, the Tamil community, and then you have the so-called government, and then the military. It's not one of those situations.... We're used to hearing where the military's in charge and doing everything. It seems like the heads of the government are almost a form of gangster, in the sense that they have their community people around them, and the military is supporting them but not driving this.

Is that a good way to describe it?

• (1335)

Hon. Hugh Segal: There are many dynastic family-based governments around the world. In some parts of the world that's the way in which politics is done. I don't pass judgment on that. That's beyond my remit.

But the notion that there is less and less room for dissidence, for journalists who disagree, even for members of the military who want to discuss what transpired is now very apparent. That kind of drift towards authoritarianism is in violation of Commonwealth rules and

principles and is problematic in terms of Sri Lanka following in the tradition of democracy that is now growing in that part of Asia, in countries with a strong Commonwealth connection. In Sri Lanka, I would argue, it's headed in the opposite direction.

Mr. Wayne Marston: It's not often that I give credit to our current government, but I think it was a wise decision not to attend. If you had to sit back and look at the Commonwealth nations, who could be the major leaders here besides Canada and Britain? Who else is there? Would India fall in?

Hon. Hugh Segal: Well, India is a keystone player in that part of the world. It's the hegemonic power, number one; second, it has taken a very constructive interest in the rights of the Tamil minority that is largely concentrated in Jaffna.

Members may be aware of the fact that just before the Commonwealth conference, there were elections for the northern council in Jaffna where the Tamil population, Tamil National Alliance, did very well, winning a large majority of the members on that council. The election took place because of an agreement between the Indian government and the Sri Lankan government relative to some measure around reconciliation and some decentralization and autonomy.

The moment that government was elected, motions were brought forward by parts of the government coalition in Colombo to pretty well reduce the powers of the council. Imagine us having an election where a provincial government that was not favourable to the present administration in Ottawa swept into office and we had a government who tried to remove the authority of that provincial government to discharge its responsibilities. I think the fact that it was done by Sri Lankans had a significant impact on the decision of the Honourable Prime Minister of India not to attend, because it was such a core violation of what had been a reasonable agreement between those two countries.

Mr. Wayne Marston: How's my time, Chair?

The Chair: You have one minute.

Mr. Wayne Marston: I guess in any dealings, in any exchange you have with people.... What does the Commonwealth provide that can be a lever in this instance to have this government at least start to pay some genuine attention? We saw a lot of lip service before the nations got together, but what do we have that we can actually work with?

We've got the UPR coming up at the United Nations, but I suspect that's not going to be particularly listened to unless we have an investigation. Is there any other avenue that you can imagine we could use?

Hon. Hugh Segal: In the past, the leverage that the Commonwealth used when countries headed in this direction was to begin a process of staged disengagement and sanctions, of which expulsion is the last step. But there is a series of interim steps: suspension, a committee of inquiry, and the creation of a sanctions committee. For example, there was a sanctions committee of which the Honourable Roy McMurtry, our High Commissioner, was the chair during the period of apartheid. So this is not about an in, out, black, or white decision. There is a series of stages that should be taken.

Sadly, the present Commonwealth Secretariat, aside from a few symposia and hollow statements of concern, have really not been prepared to engage on that side. I would argue that our failure to do so as a Commonwealth is, in fact, contributing to the sense of excess and the sense of being able to do whatever one wants. In my view, if the Commonwealth is going to be a force for good, it has to array some consequences.

You know when Musharraf and his administration had been suspended from the Commonwealth for trying to fire the entire supreme court and really operate a junta, the Pakistanis were very interested in getting back in. They engaged in a series of constructive discussions. Distinguished experts from Canada were sent to help with constitutional and federalism discussions to assist the Pakistanis because they did want to be back in the family, back in the club.

I think that's the only sanction we have, and our failure to use it leaves the United Nations Human Rights Council as the only body that really has some capacity to engage.

Sadly, this is beyond my remit, but I would say the Chinese role is to reassure the Sri Lankan government that if there is any lack of investment from abroad or any sanctions imposed by our friends in the Commonwealth, the Chinese will be there to soften the blow. Whatever one can say that is constructive about the Chinese, democracy, diversity, and pluralism are not among their strong points as a society and that, of course, is not helpful.

I think part of what drove the British Prime Minister to attend was the notion that, if there's a withdrawal of Commonwealth presence, the Chinese will occupy all the space. Well, the Chinese are in the business of occupying all the space they can. The issue is that they're going to be a countervail presence about democracy, rule of law, judicial independence, and human rights that is a competitor force in that process in that part of the world. I would hope the Commonwealth continues to embrace at some point that mission.

I doubt it for the next two years, but after Mr. Rajapaksa steps down as chair and we have a new secretary-general in Malta, a new chair in office, hopefully, the Commonwealth can re-engage in the way that it should.

• (1340)

The Chair: We'll go on to Mr. Schellenberger, please.

Mr. Gary Schellenberger (Perth—Wellington, CPC): Thank you.

Thank you, Senator, for your answers. You've answered at least four of the questions that I had here for you.

Was the situation in Sri Lanka debated at any length at the latest Commonwealth meetings?

Hon. Hugh Segal: That's a very good question.

Part of what the Canadian government received in some criticism about having our Prime Minister not attend... We didn't boycott the conference. We sent a very distinguished colleague of yours, a member of Parliament and parliamentary secretary, who did a very good job, but part of the argument was that if you're there, you can raise these issues.

Well, the reality is that the agenda for every Commonwealth conference is set by the president of the host country, or the prime minister, as the case may be, and the Secretary-General of the Commonwealth. They would have zero interest in having a discussion about human rights, judicial independence, accountability, etc. In fact, that was not discussed.

In fact, when you look at the many thousands of words that came out in the Colombo declaration, you see that references to human rights, rule of law, judicial independence, democracy, and freedom of the press are completely absent. Completely absent, and that is less than a year after the Charter of the Commonwealth, which laid those out as precise Commonwealth values, was signed in the presence of high commissioners from every country, including Sri Lanka, by Her Majesty the Queen, in March.

I have no evidence from any source that at the conference itself this matter was discussed. The Prime Minister of Great Britain went to Jaffna, and various others said things outside the conference, but at the conference itself, not only was it not discussed, but in fact there was no evidence of it being discussed in the press release, the communiqué, that was put out at the end of the meeting.

Mr. Gary Schellenberger: One thing I've learned at this committee, especially with human rights, is that if the rule of law does not exist, not only do you have atrocities happening, but you have poverty. Have you seen these two things as a prevalent part of what's going on in Sri Lanka?

Hon. Hugh Segal: When I was in Sri Lanka I saw that the army has become the dominant economic force in the north.

So for example, our little Canadian delegation flew from Colombo to Jaffna, and the only place you can land is in the middle of an armed forces base. When we got out of the aircraft, despite the agreement that we would then meet with the high command and get a detailed briefing on security, we were informed that the high command wished us to go to a new hotel they had just opened. They wanted photographs taken of the Canadians with the high command in the new hotel to put on their website and to use for whatever promotional purposes. Our security officer from the High Commission said that's not what they had agreed to and that we wouldn't be going there. They replied that was what the high command demanded. The response from our security staff was that we could sit on the tarmac for a very long time, so they should make up their minds. After about 20 minutes they agreed to let us get back to the real schedule and not be props in this economic development theme they were advancing.

Whenever you centralize power in a fashion where there is no right of dissent, where newspapers that have a differing view are shut up and the publishers and staff are beaten up, and where people are white-vanned if they are dissidents, both in the north and in Colombo, things that are going on now—not four years ago, now—then you have no accountability. When there's no accountability, and when you look at a chart that I saw that indicated that direct members of the president's family are in charge of things like the airline, the central bank, some of the mining operations, you begin to get that kind of concentration.

So I would not use the word “corruption”, that would be excessive. But I would say that the normal checks and balances that one has by going to the courts or questioning things do not appear to exist.

Understand that the impeachment of the chief justice came after her court ruled that a law passed in the Colombo Parliament, where the ruling family has two-thirds of the members, removing the taxation powers of what we would call the provinces, was unconstitutional because there had been no consultation about what was a de facto constitutional change to centralize all authority in one place. The response to that ruling was her impeachment, in a fashion that the former chief justice of South Africa in his legal opinion and a distinguished barrister in the U.K. in his legal opinion said was completely unconstitutional and a clear move toward authoritarianism.

When power's that concentrated, when there are no checks and balances, there's no open court process, and there's no due process or real rule of law, I think corruption is inevitable and frankly hard to control. That means there's no distribution to low-income people in terms of their opportunity to build their own lives. That is certainly the truth in the north, and becoming more and more of a problem with respect to the Muslim population. We have testimony from bishops of the church that the Christian community is now facing some of the same constraints and difficulties.

That is not an encouraging message, but I did want to share with you the truth as I understand it to be.

• (1345)

The Chair: That uses up our time for that round.

Unfortunately your time is up, Mr. Schellenberger.

Mr. Gary Schellenberger: Thank you.

The Chair: We're now going to Mr. Cotler.

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

I also want to welcome the witness. I appreciate his testimony.

I want to mention this parenthetically for the record, I think it's not unimportant that it was a Liberal government that appointed the senator. I say that, because when you make principled appointments, those accrue to the benefit of the Senate and Parliament as a whole. I wanted to make the point.

Senator, you mentioned that what happens in Sri Lanka is something for the people of Sri Lanka, but what happens in the Commonwealth is the business of the Commonwealth. We have heard in our witness testimony—and I sense that you have read the witness testimony—that there has been evidence of war crimes and crimes against humanity that have been committed particularly in the final phases of the civil war. If that's the case, then it becomes also the business of the international community, whether or not it is a Commonwealth country, and of course if it is a Commonwealth country as you mentioned in this case. This brings me to my question and my concern.

My concern is not only with the international crimes that have been committed—though it is certainly with that—but also with the

culture of impunity that has attended those crimes since then as well as with, as has been described in witness testimony to us, the kind of culture of fear and intimidation that continues to exist. In that sense, these are my questions. First, what can be done to counter the culture of impunity?

You made reference to the prospective international commission of inquiry, but that will take another six months if it is to be set up, and there will be this vacuum in the meantime. There is something the Commonwealth can do, but as you said that might not happen for another two years. Is there something that can be done now to counter the culture of impunity? That relates to the second question, which is what distinguishable role can Canada play both as a Commonwealth country and also in terms of what Canadian Parliamentarians can do—if there is anything that we can do—to combat that culture of impunity, that culture of fear while fostering accountability?

• (1350)

Hon. Hugh Segal: We have a country in which 47 members of the existing presidential family hold positions of authority in judicial, corporate, central banking, transportation, and other critical parts of infrastructure. That contributes to the culture of impunity very directly.

We have a country now in which the independence of the judiciary has been dismissed as essentially a joke. The notion that people have a right to access a balanced assessment in open court is no longer deemed to be a reality. We have a country in which, according to a very recent BBC documentary account, we are seeing rapes and torture taking place this year. In fact family members of some of the translators who helped the BBC with that documentary are being threatened in Sri Lanka as we speak.

You have the official government, the armed forces, and the police, and then you have this “thugocracy”, which is operating in ways to intimidate decent people who are trying to get a measure of justice in the process. I would argue that under the RtoP principle—and sadly the Sri Lankans are not signatories to the treaty on the ICC—what needs to be considered, and I would hope the Commonwealth would be among those that would consider this, is a focused program of sanctions so that there is no impunity. When you say that leaders in Sri Lanka are going to have constraints upon their banking activity and that the 47 members of the family can't travel freely around the world, then you begin to get some attention.

Whether that is best done through the United Nations or in other ways or by a coalition of the willing in the region, I defer to your judgment on that. It will be much more profound than mine and much more experienced. I think without that transpiring, there will be very few ways to deal with the culture of impunity that is now, I think, getting in the way of democratic development and genuine reconciliation in that country.

Hon. Irwin Cotler: I have a follow-up question based on what you've mentioned, Senator.

You're correct that Sri Lanka is not a party to the treaty for the International Criminal Court, and that of course raises the question of how the ICC could exercise jurisdiction if Sri Lanka is not a state party. There is one way in which it could, and that is if the UN Security Council would refer the Sri Lankan situation to the ICC, as was done in the case of Sudan, even though Sudan was not a state party to the ICC.

Would that possibility exist in the case of Sri Lanka or would there likely be a veto exercised by a country like China in these circumstances. Do you think it's worth a try if for no other reason than to even embarrass those who would veto that kind of reference?

Hon. Hugh Segal: Canada has been very, very active, as you will know, at the United Nations Human Rights Council in terms of campaigning for various resolutions, usually proposed by the Americans, that have been getting tougher and tougher upon the Sri Lankans. The notion that Canada would continue to campaign in other fora for that to transpire in terms of a reference by the Security Council to the ICC I think is something that should be looked at with immense interest and genuine commitment.

I would want to be frank with you, however; nothing I saw about the Chinese disposition in the region would lead me to believe that they would not deploy their veto. In fact, I think they would use the veto to increase their economic leverage in the country. The country does have some natural riches. The country has some materials that are of great value to the Chinese. The notion that they would stand down on those economic interests simply because of a point of principle on human rights or impunity I think might be a little bit optimistic. But I have no remit with respect to China, so this is completely beyond that remit.

My general view is that the greater the impact of Chinese actions relative to how they are viewed in the world, the greater the possibility that over time they will move to a more responsible deployment of their international capacity in a fashion that is constructive. The British Foreign Office always says about the Chinese, particularly relative to Africa and the Caribbean, that the FCO very much anticipates a fully mature Chinese participation in international diplomacy that respects its standing as a major global power.

That's a euphemistic way of saying that maybe someday they'll step up to the table of those who are trying to find the right way ahead. But any proximate hope is not something I could extend as we speak here today.

•(1355)

The Chair: We are out of time for this round.

We go now to Mr. Sweet.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Mr. Chair, before you start my time, if Mr. Jacob is going to take his time, I would gladly turn over whatever time is required to Ms. Sitsabaiesan, if she would like to use it.

The Chair: Mr. Jacob is actually giving his time to Ms. Sitsabaiesan.

Mr. David Sweet: Great. Thank you.

Senator Segal, in your opinion, and I am asking for your personal opinion, is the reputation of the Commonwealth going to survive the two years before a new secretary-general takes over?

Hon. Hugh Segal: It's a very, very serious question, and one to which I do not have the answer. I worry that the combination of a secretary-general who does not seem to want to draw any of these lines in any way, shape, or form, and a chair in office who will not be an enthusiastic supporter of this kind of engagement, could be quite toxic.

I am hopeful that at some point in the next two years some of the larger powers within the Commonwealth—by that I mean South Africa, Kenya, Tanzania, India, Malaysia, Canada, the United Kingdom, Australia—may in fact begin to think about some of the survival issues that the Commonwealth is now facing, and try to shape some strategy going forward. But there is no strategy, in my judgment, that sets aside the core values of the organization. It's not a defence organization, as you know. It's not a trade organization per se. It is about a cluster of values that have shaped a certain approach to civilization over the years, defined differently by different cultures and histories and backgrounds.

If those values are no longer central, somebody will say—we won't be the first, but others will—that the cost is not insignificant, the amount of time required is not insignificant: is it worth the candle? That's the risk we face, in my judgment, in the next two years.

Mr. David Sweet: Thank you.

My follow-up question was going to be whether the membership could bring to bear some influence in that regard. Certainly what's at stake is hundreds and hundreds of years of Westminster tradition, hundreds and hundreds of years of development of democracy, human rights, the rule of law. It's something much more significant than the Sri Lankan issue at hand, and yet it's precipitated because of that.

I have some testimony here from someone from the High Commission in Sri Lanka, who said that in 2012, \$2.5 billion in Sri Lankan rupees—I think that's the currency there—was being invested in the rehabilitation of ex-LTTE combatants, over 12,000 of them.

Did you see any evidence of that when you were there?

Hon. Hugh Segal: We asked to see the rehabilitation camps. We were not given permission to do so. We wanted to see what was going on in the rehabilitation camps. We wanted to understand what rehabilitation meant. In our negotiations with the Sri Lankan administration about where I could go and with whom I could meet that was not an option that was deemed appropriate by them for reasons of national security.

The Chair: Before you go, I understand Ms. Sitsabaiesan has to go to the House. Given your generous offer earlier, I wonder if we could save the rest of your time, let her do her questions, then come back to you. Would that be all right?

Mr. David Sweet: Most certainly.

The Chair: Ms. Sitsabaiesan.

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): Thank you so much, Chair, and Mr. Sweet, for your kindness.

Senator Segal, thank you for being here.

In your testimony, you had identified that what you saw or what you experienced was kind of an ethnic cleansing of mainly the Tamils. But also thank you for identifying that it was also the other minorities who were being oppressed, whether those are the Christian, the Muslims, the Burghers, or the others. It's not just Tamils. Yes, we Tamils are the largest minority who are being oppressed and cleansed, as you had mentioned yourself, but there are many others on that island who are having to live the reality of what this government is doing.

One question that I'd like to ask is with respect to the land grabs of the lands formerly held by the Tamils. Reports come from many places, and also individuals who I speak to on the ground in the communities, of two things: one is the colonization of military and military families in the previously Tamil-owned lands; and secondly is the development of the extractive industries that are associated with the Sri Lankan government in those same lands that were previous Tamil-owned.

One constituent of mine who went back to Sri Lanka to sell his land eventually came back in a coffin because he was beheaded for trying to claim his land. I know from personal experience that it's true, but I want to know what your experience was on the ground, as the envoy who went down there.

• (1400)

Hon. Hugh Segal: We saw two things in that respect. We certainly saw the notion of displaced persons being held in camps for long periods of time, not being allowed to go back to what was their family land or farm or their land adjacent to the fishery. Secondly, the Indian government had invested in some public housing to be built in the north, but in order to get access to that the authorities were demanding that the locals sign away any rights they might have to their own land or farm in order to be put on a waiting list for a construction process that was many thousands of units behind what was necessary to meet the need.

We came away from this with the conclusion that this is not serious. Yes, the Sri Lankan government is investing in the central infrastructure—roads, highways, hospitals—but access to them or the ownership of the critical parts of the turf associated with them was not being transferred back to the Tamil population in any way, shape, or form, whatever they wanted to pay for it.

Ms. Rathika Sitsabaiesan: Thank you.

We spoke of the Commonwealth, and the role of the Commonwealth, and what we think of Sri Lanka's presidency of the Commonwealth moving forward. We spoke of the international community's responsibility in achieving truth or arriving at truth before reconciliation could commence. We didn't speak of the role of another superpower in this world. We didn't speak of the role of the United States.

What do you believe the role of the United States should be? Are you aware of what the United States is doing? I know some of the things that people on the ground are doing. But the government as a whole, what do you think the United States should be doing?

Hon. Hugh Segal: Let me say this in support of the Americans. In my time there no one was more intensely outspoken than Her

Excellency the American ambassador on many of the issue about which we care. There were decisions taken by the Americans to cut back some of their military aid because they were unhappy with the lack of Sri Lankan performance on some of these human rights issues.

My sense is that the Americans are seized with the issue. They are not intimidated by the Chinese—quite the contrary. They are if not our strongest ally, certainly one of our strongest allies wanting to deal with the issue of impunity and address the question of human rights.

In fact, after a few days there, there was a large newspaper article in one of the few independent newspapers left that had a photograph of the American ambassador, a photograph of Ms. Pillay, from the Human Rights Council, a photograph of your present witness, and a photograph of the head of the opposition party in the Colombo Parliament, all making the same points around impunity and around authoritarianism.

So I give the Americans full credit for engaging fully and being far more straightforward, if I may say so, than the Australians or the New Zealanders, who've been in that part of the world for a very long time and understand it perhaps with some measure of profundity.

Ms. Rathika Sitsabaiesan: Thank you for that.

I'm going to throw two questions at you and leave the rest of my time with you.

I'm not sure if you had touched on the extractive industry, because we know that one of the economic drivers of Sri Lanka is the gem and mining industry and the lands that have been taken from the Tamils are being developed by the extractive industries that are controlled or owned by the government or some brother.

The second part of my question is also another tangent. Could you touch a little bit more on the number of widows, war widows, who have been created. The last number I heard is there are over 90,000 war widows who have been created, and so could you touch on what you witnessed on the ground of the reality of life for women-led families and households please.

• (1405)

Hon. Hugh Segal: Certainly on the extractive industry side we did see evidence of large marble and other extractive locations, mining locations, being operated by members of the Rajapaksa family. The notion that this was an open process where there could be competing bids and all that sort of stuff didn't strike us as very likely under the circumstance.

We did receive testimony about the way in which some security forces were dealing with the many widows who continue to live in the north. While they take the public position that they are there to protect everybody, there are, sadly, incidents reported of members of various organizations knocking on widows' doors in the middle of the night with intentions that none of us around this table would view as necessarily honourable.

That mix of intimidation, and lack of any compassion with respect to their need for clarity about what happened to their husbands or children, combined produces a significant level of oppression. You will have seen, as we all have seen, those who gathered in great numbers around the British Prime Minister when he was in that part of the world holding up pictures of their loved ones and beseeching him to somehow be helpful in coming to terms with this terrible gap in their lives.

So that struck us from various briefings we received from people on the ground, including the United Nations High Commissioner for Refugees, as a very serious problem. Many of the displaced persons with whom we met were in fact these various widows who were living in a circumstance that was completely unmanageable. They were very brave about it and very determined, but their circumstance was in fact quite desperate.

The Chair: Senator, we're going to have to ask you to hold off in answering the second question regarding extractive industries because Ms. Sitsabaiesan's time has been used up. We've gone quite a bit over it.

Ms. Rathika Sitsabaiesan: He has actually answered.

The Chair: Okay, all right.

Ms. Rathika Sitsabaiesan: Thank you so much, Senator, or thank you through the chair.

The Chair: We do have enough time, however, to go back to you, Mr. Sweet, if you have any further questions.

Mr. David Sweet: Thank you, Chair.

Did you have a chance to review Frances Harrison's testimony before you came here today?

Hon. Hugh Segal: Yes.

Mr. David Sweet: She mentioned that she had evidence of 60 cases documented in regard to sexual assault. My concern is that she's only one person. That's all she's seen so far. Was there any evidence there that rape was being used as a form of intimidation when you spoke to them?

Hon. Hugh Segal: Mr. Sweet, I was told when I was there that a part of what happened when people were white-vanned—and this was with respect to both males and females—was that of the various indignities they had to face, rape was an ongoing process and it wasn't just an ongoing process for the women. It was a process involving both women and men as victims. It was an ongoing part of what the white-vanning process meant. We're talking about events that took place in the last 12 months, not four and a half years ago.

I think that there is a continuing investigation being done by various news organizations, channel 4 and others, trying to gather where they can legitimate, corroborative evidence of this activity so as to encourage some measure of attack on the impunity question that was raised by your colleague, Mr. Cotler.

Mr. David Sweet: Thank you very much, Senator.

Chair, could we just make sure that there's a correlation in our report to the evidence of those witnesses who referred to that. I'm just saying this for the researchers. The occurrence of it is consistent and I think we need to highlight that in our report.

The Chair: That's duly noted.

Hon. Hugh Segal: If I may add this, one of the phenomena we were briefed on was that young men 15 or 16 years of age who wanted to protect their mothers could not, and thus developed a sense of rage, anger, and impotence.

Normally, national security measures are employed for the purpose of keeping uprisings that are violent or unlawful from happening. I think some of the activity upon which we were briefed by locals indicates that this may be in fact producing the opposite effect and building up a measure of anger and frustration amongst young and largely unemployed men, who are unable to protect the female part of their community from these indignities, leading to what could be deep, deep problems in the future.

• (1410)

Mr. David Sweet: Thank you, Senator.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Sweet, and thank you for letting Ms. Sitsabaiesan go ahead of you. That was very generous.

Senator Segal, that wraps up our hearings. I'll very briefly ask with regard to your testimony that if you have anything further you would like to submit to us that comes to your attention, remember that we'll be happy to take anything you give us in writing after the fact. We'll get it translated and have it given out to all of our members.

Hon. Hugh Segal: Thank you, Mr. Chairman, and thank you for your courtesy in inviting me here today.

The Chair: Thank you very much.

We're adjourned—

I misspoke. We're not quite adjourned yet.

Mr. Cotler?

Hon. Irwin Cotler: I'll take less than a minute. I recently received, as did some colleagues here, I think, some very disturbing information about what is happening and the danger in Camp Ashraf. Later today I'm going to give notice of a motion to be presented: that after we conclude on Sri Lanka, the first issue on our agenda should be the urgency of this situation in Camp Ashraf.

The Chair: Thank you.

We really are adjourned this time.

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