

PART 1

STATEMENT OF FACTS

1. The majority Sinhala-Buddhist South Asian island of Ceylon, renamed officially as the Democratic Socialist Republic of Sri Lanka under its 1972 constitution, gained independence from British Colonial rule in February 1948.
2. Between 1948 and 1983, which included about 35-years of Apartheid-like democratically-supported anti-Tamil racial discrimination by consecutive majority-Sinhala Buddhist government administrations including the 1948 disenfranchisement of 1 million Hill Country Tamils, the 1956 Sinhala-Only Act, and multiple state-sanctioned anti-Tamil pogroms such as Black July in 1983, an armed national liberation struggle waged by the Liberation Tigers of Tamil Eelam (LTTE) - a politico-military Tamil guerilla movement- against the majority-Sinhala Government of Sri Lanka (GoSL), began.
3. Between 1983 and 2002 on the island of Sri Lanka, the GoSL and LTTE fought three civil wars (*Eelam War I*, *Eelam War II*, *Eelam War III*) interrupted by two peace talks between the parties resulting in over 70,000 Tamil civilian deaths.
4. Eelam War I-III, whose armed conflict geographically concentrated in majority-Tamil areas within the Northeast province of the island, induced massive Tamil refugee flows from Sri Lanka to Europe.
5. The conflict-induced Tamil refugee flows referred to in paragraph 4 progressively developed a human rights logic to European Tamil Asylum policy responding to Sri Lanka's culture of impunity, discernible in Tamil immigration and asylum case law.
6. With regard to the factual assertion of paragraph 5, European Tamil immigration and asylum case law at the national and regional level within the European Union has in granting asylum to Tamil asylum seekers generally justified such grants through explicit or implicit acknowledgement of reasonable or reasonably foreseeable expectations of persecution and threat to life and limb in territorial Sri Lanka if the asylum request were to be rejected.
7. As such, at present in continental Europe, the estimated population of the conflict-affected European Tamil Diaspora, including persons with and without citizenship, is around half-a-million, residing in countries such as Belgium, Denmark, Finland, France, Germany, Italy, Netherlands, Norway, Sweden, Switzerland, and the United Kingdom.
8. On September 11, 2001 (heretofore '9/11'), 19-individuals of international terrorist organization Al Qaeda hijacked 4 passenger planes and coordinated a series of attacks on several targets in the territorial United States, including the Twin Towers of the World Trade Center in New York city, New York.

9. After 9/11 the United States launched with wide international support a national security policy, now popularly referred to as the Global War on Terror.
10. In February 2002 the GoSL and LTTE mutually agreed to end armed confrontation on the island and participate as parties effectively enjoying parity of status within the framework of an internationally-recognized Norwegian-mediated Cease-Fire Agreement (CFA)⁴.
11. In November 2005, Mahinda Rajapakse of the Sri Lankan Freedom Party (SLFP), running on an ultranationalist Sinhala-Buddhist election platform, won the Presidential election of Sri Lanka.
12. Since November 2005, the Rajapakse administration progressively reframed the Sinhala-Tamil ethnic conflict as a war within the post-9/11 Global War on Terror.
13. Under the Rajapakse administration the conditions of peace and stability progressively deteriorated into conditions of instability, a culture of impunity, and the gradual escalation of armed confrontation between the GoSL and the LTTE, demarcating the beginning of Eelam War IV, approximately dated between November 2005 and May 17, 2009.
14. On or about May 2006 during the Sri Lankan peace process, the European Union (EU) formally listed the LTTE as an international terrorist organization⁵.
15. As part of the escalation of armed conflict in Eelam War IV between the GoSL and the LTTE, Sri Lankan Army offensives in the Northeastern province, in particular inside the GoSL-designated Safe Zones between January-May 2009, were regularly characterized by a pattern of systematic, disproportionate, and indiscriminate artillery shelling and aerial bombardment of territories densely populated with around 350,000-400,000 Tamil civilians. As a general policy this SLA pattern of attack in the GoSL-designated Safe Zone treated all objects and persons in territories with non-combatant or hybrid-combatant/non-combatant Tamil communities, including Geneva Convention protected objects, as legitimate military objectives. See APPENDIX E.
16. As part of the escalation of armed conflict in Eelam War IV between the GoSL and the LTTE, several anti-Tamil massacres were committed by the GoSL or GoSL-sponsored agents which have not been meaningfully investigated by Sri Lankan national authorities since, including internationally-recognized atrocities such as the Trinco-5 massacre (the extra-judicial killing of 5 male Tamil youths allegedly by the SLA or GoSL-sponsored agents) and the Action

⁴ See <http://www.peaceinsrilanka.org/negotiations/cfa> accessed on 07/25/2010

⁵ See <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=a3tFVR6vI9nU&refer=europe> accessed on 07/25/2010

Against Hunger ACF-17 massacre (the extra-judicial killing of 17 humanitarian aid workers allegedly by the SLA or GoSL-sponsored agents).

17. Senior SLA General Officer Jegath Dias, between February 2007 and May 2009 in territories of the Vanni Region, including inside the GoSL-designated Safe Zones, possessed military command responsibility over Divisions 53, 57, and 59, and Task Force IV. See Maps in APPENDIX A.
18. The divisions and military units under the military command responsibility of Jegath Dias moved through the several territories in the Vanni Region during 2008 and 2009, including but not limited to: Mundumurippu, Periyamadu, Naddankandal, Kalvilan, Thunukkai, Uilankulam, Mallavi, Akkarayankulam, Kokavil, Theru-Murikandi, Iranaimadu, Kilinochchi, Ramanathapuram and Visuwamadu. See Map on APPENDIX A.
19. In January 2008 the GoSL withdrew as a party from the CFA⁶.
20. The SLA attack on the GoSL-designated Safe Zones between at least January-May 2009 did not discriminate between combatants and non-combatants, and targeted Geneva Conventions protected objects such as hospitals, schools, churches, temples, and humanitarian structures, incurring massive Tamil civilian casualties which were publicly justified by the GoSL during and after attack as militarily necessitated collateral damage as interpreted within the Global War on Terror. See video evidence organized by month (2009: January, February, March, April, May) in APPENDIX C.
21. The SLA attack on the GoSL-designated Safe Zones was continuous throughout the January-May 2009. See CC(NS)/TAG video evidence organized by month (2009: January, February, March, April, May) in APPENDIX C.
22. A preponderant evidentiary body of Eye Witness testimony taken by CC(NS)/TAG prima facie corroborates facts in paragraph 14 and establishes that the SLA pattern of systematic and indiscriminate artillery shelling and aerial bombardment, targeted all Tamils living in the territories of the GoSL-designated Safe Zone, comprised of combatants and defenseless non-combatant civilian communities. See APPENDIX D: an exemplary excerpt from CC(NS)/TAG evidence database of Testimony from Eye Witness X.
23. The SLA attack on the GoSL-designated Safe Zone ended on May 17, 2009 formally demarcating the end of Eelam War IV. After May 17, 2009, a United Nations source estimated at least 40,000+ Tamil civilians were killed⁷.

⁶ See <http://srilanka.usembassy.gov/dspr-04jan08.html> accessed on 07/25/2010

⁷ See <http://www.nytimes.com/2009/05/18/world/asia/18lanka.html> accessed on 07/25/2010

24. The Tamil survivors from the GoSL-designed Safe Zone were progressively relocated into a network of barbed-wire internment camps and black sites, centralized in Vavuniya district at Menik Farm, a 5-zone 6.5 km facility⁸.
25. On May 26 and 27 2009, the United Nations Human Rights Council held an 11th special session on 'The Human Rights situation in Sri Lanka' ignoring calls for international investigations into alleged government violations of internationally-recognized human rights and customary international humanitarian law, commending the GoSL for its policies in the war and post-war contexts, and re-affirming the principle of non-interference and the domestic jurisdiction of states⁹.
26. In October 2009, the European Union Commission issued a report stating failed to meet several key human rights thresholds related to granting the Generalized System of Preferences (GSP+) to Sri Lanka, a trade arrangement where the European Union provides preferential access to the European Union market to developing countries and territories. See Report in APPENDIX B.
27. As a response to the neglect by the international human rights community - including multilateral bodies such as the United Nations - of the violations of internationally-recognized human rights and customary international humanitarian law by the SLA in the GoSL-designated Safe Zones, Ireland-based non-governmental organization Irish Forum for Peace in Sri Lanka (IFPSL) on February 27th 2010 organized a session of the Permanent Peoples' Tribunal on Sri Lanka¹⁰. See Report and Judgement in APPENDIX B.
28. In or about or by September 2009, it is reported Germany accepted Sri Lanka's deputy ambassadorial appointment of Sri Lankan military commander Jegath Dias as Sri Lankan ambassador to Germany.
29. In November 2009, the Norwegian-based non-governmental organization Norwegian Council of Eelam Tamils (NCET) held democratic elections within the Norwegian Tamil Diaspora.
30. In March 2010, the Switzerland-based non-governmental organization Switzerland Council of Eelam Tamils (SCET) held democratic elections within the Swiss Tamil Diaspora. See APPENDIX F.

⁸ See <http://www.hrw.org/en/news/2009/10/09/sri-lanka-tensions-mount-camp-conditions-deteriorate> accessed on 07/25/2010

⁹ See <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/11/index.htm> accessed on 07/25/2010

¹⁰ See <http://www.ifpsl.org/> accessed on 07/25/2010

31. Between May 17, 2009 and July 24, 2010 no meaningful national, international, intergovernmental, or multilateral bodies have begun to investigate the jus cogens norm violations perpetrated by the SLA in the GoSL-designated Safe Zones between at least January-May 2009.

32. Between May 17, 2009 and July 24, 2010, Germany has not conveyed or articulated in the public domain any substantial indication that the government's non-rejection by at least September 2009 of Sri Lanka's deputy ambassador to Germany, Jegath Dias, possibly individually criminally responsible for jus cogens norm violations in the GoSL-designated Safe Zone, conflicts with its international human rights treaty obligations or its obligations arising from its signatory status to the Convention or the morals and respect for human dignity enshrined in its constitution and post-Nazi history.