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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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• (1305)

[Translation]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): Good afternoon. This is February 13, 2014, and this is the 12th hearing of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development.

[English]

We are continuing our study of the human rights situation in Sri Lanka.

Our witness today joins us by video conference, live from the United Kingdom. He is Alan Keenan, senior analyst and Sri Lanka project director for the International Crisis Group.

The usual procedure is for us to have about 10 minutes of presentation, although that is at the discretion of our witness. It is then up to the members of the committee to ask questions. Obviously the amount of time for each question and answer will be determined by the amount of time we have left in our meeting.

Anybody who has to leave early can indicate that to me.

Mr. Keenan, please feel free to begin.

Mr. Alan Keenan (Senior Analyst, Sri Lanka Project Director, International Crisis Group): Thank you very much. I appreciate the opportunity the committee has given me to give my thoughts and the thoughts of the International Crisis Group about the situation in Sri Lanka.

I will focus on the current situation and the upcoming session of the UN Human Rights Council, which will be meeting next month in Geneva, and to what degree the Sri Lankan government has abided by the requests of the council last year and its resolution on promoting reconciliation and accountability in Sri Lanka.

Unfortunately, the simple answer is that the Government of Sri Lanka has comprehensively failed to comply with last year's UN Human Rights Council resolution. This is most obviously, but not only the case with respect to accountability for alleged crimes in the final phase of the civil war.

The International Crisis Group remains concerned that the absence of accountability regarding the end of the civil conflict, the lack of devolution of power, ongoing militarization of the north and the east, and the deepening authoritarianism of governance throughout the country are all increasing the risks of future conflict. Given the Sri

Lankan government's failure to address these issues domestically, the Human Rights Council and the international community as a whole have an important role to play.

The Government of Sri Lanka claims to be pursuing reconciliation and accountability through its national plan of action to implement the recommendations of its Lessons Learnt and Reconciliation Commission, known as the LLRC. In fact, it has ignored the LLRC's core recommendations which focused on re-establishing the rule of law and independent checks on executive and military power. The government has failed to heed the LLRC's recommendations and widespread public demands to restore the independence of key oversight bodies, for example, the police, human rights, and public service commissions, whose autonomy was removed by the 18th amendment to the Constitution in 2010.

The Sri Lankan government has also effectively nullified what remained of the judiciary's independence in January 2013 with the politically motivated impeachment of the chief justice. A series of arbitrary actions and political statements by the replacement chief justice, former presidential adviser Mohan Peiris, have further weakened the institution and confidence in it.

The government has also made no meaningful progress in investigating or prosecuting even the limited number of human rights cases that it claims to be pursuing.

First, there have still been no arrests or indictments in the 2006 massacre of 17 aid workers with the French Action contre la Faim humanitarian organization.

There have been no indictments in the Trinco-5 students' murder case. Twelve police officers were arrested at the magistrate's level last year, but they remain free on bail.

The government still refuses to release the 2009 report of a previous commission of inquiry, which looked into both the ACF and Trinco-5 cases, despite the LLRC's recommendation that it release that report.

There have been no successful prosecutions and few serious investigations into any of the dozen murders and violent attacks on journalists under the current government.

The commission appointed in the middle of 2013 to look into missing and disappeared persons, which the government claims is one way that it's implementing the LLRC recommendations, has in fact too broad a timeframe and too limited powers to be effective.

In addition, reports we are receiving from northern Sri Lanka at this very moment indicate the commission is not functioning in a fair and procedurally correct manner. Reports detail active involvement in the commission's work by the military, and other significant conflicts of interest.

In addition, the government has refused to release the reports of two previous disappearances commissions appointed by President Rajapaksa, has failed to implement the key recommendations of a half dozen previous commissions of inquiry into enforced disappearances, and has failed to agree to repeated requests for country visits by the UN Working Group on Enforced or Involuntary Disappearances. The repeated denial of the rights of the families of the disappeared to travel to Colombo and engage in public protest makes clear the government's lack of interest in uncovering the truth in these issues.

• (1310)

Finally, the government has still not presented to parliament its witness and victim protection bill, despite repeatedly promising to do so, generally just before some UN body meets. Since 2006, it has been promising this. There is still no action.

The entrenchment of impunity was particularly clear with respect to the credible allegations of serious violations of international humanitarian and human rights law at the end of the war in 2009. The government has conducted no independent investigations into any of the alleged crimes committed by its troops or by the LTTE, including where strong prima facie visual evidence of extrajudicial killings exists.

The report of the Military Court of Inquiry, appointed in 2012, which the government says exonerated military forces of any responsibility for civilian deaths, has still not been released. Its methodology remains unknown. There is no publicly available information about the second Military Court of Inquiry, which reportedly is investigating allegations contained in material made public in films by channel 4. No suspects have been named, and none have been detained.

The politicization of the police and impunity for pro-government violence has encouraged new forms of communal violence throughout 2013 and into 2014. Radical Buddhist nationalist groups, like Bodu Bala Sena, the Buddhist Power Force, and Sinhala Ravaya, the roar of the Sinhala people, continue their regular violent attacks against Muslims and Christians and their places of worship. The failure of the police to prevent or arrest any of those responsible for the more than 100 such attacks supports the widely held belief that the violence has had the blessing of the government.

Despite the government's oft-stated commitment to the full implementation of the 13th amendment to the Constitution, the government is refusing to allow the newly elected Northern Provincial Council to establish an effective administration. The governor, an ex-general, appointed by and working for the president, has blocked council attempts to appoint key officials and constitute needed administrative departments within its constitutional powers. The government has shown no willingness to relinquish any of its effective control over the civil administration in the north.

The UN Human Rights Council's call for the government to "reach a political settlement on the devolution of power to the provinces" has also been undermined by the Rajapaksa government's insistence that issues of devolution and constitutional reform can only be addressed through the government-dominated Parliamentary Select Committee that it has appointed, despite the process being rejected by the main party, the TNA, and all other opposition parties.

There has been no apparent or verifiable reduction in the numbers of troops stationed in the north and east, or in the military's regular interference in civilian affairs in both provinces, despite the Human Rights Council and the LLRC both calling for demilitarization of the region.

That's not a terribly positive balance on this series of questions, but the government's refusal to conduct a credible, independent inquiry into alleged war crimes is particularly problematic, especially in the context of its deliberate dismantling of domestic rule of law institutions and the exhaustion of other forms of domestic remedy. All of this makes it incumbent on the Human Rights Council to establish an international commission of inquiry.

The International Crisis Group believes that the Human Rights Council should build on the positive experience of previous international commissions by ensuring that the inquiry includes the following key elements in its mandate: first, to investigate all alleged violations of the international humanitarian and human rights law committed from September 2008 through May 2009, both by the Sri Lankan government forces and fighters of the Liberation Tigers of Tamil Eelam, or LTTE; second, to establish the facts and circumstances of such violations and of alleged war crimes and crimes against humanity; third, to identify those responsible; fourth, to provide witness protection as required; fifth, to preserve evidence of alleged crimes; sixth, to be empowered to investigate continuing consequences of the events of 2008 and 2009, including alleged abuse of detainees, enforced disappearances, sexual violence, and the continued heavy militarization of the north and east, much of which appears designed to destroy evidence and intimidate potential witnesses; and, finally, to have the UN Office of the High Commissioner for Human Rights provide the administrative, technical, and logistical support necessary to allow the commission to carry out its mandate.

• (1315)

While the commission is likely to be denied entry into Sri Lanka, it should be able to gather and verify, to a high standard, a large body of evidence beyond what has already been gathered in 2010 and 2011 by the Secretary-General's panel of experts on accountability. Credible and important evidence has continued to emerge in bits and pieces, but more would be available if witnesses could address a UN inquiry tasked and resourced to receive and protect evidence.

To close, let me explain why we think that an international investigation is essential to underscore the unacceptability of war crimes and crimes against humanity, to hold accountable those responsible, and for other political benefits for the long-term health of Sri Lanka.

First, it would challenge Sri Lanka's institutionalized impunity, which is a necessary step for long-term democratic stability.

Second, it would establish a more complete record of the scale of civilian suffering, an account grounded in an intergovernmental mandate, and thus one less easily dismissed by the Sri Lankan government and its supporters.

Third, it would establish evidence of the LTTE's abuses in a form that is harder for Tamils and Tamil organizations to deny, thus discouraging the further romanticization of the LTTE.

Fourth, it would reassure survivors of wartime abuses that they haven't been abandoned by the international community, and would undercut growing demands by some Tamil diaspora organizations for more radical measures.

Fifth, it would uphold and restore the credibility of international humanitarian and human rights law, which has been badly damaged. It would also preserve the credibility of the UN Human Rights Council in the face of Sri Lankan government refusals to respond positively to its previous resolutions.

Finally, it would partially redeem the UN system as a whole after what the Secretary-General's internal review into UN actions in Sri Lanka described as its systemic failure in 2008 and 2009.

Ultimately, much more needs to be done, of course. An international commission of inquiry won't solve all of Sri Lanka's problems. The island's crisis of accountability and democratic governance runs too deep and is too complex to be solved quickly.

I'd be happy to discuss with the committee other actions the Canadian Parliament and its international partners can take to encourage lasting peace in Sri Lanka.

Thank you very much.

• (1320)

The Chair: Thank you very much.

We have sufficient time between now and the end of the meeting to allow members of the committee to ask questions with a six-minute period.

Six minutes, Mr. Sweet.

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

Mr. Keenan, thank you very much for your testimony today. It's great to have somebody with your credentials, and someone who has been on the ground as much as you have in Sri Lanka as well.

That's why the first question is thus: you had mentioned growing public support regarding the recommendations of the LLRC, and we've had previous witnesses who have mentioned that the general population of Sri Lanka would like to see something done to address the alleged human rights violations. But there are so many years of war that they just like the peace now and there isn't really any fomenting of public concern. Is that changing now?

Mr. Alan Keenan: I think it depends on what issues you're talking about.

There appears to me, and analysts who I respect, a growing discomfort among many Sinhalese with the direction that the current government is travelling with respect to the rule of law, police abuses, corruption, mismanagement of the economy, high cost of living, a whole series of issues. There is growing discomfort with the government, which previously had the wide backing of the Sinhalese majority.

I think there has been a long unhappiness with this government among the Tamil community and also significant unhappiness among Muslims, particularly after the wave of attacks on mosques and Muslim-owned businesses the last few years. But I think there is growing discontent among the Sinhalese.

With respect, however, to the LLRC, in particular in its recommendations, there has been very little publicity given to the specific recommendations of the LLRC. While the government travels to Geneva with its very pretty packages of its national action plan and describing all that it's doing, in fact within Sri Lanka there is very little publicity given to the LLRC, to what's in it. In fact it took more than a year for it to even be translated into Sinhalese and Tamil, and it's still not widely available by any means.

While I think the recommendations in that commission would have a lot of resonance with people, including Sinhalese, were they known, they are not known. There is a lot of discontent, but it's not clearly articulated in terms of the LLRC.

My final point is, there's unfortunately no effective political opposition to the government. The various opposition parties are disunited, disorganized, and not effectively challenging the government, despite what I think is growing public concern.

Mr. David Sweet: We've heard a lot of testimony regarding Sri Lanka but you most eloquently listed off so many issues regarding the Rajapaksa government, from militarization to authoritarianism to the failure of devolution in the north to the lack of inquiry for human rights violations. You listed them very well. I'm not going to repeat them all.

One of the things that you didn't mention is a seemingly all-out war against the media. I noticed their own diplomats offshore are even using social media to attack any person who would dare to say anything regarding any aspect of possibility of human rights violations. To me, with your testimony and these other things that I've noted, it would seem that their steps are continually marching towards all-out tyranny here.

• (1325)

Mr. Alan Keenan: I'm not sure I would say all-out tyranny, but certainly there is a growing concentration of power, and there has been during the final years of the war, and I think at that point it was designed in part to control the state apparatus so tightly that they could do whatever they needed to beat the LTTE including what we suspect were many violations of international humanitarian law, disappearances, murders, etc.

But the machine that was used, the heavily militarized and highly concentrated form of power used to win the war, has kept running on and grown worse, I think, and one of its targets has been journalists. So I did mention in my long list the fact that there has been continued impunity for the dozen or more attacks on journalists, including many murders. I think there's ongoing widely recognized self-censorship among almost all the media.

That said, there's still some resistance. There's still the ability of some in some contexts to speak out. With the trade unions, there are regular strikes, and the university teachers spoke up in an important strike a year ago. There are still voices. It's not complete tyranny, I don't think, and traditionally, Sri Lankan people are very active politically and very robust in their criticisms of governments. So I think one of the striking things is the Rajapaksa government's heavy concentration of power. Historically that is an aberration in Sri Lanka and one hopes that ultimately the balance will rebalance and other voices will emerge in some effective way.

Mr. David Sweet: The Commonwealth members took some action, and of course, our Prime Minister did, by not attending last time. Do you see a unique role here for the Commonwealth countries in regards to using their influence to pressure the Sri Lankan government to address its own recommendations in the LLRC in a legitimate way and have these human rights issues addressed?

Mr. Alan Keenan: To be blunt, the moment for the Commonwealth to act and be an effective sort of check or prompt on the government in Sri Lanka to improve its human rights behaviour, I think, has passed. The moment was in the run-up to CHOGM or at CHOGM, and unfortunately, very few other governments took Canada's lead. Mauritius did. In India, the Indian Prime Minister held back on going. There was some other grumbling and the British Prime Minister also went to Sri Lanka but was very active and forceful in his criticisms of the Sri Lanka government on human rights issues. But I think the Commonwealth is not the vehicle that is going to be an effective one, in this case.

The Chair: Thank you very much.

We'll go now to Ms. Sitsabaiesan, please.

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): Thank you.

Thank you, Mr. Keenan, for being here as well.

To continue from where Mr. Sweet left off, if the Commonwealth is not the best place for us to be right now, or for us to be taking action. We all know that in Geneva in March the UNHCR as well as the Security Council will be meeting. What should Canada be doing leading up to the UNHCR meeting, as well as while the Human Rights Council is meeting?

What should Canada's role be?

Mr. Alan Keenan: My recent trip to Geneva suggests that Canada is doing what it needs to do, which is working very closely with other governments to support what is almost certainly going to be a follow-up resolution sponsored, officially tabled by the U.S. government, that will likely be calling for even stronger action than the previous two resolutions by the council. I think Canada is actively supporting the U.S., trying to build support among other

countries to get a majority, a strong majority, on the council for a strong resolution.

Ms. Rathika Sitsabaiesan: From what we've heard, the U.S. resolution will call for an independent inquiry. Is there something else that would make it stronger? Should we be looking for an independent inquiry of war crimes, crimes against humanity that took place during the last phase of the war? Should we be looking beyond that, or what's continuing to happen on the island right now? What should be the meat of that resolution, based on your opinion?

● (1330)

Mr. Alan Keenan: One of the big issues right now is what kind of inquiry the resolution would call for. There are different grades of toughness and seriousness and full resource-ness of the commissions. So what we're calling for is a full-scale classic commission of inquiry that would have powers to look into...I listed some of the essential elements in my testimony. But it would look into, crucially, those particular bad months from September 2008 to September 2009. It would be able to protect witnesses. It would have the resources to travel, because it's not going to be able to get into Sri Lanka because the government of Sri Lanka has made clear that they would not allow such a body to visit.

But we would prefer that to what is also being discussed, which would be simply to empower the Office of the United Nations High Commissioner for Human Rights to do their own investigation. While that would be better than nothing and would be a step forward, it would not be as strong a step forward. We believe what appeared to have been the form and scale of crimes committed at the very end of the Sri Lanka civil war are on a scale equal to many other places where there have been commissions of inquiry.

Prior to Syria, it was most likely the worst atrocities of this century. Now, it's a young century, but nonetheless there were very serious violations. They deserve the same treatment as others despite the fact that almost five years have passed since the actual events.

Ms. Rathika Sitsabaiesan: Thank you.

We know that most recently the Permanent Peoples' Tribunal had their hearings, and the results from the PPT have been that genocide took place and that there's an ongoing genocide on the island. One condition of that is land grabs. I know through Twitter that you're aware that I was recently in Sri Lanka. I met with some of my family members who don't have access to their land because it's now part of the militarized zone. Their land has been taken away from them. So can you talk a little bit more about the land grabs that have taken place and continue to take place? And how far do you think this government will go with its ongoing, I'm going to say, "Sinhalaization", or recolonization of Sinhalese in the traditional Tamil territories?

Mr. Alan Keenan: That's an important question. The exact extent of territory taken by the military or for other government functions or by politically connected businesses is impossible to know—well, it's not impossible, but it's not known. But it's sizeable. The numbers displaced are in the tens of thousands. Whether that's 25 or 30 or 80 or 90 is very hard to know, partly because the government makes it very hard to know, not allowing the UN to conduct a full survey of displaced that they used to do, for instance.

But I think there's clearly a lot of land that has been taken. It's important for the record to state that some has been given back. So the government has released some land it previously used or claimed, generally without compensation, during the war. But still there's much more that has not been released, and there's more that has been taken since.

I think there is a lot of reason to believe that this is part of a more general strategy to deny, to slowly change the ethnic and cultural identity of the north. This is extremely worrisome, both from a standpoint of justice but also from a standpoint of conflict prevention, which is the mandate of my organization.

While the government is not officially saying it's aiming to change the demography or the cultural makeup of the north, I think there are enough indicators that the first steps, the necessary infrastructure, and the necessary policies for that to happen are there. I would just cite one very disturbing interview that the secretary to the ministry of defence, Gotabaya Rajapaksa, the president's brother, gave in July of last year, which has not been given very much publicity. In it he stated that it was unnatural for the Northern province to be majority Tamil, and that if the natural course of events had been allowed to proceed, it, like the rest of the country, would be majority Sinhala.

He's not explicitly stating that this is the course that he will push forward. Certainly the implication of his statement would lend credence to worries that the north is targeted for Sinhalization and ultimate demographic change.

• (1335)

The Chair: Unfortunately, we're out of time for another question. If we have time at the end I'll try to get back to you.

Ms. Grewal, your time begins now.

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

I would also like to begin by thanking Mr. Keenan for being with us today, for providing our committee with the update on the human rights situation in Sri Lanka.

Following the Commonwealth Heads of Government Meeting in November 2013, you argued that India and South Africa were two countries that “should lead in forging a strong international coalition to pressure the Rajapaksa government into reversing its most dangerous policies.”

So how do you think that South Africa and other member states can establish international mechanisms to examine the allegations of violations of international law by both sides in the civil war?

Mr. Alan Keenan: I think specifically with respect to that last question the place to do it is on the UN Human Rights Council, when it meets next month. Both South Africa and India are important members of that council. South Africa was newly re-elected to the council this year. They weren't on the council when previous resolutions on Sri Lanka came up. India was, and supported both previous resolutions sponsored by the U.S., which was a significant development given that India, like many other countries that are part of the Non-Aligned Movement, has traditionally resisted what are called “country-specific resolutions” by the council.

So it was quite important that India did, and I think it was a sign of the seriousness of concern, unhappiness, and disappointment with which the Indian government views developments in Sri Lanka, for instance, on the repeated breaking of promises by senior officials in the Sri Lankan government to senior officials in the Indian government.

We are hoping that India will continue to support whatever resolution is tabled in the council this coming session. We would also like to see about South Africa. South Africa is also involved in a quiet initiative to try to bring together the Tamil National Alliance and the government, and perhaps also some Tamil diaspora groups, to work toward longer-term reconciliation. While that is a potentially useful initiative over the long term, it requires cooperation from the Sri Lankan government, which isn't yet there, I think, unfortunately. That, I think, is one particular tack that South Africa has been taking.

We would like for that initiative not to prevent them from supporting the needed action on accountability, in particular, an international commission of inquiry. We think the two go together, and we hope that South Africa will see it the same way.

Mrs. Nina Grewal: The Tamil National Alliance won a landslide victory in September's Northern Provincial Council elections, and yet President Rajapaksa's administration is quite reluctant to allow devolution to begin. Are there any kinds of steps that can be taken within Sri Lanka to facilitate this happening?

Mr. Alan Keenan: Unfortunately, the steps within Sri Lanka that need to be taken largely need to be taken by the government. As you just pointed out, and as I think as many are beginning to accept, the government doesn't seem interested in using the opening that the election of the provincial council gave.

What I think was the quite striking willingness of the Tamil National Alliance and the newly elected chief minister Vigneswaran to work within the quite limited, quite constrained powers that the 13th amendment offers, but nonetheless to try to make them work in the spirit of compromise.... That spirit of compromise has not, generally speaking, been reciprocated, despite occasional indications it might be by the government.

One interesting angle for the Canadian government to explore is what is the role of the development banks and of the UN in the north in assisting the Northern Provincial Council and in making clear publicly and privately its interest and desire to be able to work closely with the council.

If there were strong messages coming from the United Nations, including the UN Development Programme, whose regional head is actually visiting Sri Lanka as we speak, but also from the World Bank and the Asian Development Bank, both of which I believe Canada gives considerable amounts of money to every year and both of which do a considerable amount of development work in the north.... That work, ideally, would be done in close cooperation with the newly elected council. For that to happen, the central government has to agree. The heads of the World Bank and the heads of various UN agencies should be going regularly to the government in Colombo and saying, "We want to work with this council. We want to support devolution. This is what the UN has called for. It's what you say you want to do. Let us help you and help the council."

That's something that Canada in its role as a contributing member of all of those agencies, all of those institutions, should be pressing for.

• (1340)

Mrs. Nina Grewal: Both at home and abroad, violence against women and women's security are issues that are quite important to me. In Sri Lanka the government has mostly dismissed women's security issues. We know that there have been accusations of sexual violence by the military against Tamil women. Can you speak to what other challenges women are facing in Sri Lanka?

Mr. Alan Keenan: Yes. It's a serious question. It's also a difficult question to answer with any great degree of specificity given the heavily militarized nature of the Northern province particularly.

The International Crisis Group released a report a little over two years ago, called "Sri Lanka: Women's Insecurity in the North and East", which detailed the basic aspects of the situation, the basic contributing factors that made women deeply insecure, both economically and socially, but also insecure against sexual violence. Those same factors, which have a lot to do...I mean the central one is heavy militarization, combined with absolutely no reliable forms of redress, no reliable institutions to which a victim of sexual violence could complain, i.e. not a fair and just police or judiciary, those conditions still continue.

There are increasing reports which have yet to be fully verified, but certainly from the reports that I get from women activists and other organizations working in the north and from others who are interviewing Tamil women who have left Sri Lanka and are now seeking asylum in various countries, it appears that there is a quite severe problem of sexual violence against Tamil women. It's very hard to tell you exact numbers or the trends, but there is a significant body of evidence that suggests it's quite a serious problem.

The Chair: Thank you.

Dr. Hsu.

Mr. Ted Hsu (Kingston and the Islands, Lib.): Thank you, Mr. Chair.

First of all, I want to apologize for doing what I'm about to do out of the usual order, but I wanted to move a motion of Professor Cotler and then ask for unanimous consent to table any discussion on it until the end of the meeting. The motion being that of February 4, 2014:

THAT, the Subcommittee invite the United Nations Special Adviser on the Prevention of Genocide, Mr. Adama Dieng, to testify on February 25, 2014, about the United Nations' and the international community's responsibility to raise awareness of and mobilize appropriate action to combat mass atrocity crimes

That's the motion which I am now moving, but I'd like to ask for unanimous consent to table a discussion until the end of the meeting.

The Chair: Let's ask the question this way. First of all, is there unanimous consent to proceed with the motion without any debate?

If there isn't, then I suggest we do what Dr. Hsu is asking. So I'll just ask quickly, is there—

• (1345)

Mr. Ted Hsu: We need to discuss it.

The Chair: We need a discussion. Okay, we'll let that wait until the end of the meeting, then.

Dr. Hsu, you have some remaining time to ask the witness questions.

Mr. Ted Hsu: Thank you very much, Mr. Chair, for entertaining that. I apologize again.

Mr. Keenan, you've spoken about this call for an international investigation.

My first question, which leads into the second one, concerns the non-attendance of Prime Minister Harper at the Commonwealth Heads of Government Meeting. What did that do inside Sri Lanka?

The Chair: I'm wondering if we've lost our connection.

Mr. Keenan, were you able to hear the question from Dr. Hsu?

Mr. Alan Keenan: Yes. With regard to the Commonwealth Heads of Government Meeting, there were really two meetings.

There was the meeting as it was represented in the international media and to the rest of the world, in which I think the Canadian Prime Minister's decision not to attend opened the space for a more general criticism of the human rights situation in Sri Lanka. I think it was a valuable stand in terms of the effects it produced. It increased awareness of the issue, and I think that opened the space, for instance, for Prime Minister Cameron to go, but to be very forceful in his words when he was there.

Within Sri Lanka, however, I think in large part due to the government's control of the media, most Sri Lankans—particularly Sinhalese-speaking Sri Lankans whose almost sole source of news is government controlled, either directly or indirectly—if they were aware of the Canadian Prime Minister's non-attendance, it was presented to them as unimportant and an example of western interference and a sort of western hypocrisy, and so on and so forth. It was dismissed as either unfair or unimportant, and probably didn't have much effect on Sri Lankans, or at least Sinhalese, attitudes toward the nature and success, or lack of it, of the Commonwealth meeting.

Mr. Ted Hsu: Thank you.

In light of the significant evidence of an increasing concentration of power in the executive, and what could be called—I think you even used the same words—a culture of impunity around the war crimes and crimes against humanity committed in the final phases of the civil war, and since then, what can be done besides this international investigation?

Are there things that we can do to counter the culture of impunity?

Mr. Alan Keenan: That's a direct and really crucial question, but there's no simple answer.

I think one of the things—and I think it began to happen around the Commonwealth Heads of Government Meeting—is for other governments to stop giving the Rajapaksa government the benefit of the doubt. Stop treating it as a kind of government that isn't exactly what they want but perhaps is moving in the right direction or trying its best and has so many difficult issues, as many governments do. I think that has begun to happen more clearly, with just very clear statements about the nature of the Sri Lankan government and the need for that to change, and with support given to all communities in Sri Lanka and to members of all communities who are trying to resist and to create a more democratic future.

While the issue of what happened at the end of the war and the need for an international investigation is crucial, I think it's important not to frame the problem in Sri Lanka as merely one of what happened at the end of the war, or merely the lack of full democratic rights of Tamils. It's also that there's been a grave deterioration in the democratic rights of Muslims and of Sinhalese, and those need to be addressed as well. Indeed, I think that if you're ever going to address the ultimate issue at the heart of the civil war—how to share power between the Sinhalese and Tamil communities—you need effective, well-functioning, democratic, and liberal institutions to deal with that. You would need to rebuild those, even if you had a government willing to address the ethnic issue.

What can be done? Crucially, I think this means that it needs highlighting internationally, but also working through every available international institution, some of which I just mentioned in reply to your colleague's previous question. All the UN bodies have responsibilities.

On that issue, it's important for Canada, I think, to be pressing for the full implementation of the UN Secretary-General's new Rights Up Front framework, which follows on the report of his own internal review of UN actions in Sri Lanka, and which found, as I mentioned, a systemic failure by the UN. In response to that, he has instituted a new policy, Rights Up Front, but unfortunately there's not yet evidence that it's being applied in Sri Lanka by all UN agencies. I think that's something that Canada could be pushing on.

● (1350)

The Chair: Thank you.

We go now to Mr. Schellenberger, please.

You have six minutes.

Mr. Gary Schellenberger (Perth—Wellington, CPC): Thank you, Mr. Keenan, for your presentation today.

I'm fairly new on this committee, but one thing I have realized in so many troubled areas is the rule of law.... To me, it seems that the

rule of law in Sri Lanka is being enforced by the military. I don't think rule of law by a military group is the way that you look towards reconciliation in a country that has been troubled. To me, the only way to address the issue in Sri Lanka is to not pussyfoot around anymore, but to take more drastic action. We have to start playing a bit of hardball with these people.

One of my colleagues is quite critical of the UN and how effective they are in doing various things. There are so many things since I've been on this committee where the UN rapporteur for human rights.... As you know, they go to various countries that allow them in. Is the rapporteur allowed to go into Sri Lanka to do a human rights account, I guess, or are they even interested in doing something like that?

Mr. Alan Keenan: There are a series of different UN rapporteurs on various aspects; I think there are dozens of them. The Sri Lankan government did allow the High Commissioner for Human Rights to visit in August of this past year. She then presented an oral statement to the Human Rights Council, in September, in which she was strongly critical about what she saw on her visit, including, she mentioned, the harassment of witnesses and people who had talked to her, by the military and police. That was while she was still in the country, which was quite shocking to her. She referred to what she called the “growing authoritarian tendencies”, or direction in which the government is moving.

The government let her in, I think, to be able to say that they're cooperating with the office of the high commissioner. But crucially, many other special rapporteurs, most especially on extrajudicial killings, on torture, on transitional justice, and the UN Working Group on Enforced or Involuntary Disappearances, have been asking to come, many of them literally for years, and the Sri Lankan government has refused. Unfortunately, there's no way that they can go in if they don't have the invitation of the government.

I agree that the international system doesn't have all of the tools it really needs, unfortunately. And when they are there, it often takes a long time to get the machine up and running.

Mr. Gary Schellenberger: When they are there, they're probably chauffeured around to the spots that the government would like them to go to.

Again, has Sri Lanka turned into a family-run country? You mentioned that a brother is head of the military; there are uncles and that type of thing. Has the family taken over?

● (1355)

Mr. Alan Keenan: It hasn't taken over entirely, but it's certainly a worrisome aspect. One brother is the secretary to the minister of defence and effectively runs the military. The other brother is the minister of economic development. A third brother is the speaker of the Parliament and plays a very important role in parliamentary procedure and in controlling the agenda. Various cousins are ambassadors, heads of ministries, provincial council, chief ministers. It's quite a large list and it's quite unprecedented in Sri Lanka's history. It's extremely worrisome.

They don't fully control the government yet. There's growing dissatisfaction, even within the government itself, and within the ruling party, the Sri Lankan Freedom Party, about the fact that no one really has any power in the government other than the Rajapaksa family. I think it might ultimately come back to cause problems.

Mr. Gary Schellenberger: It seems to me that the militarization in northern and eastern portions of Sri Lanka is a primary obstacle to stopping the massive amount of human rights abuses, whether it is the use of racism, sexual violence, etc.

How can we act to encourage the Sri Lankan government to demilitarize in the region? And given that the United Nations is aware of the atrocities in Sri Lanka, why has there not been a concerted effort there to set up a peacekeeping mission and a bid to weaken the power of the Sri Lankan military?

Mr. Alan Keenan: On that last question, the UN is a complicated body; there are different aspects of it. The most powerful part of the UN is the Security Council, and on the Security Council, five countries have a veto. Two of them are Russia and China. Both of them are significant supporters of the Sri Lankan government and have been for a while. Nothing can be done on the Security Council, certainly no peacekeeping force or intervention of that sort, and I'm not sure that would be the best answer in any case.

For instance, when you do speak about peacekeepers, one aspect is that the Sri Lankan troops are being used as UN peacekeepers in a number of countries. This gives a significant amount of revenue to the Sri Lankan military, and a certain degree of legitimacy to a military. While individual troops may well be honourable and law-abiding, the institution as a whole has refused to accept any responsibility for what are believed to be credible allegations of war crimes. The military itself refuses to investigate those credibly, or allow others to investigate. That should be taken into account when the UN is considering Sri Lankan troops. I think there must be much closer vetting and questioning of that aspect of things.

Mr. Gary Schellenberger: Do I have any more time?

The Chair: I'm afraid you're out of time.

Mr. Gary Schellenberger: Thank you very much, Mr. Keenan.

The Chair: Mr. Benskin, you have six minutes.

Mr. Tyrone Benskin (Jeanne-Le Ber, NDP): Thank you very much.

Thank you, Mr. Keenan, for being here and for the work evidenced by some of the reports that I have managed to read in a very short period of time. I'm new to this committee as well. I have to say that my head's spinning a bit with this information.

It seems to me that a lot of things are being looked at as conjecture, not the least of which is the issue of sexual violence in Sri Lanka. You spoke to that a little earlier. There seemed to be a hedging—not saying outright that this is happening—because it's so hard to quantify.

From my previous work being, I guess, a study of human nature, I think there's nothing new under the sun. If we look at other countries that have verifiable instances of sexual violence used as a weapon, is it so difficult to believe or so difficult to, one, take a view that this is possibly happening and, two, bring it to the forefront in such a way

that some concrete action can be taken on this issue as soon as possible?

• (1400)

Mr. Alan Keenan: Well, yes. The way I would frame it is that, certainly, when you have a situation in which you have a military almost entirely of one ethnicity in a context where there is virtually complete impunity for crimes committed by government forces, and has been for many years, and when you have it effectively controlling a population of another ethnicity, many of whom are living in female-headed households due to the deaths of husbands or fathers, you certainly have a situation where it would be surprising if there weren't a lot of either direct sexual violence or coercive sexual relationships of some sort or another, where women who are poor and don't have significant economic opportunities or options basically trade sex for food or for money. It would certainly be surprising if that didn't happen.

But we need to be careful. Until we're able to get the real stories and begin to put together a real dossier of cases, I wouldn't want to make a claim stronger than I am able to on the evidence. Certainly all the conditions are there and the anecdotal evidence is significant that there is a very serious problem of sexual violence and, of course, of sexual relationships and growing prostitution, often with effectively the de facto support of the military and the police. So there are a lot of reasons to believe there's a real problem.

But impunity and intimidation against witnesses are such that it's very risky for women to speak out. There is one case that has proceeded to court of a woman who was raped a few years ago in the north. She repeatedly goes to court, I've been told by lawyers who've appeared with her. She is questioned in intimidating ways, her lawyers say. One of the main suspects is absconding. In that context, how many women would like to take their cases to the police or to the courts, if the few brave ones who do are treated in this way? It's a very hard situation to really get strong evidence on, if people are so afraid of speaking up.

Mr. Tyrone Benskin: Thank you.

I just want to throw this out for your thoughts. My concern is that, with regard the comments made by the president's brother about the Sinhalization of the north, we've seen in the past in other countries—and human nature is human nature—the act of ethnic cleansing using sexual violence as a means of creating that wave, where women are then shunned due to culture. Women are then kicked out of their society because of something that has happened to them outside of that.

That seems to me, potentially—theoretically, anyway—to be an essential component of this whittling out of the Tamil people in the north. Would that be a far-fetched conjecture on my part?

Mr. Alan Keenan: I don't know. It's certainly not absolutely implausible, and it's certainly something that we need to be worried about and to be careful to look at as closely as we can. But I think there are enough problems in Sri Lanka, enough very serious and grave human rights problems for all communities, but particularly for Tamils in the north, that we need to be careful not to go beyond what we already have evidence of.

Certainly, as I've said before, women in the north are particularly vulnerable, economically and socially, and vulnerable to violence. That's a structural vulnerability, given the heavy military presence, the ethnic imbalances in power, the economic weakness of women, and all the other sorts of negative factors in the north.

Is it—I think this is your basic question—plausible that sexual violence is being used as part of a plan to change the nature of the north and to weaken the Tamil people? I don't know. I don't think the evidence is there yet that it is part and parcel of a plan, but I don't think it needs to be for it already to be a significant enough problem that there needs to be much more international awareness and active work by all international agencies that work in the north.

While there are many fewer than there used to be, there are still many UN and INGO humanitarian agencies that work in the north. There are development agencies that work in the north. They need to be doing much more, I think, to use their presence to find out what's going on and to speak out about what they can find out about what's going on.

● (1405)

The Chair: I'm afraid, Mr. Benskin, that we actually are out of time. I let you run over by about a minute and a half. I guess if I read the clock the wrong way, our meeting will end, so I read the clock as not yet being at two, but you all have eyes.

Let me now turn to our witness. I thank you very much for your testimony today. It has been very useful to the subcommittee. We really do appreciate you staying up late and putting up with the peccadilloes of our communication system.

Thank you.

Mr. Alan Keenan: You're very welcome.

Thank you for having me. Thank you for all the good questions.

The Chair: Colleagues, I'm going to ask your indulgence to deal with scheduling items, including the motion that Dr. Hsu moved.

I just want to alert you to the fact—I think this is relevant to the discussion, I'm not trying to dictate how the discussion takes place—I'm merely drawing your attention to scheduling issues relating to that particular week.

First, we had already agreed to schedule in Paul Bhatti for that particular day, the 25th. We are free to reverse ourselves, but I'm merely observing that the meeting was assigned for that purpose. It was actually the last item of business that we took care of in terms of scheduling.

The other thing to alert you to is an issue regarding the 27th. His Highness the Aga Khan will be appearing before the House that morning. We've adopted a Wednesday schedule by motion; this occurred earlier. All of the House leaders have agreed to this, so we will be using a Wednesday schedule. The Aga Khan addresses the House at 11 a.m. It is my belief that he will have wrapped up at 1 p.m., so I propose that although the House is on a Wednesday schedule, this committee continue to meet. I would suggest a room off the Hill, perhaps this one, perhaps Wellington. I'll leave that up to our clerk. I suggest that we continue to meet and follow that item of business already scheduled on that day.

The question of Adama Dieng, then, is really a matter of finding out what kinds of compromises we can make. A number of options are available, including an extra meeting.

But I will turn the floor over to Mr. Hsu, please.

Mr. Ted Hsu: I'll be very brief. I just wanted to say that Mr. Dieng, whose expertise I think would be really useful to the committee, is only going to be here for that one day. I am aware of the other previously scheduled witness, so I would ask if the committee would consider asking the chair and the clerk to look at a possible 12:30 p.m. start on that day to allow just half an hour for Mr. Dieng, or to schedule another short meeting at another time on that one particular day when Mr. Dieng is in Ottawa.

Mr. David Sweet: I know we're running short of time, but I'd like to move to go in camera.

The Chair: All right. That's non-debatable, so let's just ask quickly: all in favour of going in camera?

(Motion agreed to)

The Chair: The majority is in favour, so I'm going to have to ask everybody who is not involved to leave the room.

[*Proceedings continue in camera*]

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