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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, everyone. It is November 17, 2011 today and this is the eighth meeting of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. We are currently studying the human rights situation in Sri Lanka.

[*English*]

We have two witnesses today from Amnesty International, Alex Neve and John Argue. Roy Samathanam is here as an individual.

We'll start with Mr. Neve and Mr. Argue. Traditionally we have 10 minutes per presenter, so I assume that the Amnesty International presenters will be sharing their minutes.

Please begin.

Mr. Alex Neve (Secretary General, Amnesty International): Thank you very much, Mr. Reid. And good afternoon, members of the subcommittee. It's a pleasure to be in front of you again. We very much welcome the fact that we'll be discussing a part of the world that for Amnesty International has long been a priority concern.

I was thinking about the fact that my own involvement with Amnesty International back in the mid eighties was marked by an intense campaign of work on that disappearances that were happening in Sri Lanka. More than 25 years later the human rights situation in the country is still very preoccupying for our organization.

We welcome the fact that the Canadian government's views matter when it comes to Sri Lanka, as we have close connections and ties with that country in many respects. A large Sri Lankan expatriate community lives in Canada. We have ties via bodies such as the Commonwealth. So it's very timely and welcome that the subcommittee is giving some attention to the situation in Sri Lanka.

You're going to hear briefly from both of us. My colleague, John Argue, is a member of Amnesty International who for years has coordinated and overseen the work done by Amnesty International here in Canada on the human rights situation in Sri Lanka. He is very knowledgeable about the conditions in the country. He will provide you with a quick overview of some of our current concerns. Then I will pick it up and share with you some of the work that we have been following and encouraging within multilateral bodies, such as the United Nations and the Commonwealth, where there are some

important initiatives under way to try to address some of the serious concerns in the country.

Mr. Argue will begin.

Mr. John Argue (Sri Lanka Co-ordinator, Amnesty International): Thank you, Mr. Reid, and members of the committee. I'm very pleased to be here.

As Alex said, I'm a volunteer coordinator with Amnesty and am focused on Sri Lanka. I've been to the country ten times. It's been a fascinating and pleasurable experience for me to be there, notwithstanding the horrible things that have been occurring there for the last 30 years or so. I've been there as a tourist, actually, just visiting out of interest. On each occasion I've been there, I have looked up the Canadian High Commissioner to get her or his advice about where to go in the country and where it is safe, but also to discuss the human rights situation, as I became active within Amnesty.

On two instances I was part of the election monitoring team organized locally in Sri Lanka, called PAFFREL. It's the official election monitoring group within Sri Lanka. It is fascinating organizing about 10,000 people to monitor an election. On one occasion, it was a national election in 2004. Most recently I was part of the monitoring team in Batticaloa, the city on the east coast of Sri Lanka that had its first election in 14 years in 2008. Being there as part of the election monitoring team and travelling in the northern part of the country during the national election and then in the east in Batticaloa, as well as my own trips, of course, I've had a fascinating experience. It's obviously been educational.

I'm so glad to be here because, frankly, it's frustrating to deal with the situation in Sri Lanka right now. Amnesty clearly is promoting human rights there and elsewhere in the world. Our frustration and challenge—and it's not just Amnesty's challenge, but probably Canada's challenge too—is to engage the Sri Lankan government.

Over many years we have commented on human rights in Sri Lanka, with 1971, some 40 years ago, being the first time Amnesty commented on incidents in Sri Lanka. Since then, we have regularly had missions to Sri Lanka and, of course, have commented increasingly on the tragedy in the country in the last number of years.

Right now, the Sri Lankan government is asserting that it should determine its own future. It does not want interference by organizations like Amnesty, or countries like Canada for that matter. In other words, it's asserting strongly its own sovereignty. It wants to determine what it wants to do on its own. On a broad level, Amnesty is sympathetic to people in their own countries standing up for their human rights and deciding their own future. Our problem, however, is that human rights are just not being respected in Sri Lanka.

I want to be clear in the few minutes I have. The Lessons Learnt and Reconciliation Commission was appointed by the Sri Lankan government in May 2010 at the end of the conflict in May 2009 in an attempt to foster discussion among people in the country and reconciliation, as the name of the group implies. However, Amnesty has had great trouble with that commission, because we just don't believe that the mandate or the process by which the Lessons Learnt committee is proceeding is going to establish the truth and justice. This conclusion is derived in part from a report by Amnesty, "Twenty Years of Make Believe", published in June 2009, a month after the end of the conflict in May 2009. The simple argument in "Twenty Years of Make Believe" is that every one of the commissions or investigations and inquiries established by the Sri Lankan government to examine human rights violations or establish what happened around particular incidents did not result in justice for any of the victims. There was nothing there.

Granted, there was the problem of the war but the legal process was just not followed through. Amnesty argued strongly in June 2009 that a domestic or national evaluation of what's going on in Sri Lanka was just not credible and concluded, based on 20 years of experience, that the government just could not handle such an evaluation. Various other organizations agreed with us.

• (1310)

With the Lessons Learnt and Reconciliation Commission, Amnesty joined with Human Rights Watch and the International Crisis Group—headed by a Canadian, Louise Arbour, as I presume you know. It is a fascinating group that does excellent human rights work internationally. All three international human rights-oriented groups, through our research contacts and visits to Sri Lanka, reached a similar conclusion to that in the Amnesty brief. Therefore, all three organizations declined to participate in the Lessons Learnt and Reconciliation Commission.

A letter was sent to the commission in October 2010, the same year it was established. It suggested that there was nothing in the LLRC mandate that required it to investigate the many credible allegations of violations of humanitarian law and human rights law by both the Liberation Tigers of Tamil Eelam and the Sri Lankan government, particularly in the last months of the war. The last months of the war were just horrendous in 2009, and yet the LLRC did not have a mandate to look into those problems.

Also, the LLRC did not require any official of the government who came before it to explain government misrepresentation—and really, that's what it was—of the number of civilians who were in the northern part of Sri Lanka in the Vanni area, where the fighting was taking place and which the Tamil Tigers had controlled for a number of years. The government insisted there were 100,000 civilians in early 2009, but months later was forced to admit there were actually

300,000. In other words, the situation was much more serious than the human rights organizations were arguing.

The LLRC has to deal with that problem. The LLRC did not establish that fact while hearing its testimony.

Another process question that we had was this. The LLRC did not provide any protection for the witnesses who appeared before it, and yet in the context of the discussion and threats going on within the country, that was absolutely crucial. International law requires, in practice, that witnesses for investigations like this be offered some kind of protection for offering testimony.

I would note that the LLRC is due to report this Sunday, that is, to give its report to the president of Sri Lanka. The president has made it clear that the report will go forward to the parliament and presumably be debated. We are assuming that the recommendations or some of the main points coming out of the LLRC will be made public—or that there will be public speculation about them—maybe next week. We'll see.

However, the point we want to make is that the Sri Lankan government is not correct in arguing that Amnesty has pre-judged what they are saying. We are criticizing the mandate, criticizing the process—the points that I just made. So whatever the LLRC recommends, in fact, is just not credible, based on the whole process of the thing.

Let me conclude by identifying a few particular problems in Sri Lanka right now.

The armed conflict ended in May 2009, but human rights violations are continuing. I see Roy beside us. Roy will explain his own particular case. Just a couple of weeks ago, in its presentation to the committee against torture at the UN in Geneva, Amnesty in fact referred to Roy's case and the abuse he suffered. Roy can talk about his own case, but it's one strong indication that there are still ongoing violations concerning people who are in detention.

In that same report, Amnesty cited that ten people had died in police custody during the year 2010, all under suspicious and very similar circumstances, raising clear questions about what kind of police involvement there was.

In sum, Amnesty has serious problems about how the process is continuing or going ahead to resolve the human rights situation in Sri Lanka.

• (1315)

The government says it wants to reconcile with all parts of the country, and it has said literally that it is open to the Tamils, having fought and defeated the Tamil Tigers. Amnesty's great problem is that it appointed the LLRC without any consultation with the Tamils. Admittedly, they're in touch now with the Tamil National Alliance and beginning to talk about reconciliation. But this is a little late.

We emphasize that it's absolutely crucial that the government involve the whole population in Sri Lanka in order to go ahead credibly. Unless they do that, we believe that human rights violations will clearly continue and, in fact, probably be encouraged by the fact of there not being a credible process.

We hope that this committee can lend Canada's voice...and this is something that Alex will be able to argue ably.

Thank you very much.

The Chair: Unfortunately, he'll have to do that later, because you've used up all of your ten minutes, plus an extra two minutes and 15 seconds.

So we're going to turn to Mr. Samathanam, whose turn it is to take the floor, please.

Mr. Roy Samathanam (As an Individual): First of all, thanks for giving me the opportunity to be here to share my experience.

Basically, I came to Canada in 1990. I'm a Canadian citizen. I went to Sri Lanka in 2005 to get married. My wife was pregnant, so I decided to stay there for a while.

The terrorist investigation division came to my house, after two years, in 2007. They wanted to check some items—phones or mobile phones—I had imported from Singapore. They checked the mobile phones and then they asked for \$25,000 as ransom. I refused. At that time my wife brought out my Canadian passport and told them that I was a Canadian citizen who had come there to get married. She told them that we had a kid and that she was four months' pregnant with our second child. They said they just had to get a statement and would release me in 15 minutes. They were not civil and didn't show any ID, so I refused to give them money. I told them that I didn't have that kind of money, anyway, to give. Then they blindfolded and handcuffed me and took me to an office somewhere in the city of Colombo, near the harbour. It was an illegal detention centre, just an old building where they keep suspects or detainees. There were about 50 to 60 people.

They handcuffed me to the table 24/7. It was an office. I was always kept handcuffed there. The other detainees were kept in a small cell downstairs. They said that if I could give them money or confess that I was a LTTE member, they would release me. I said that I needed a lawyer, or at least I wanted to see someone from the Canadian embassy. So after about one week, someone from the Canadian embassy came to see me, and even when I talked to the embassy official, an intelligence officer was right beside me. They didn't want to discuss anything about the case. I didn't know what the case was all about. The Canadian embassy official suggested some lawyers' names, but there was no lawyer and no court. They didn't take me to court.

I was in detention for one year, just for an inquiry. And the defence secretary, the one who signed the order for me to be detained under the emergency regulation, signed it every three months. I was just kept in that building for one year.

During that period, I was handcuffed in the daytime, and at night I slept over the table or downstairs, down on the floor. When they arrested me, they first punched me, and then later on, they didn't do anything. After about a week, they again said that I had to write a confession. They said that I had to confess that I was an LTTE member from Canada. They said that they knew there were a lot of LTTE people, Tamils, in Canada and that the Canadian government was helping the LTTE. They told me to say all of that and to write a confession in my native language of Tamil and sign it, and that they would then take it to court and release me. I told them that I was not going to do that.

After about six months, they came during the night, about 15 officers from the terrorist investigation division and army intelligence. They started to beat me up. They said, "Let's kill the Canadian Tiger." They kept on assaulting me for about 10 minutes and then left. Then the next day, the ICRC came in, and I complained to the ICRC about it.

I was handcuffed and pulled and further beaten up. They told me that they were going to punish me and send me to a detention camp in Boossa in southern Sri Lanka.

While I was in the TID headquarters office, people were routinely tortured. That was normal. You had to go through that. They didn't torture me, I guess, to that extent, because the ICRC and the Canadian embassy used to visit me. But what they did do was mentally.... They chained me, and if I wanted to go to the toilet, they would say no. I was diabetic and wanted my medication, but they said that they could not give it to me. Finally, the Canadian embassy managed to give me some metformin and check my blood sugar, which was around 15.5 or something. I was very drowsy. They didn't understand. They kept on doing this for a very long time.

• (1320)

After about six or seven months, they said that if I did not sign the confession, if I did not agree with it, they would send me to Boossa, the worst detention centre in southern Sri Lanka. So I was sent there. They put me in a small cell in an old building, built I think about a hundred years ago. It was a small cell with no lights and no toilets. They would give me an hour just to wash my face, or whatever, but if I wanted to go to the toilet in-between, they just gave me a shopping bag and a bottle to urinate into. I had to go to the toilet in a shopping bag.

When they would take me for questioning, it was in an open area. I would see people being tortured. They tie them upside down and put gasoline in a shopping bag and tie it around them. They would just keep them up there, tied, with their head down this way, and would keep beating them. It happens every single day. Women are sexually abused and beaten. They don't give you a chair; you have to kneel down and wait there. That's the way they question you. It goes on and on.

Then finally the Canadian embassy came and I said I couldn't stay there, that I had to go back to Colombo, that they had to do something. They said they couldn't get involved because it was domestic law. They could give consular service, but could not do much. I understood that situation.

But then I was taken again to Colombo and told that they were going to arrest my wife. My daughter was a year old, a Canadian citizen. My wife was five months' pregnant, so they wanted to bring my wife. In the meantime, my [*Inaudible—Editor*] was in custody at the Colombo office. My wife and kids were under house arrest for one week. Basically they could not leave the house. There were two police officers guarding the house. My brother would do the groceries and just throw them over the wall. There was no communication, all the phones were taken.

The Canadian embassy arranged for a nurse to visit my wife's residence to see if my wife and child were okay. They were under house arrest for two weeks.

They arrested me under the emergency regulations. Under the emergency regulations, after three months they have to produce me in court. But they never produced me in court. There was no judge, nothing at all for one year. After I came from Boossa to the Colombo court house, they said they were going to rape my wife and kill my pregnant wife's child, that he's a Tiger too, so they might as well kill all of them.

Under emergency regulations, they can arrest anyone and keep them for one or two years. I said I would write any confession they wanted. I said I needed a lawyer, but I didn't get a lawyer, nothing at all. He had his own notes. I had to write my confession in Tamil, sign it, date it, and give it back. They said once I gave it I would be released. So they got the confession, produced it in the high court, and filed charges against me. My phone had a GPS and they said that GPS was banned in Sri Lanka. I didn't know; I never saw the GPS. I saw the phone, but the phone had a GPS device. I didn't know what they were saying. I never saw them produce any legal documents at all.

Once I signed the confession, they took me back again to Boossa detention centre and kept me there. That is the main reason I want to share this. The detainees were continually tortured. After 8:30 or 9:00 p.m., the officers were drunk. They would come in and randomly pick up people, take them to the hall, tie them up or handcuff them, this way, with their legs in different positions and keep them there for hours, or put them inside a bucket of water and just keep them there. They didn't allow you to sleep; there was no sleeping.

They just kept me in the same cell, with no toilets, nothing. There were 3 toilets for 280 inmates. We had only one hour when we could go to the toilet, or wash our face, or whatever.

• (1325)

Basically, they wanted a confession from me. I forgot to tell you that I was in the TID headquarters. Mr. Nord, the special adviser from the United Nations, visited us. I have that report here. He visited us and he wanted to talk to the detainees, but they kept me up there in the office. They didn't want me to talk with him because I can speak the language. I can speak all three languages, and I would

be speaking them in English. I saw him just passing by, but they didn't allow me to talk to him.

After he visited my detention centre, he gave a report. It's all there, what he thought about it: the gasoline, chili powder, and iron pipes and wooden posts to hit you. It went on and on continuously. Some of the detainees who were there in the detention centre and in prison had been there for 10 years without any charges. There were no charges laid against them, so they're still there.

The female prisoners who had been sexually assaulted and beaten up are still in prison, so anyone can go and see them. They're still in the Sri Lankan prison. I have their names. They're still there, but because of the confessions they wrote, the judge looked at the confessions and said, "You are guilty". The judge gave them five years or ten years. They are doing their sentences right now.

One Mr. Tissainayagam was with me; he's a journalist too. He was in the same detention centre. Now he's in the U.S.

That is the situation.

Different groups came and inquired of me. It might have been the National Intelligence Bureau, military intelligence, or the Karuna group, the pro-government LTTE. They came from the LTTE; now it's the Karuna group. They just came and talked to me for five minutes. There are different intelligence organizations and they come in and just get information and go.

The latest development is that I sponsored my wife. She has to apply for a police clearance to come to Canada. The sponsorship is approved. The file has gone to Colombo for the Sri Lankan police to give the clearance. They want me to go back to the *National Post*, where there was an article about me. They want me to tell the media that what I gave to the *National Post* was false. Only if I do that will my wife get police clearance in Sri Lanka, and only then can she come to Canada. This happened two weeks ago. They told me I had to go and withdraw all my statements to the *National Post* in the article about me. If I didn't do that, my wife would not get a clearance from them. If she doesn't get a clearance, she cannot come to Canada; she is sponsored, and my two children are citizens. They are six years old and four and a half years old. This is the situation.

After that day, they remanded me to the Welikada prison, the main prison in Sri Lanka, and put me in with other convicts, not the LTTE, because there's a different building for LTTE suspects only. They put me in with other prisoners, Sinhalese prisoners. I got continuous abuse from them and from the guards who were saying, "You are Canadian...". They beat me up and didn't give me water to bathe and things like that. I was going through hell.

Then finally I got fed up and asked what the charges were. I told my lawyer, "You have to do something". The lawyer talked to the attorney general's department. The charges were that I had plotted to kill the army commander of Sri Lanka, Sarath Fonseka, had been following VIP ministers, and was giving information to the LTTE. A lot of charges were framed against me. But finally the attorney general's department said, okay, but they could not just release me like that, but told me to just plead guilty for having a GPS and that they would make a deal with the attorney general. They told my lawyer to do that.

So finally I pleaded guilty in high court to having a GPS. I got a fine of five lakhs and the judge told me I was free to go. So there was a five-lakhs fine for having a GPS, and they dropped all the charges about killing the general and following all the ministers and everything. Everything was done, so I was freed.

I was hiding for awhile until I could get my Canadian passport back, because I was not sure if they would release me and if the intelligence officers would then come back and kill me, or whatever.

• (1330)

So I got my Canadian passport, and then I flew to Canada. Then, the Canadian Tamil Congress introduced me to the *National Post*, and Mr. Stewart Bell, to whom I told my story. That's where everything started. Now they are telling me they won't give local police clearance for my wife to come to Canada, and that's where things stand now.

So they are in hiding, and the police don't know where they are living. That's the situation. But again, after testifying here, I don't know what will happen after making this statement. I don't know what they are going to do. They can get them at the airport or they can file new charges and just arrest her any time. Anyway, I'll just wait and see, and that's it.

Thank you very much. I've just told you the basic stuff that I've been through.

• (1335)

The Chair: Right. Thank you very much.

We face the problem that occurs frequently nowadays with our new rotation. We have a single round of seven questioners with equal time. We have 25 minutes. What that would mean mathematically is there would be three and a half minutes for each.

I suggest we do four minutes. This may result in the last two questions not being available, meaning for one New Democrat and one Conservative. Hopefully, we'll get them all in. I'm just being realistic here. Anyway, we'll say four minutes for the question and the answer, which suggests that one question is probably what you'll be able to get in per round.

We begin with Mr. Sweet.

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

I am hoping to ask a couple of questions, so I would appreciate getting some concise answers.

Mr. Samathanam, in your story I was just trying to follow the number of different times they had re-signed your incarceration order. What was the total length of your incarceration?

Mr. Roy Samathanam: It was one year at the TID detention centre, including the Colombo detention centre and Boossa, and two years in normal remand prison, like a normal prison in Sri Lanka. But at the detention centre, it was for total of one year, exactly one year.

Mr. David Sweet: You said your two children are Canadian citizens—

Mr. Roy Samathanam: That's right, sir.

Mr. David Sweet: —and is your wife a Canadian citizen?

Mr. Roy Samathanam: She's a Sri Lankan citizen. They have not come to Canada yet. Because I was a citizen, my children got citizenship. They are there, yes.

Mr. David Sweet: Okay, thank you very much for that.

Mr. Argue, do you have or Amnesty have any second thoughts about not participating in the LLRC?

Mr. John Argue: No, we don't.

Mr. David Sweet: Okay.

You had mentioned the witnesses who came before the LLRC, but who were not provided with any protection. Were no witnesses at all provided protection? Was that right across the board. Correct?

Mr. John Argue: Correct. That was an absolute rule. There was just no provision in the mandate of the LLRC to provide witness protection.

Mr. David Sweet: Today, how much freedom of movement does Amnesty International have on the ground in Sri Lanka?

Mr. John Argue: Well, it's a very simple answer: Zero. Nothing. Amnesty has not been officially permitted in Sri Lanka since 2007.

I can say I was actually there in 2008, but as I pointed out, I was there as a tourist. I was clear. I spoke to the Sri Lankan High Commissioner before I went, and so the government certainly knew that I was there. But I was not there as an official Amnesty representative. In fact, as well, I was volunteering as an election monitor with the Sri Lankan process for the election in Batticaloa. But Amnesty has not been permitted to officially return to Sri Lanka since it last was there on a mission in 2007.

Mr. David Sweet: Which totally incapacitates you, I imagine. And I take it that none of your partners have access as well. It incapacitates you from being able to investigate properly some of these instances like Mr. Samathanam's, right?

Mr. John Argue: I've probably spoken too much, but I'll just say that it certainly doesn't incapacitate our main office in London, in the U.K., from being in telephone and email contact. We do maintain contact, but it is inhibited.

Mr. David Sweet: Yes, that's the fact I was trying to establish. What the Sri Lankan government is doing is making it impossible for you to get the finer details, through interviews and investigations on the ground, for you to be able to clear them of what they say they're innocent of. Correct?

Mr. John Argue: Correct. I spoke to the UN delegate from Sri Lanka, when he attended a meeting here in Toronto two years ago. I argued that, consistent with his remarks to the group at that time, the Sri Lankan government should allow Amnesty in, because we are a balanced human rights organization. We're not just criticizing the Sri Lankan government, but criticizing the Tamil Tigers as well for the violations they may have committed.

Mr. David Sweet: That's what I would think, too.

Lastly, regarding the 10 people who were incarcerated and died in custody, was there any investigation done by any authority to discover why they died in custody?

Mr. John Argue: Unfortunately, I am not familiar with that. The clear statistic is the one I cited. The information made available to Amnesty International was that the situations for each of the 10 were very similar, which raises suspicions. But in those cases, there's no further information.

• (1340)

Mr. David Sweet: Thank you.

The Chair: We go now to Mr. Marston.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair, and my thanks to our witnesses for being here today.

I want to emphasize something. The hearings we are holding today, including your testimony, will be used in a request to the Canadian government to go to the United Nations to support the call for an open, independent international investigation of the final days of the conflict. Much of the testimony has been about what's happened afterwards. That's the focus of what we are trying to do. In light of the Channel 4 video in Britain, and what was documented there, there's evidence of atrocities, apparently on both sides. I want to stress that as well.

Mr. Neve, you haven't had a chance to comment, so if you want to go beyond that I would appreciate it.

Mr. Alex Neve: Thank you, Mr. Marston.

I would like to make some recommendations that Amnesty International has for the Canadian government, which I think speak to some of the points you've just raised. We're concerned about the long-standing lack of justice and accountability, not just in the final weeks and months of terrible abuses by both sides, but also the previous decades of abuses and violations. We are very much of the view that this time Sri Lanka needs to get it right. There needs to be justice and accountability to ensure that we're not going to see a repeat of those long-standing, terrible patterns of abuse.

The United Nations has been grappling with that. The Secretary-General signed a joint communiqué with Sri Lanka's president promising that there was going to be some justice and accountability. The Sri Lankan government convened its Lessons Learnt and Reconciliation Commission. The Secretary-General convened his independent panel of experts, which agreed, after extensive work, that there was a need for an independent international investigation into the abuses and that domestic accountability was not going to be enough.

That's where we stand now. The Sri Lankan government continues to resist that call aggressively. We think there are at least two key forums in which Canada should be working hard to advance the progress towards the needed international investigation. One is the United Nations Human Rights Council. In September, Canada brought forward a resolution—although it didn't go ahead—that would have opened a discussion within the United Nations Human Rights Council on justice and accountability in Sri Lanka. It was very mild; it was not confrontational at all. It followed the Lessons Learnt and Reconciliation Commission more than the independent panel's report. It was a welcome step forward and we very much appreciated the leadership Canada took. But the Sri Lankan government opposed even this. In the end, the Canadian government

decided not to pursue it at the September session of the Human Rights Council. We understand they are inclined to do so at the next session of the council, which would be in March 2012. We would strongly endorse that as a step forward and hope that Canada will diligently work towards this initiative between now and March. It will take a lot of effort to find allies, to work across regions within the United Nations system, to ensure that the resolution can go ahead as strongly as possible.

The other front is the Commonwealth. I think you've already heard testimony and are aware that the Canadian delegation—the Prime Minister and Minister Baird—had some strong things to say about Sri Lanka's human rights record at the most recent CHOGM, the Commonwealth Heads of Government Meeting. The focus was on the next session, which is going to be in Sri Lanka in 2013. The Canadian government has made it clear that unless there is some meaningful progress on accountability and human rights reform, it's unlikely that Canada will attend.

It is encouraging that this bar has been set. We urge the government not simply to put this on the back burner and only to come back to it in 2013, but to use these two years and the leverage that has been put on the table to push very much for the accountability agenda to move forward, including an international investigation.

So those two forums are absolutely key. We welcome both the United Nations Human Rights Council and the Commonwealth. We welcome some of what we've heard and seen recently from the government, and we think that direction needs to be maintained and strengthened.

• (1345)

The Chair: Mr. Hiebert, please.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you.

I'll be sharing my time with my colleague Ms. Grewal.

Mr. Samathanam, at the end of your testimony you talked about people saying that if you didn't renounce the comments you made in the *National Post*, your wife wouldn't receive the police clearance she needs to travel.

Can you tell us who told you that?

Mr. Roy Samathanam: When we didn't get the police clearance, I told my wife to contact the clearance office. She contacted them, and they said it was with the National Intelligence Bureau. We can't talk directly to the NIB, so my wife contacted a Sri Lankan deputy minister and asked if he could help her in this situation. Then he called the NIB director who said I had gone to Canada and talked to the *National Post*. He asked why I had talked to them and said I had to go to the Sri Lankan consulate in Toronto and give a statement because my statement was all false. After I did that, they would give me a police clearance and my wife may then leave Sri Lanka.

The pre-clearance has been requested by the Canadian high commission. Normally they ask for a police clearance for any sponsor. If it's a tourist visa, she can come any time, but because there's a sponsor she has to get police clearance. That's normal procedure, but the NIB is refusing.

Yesterday I called the consulate in Toronto and told them what the situation was. He said they cannot do that and asked who told me this. I said that the NIB was telling my wife this and that the minister had mentioned it, and so what do you want me to do? He told me to come back next week. That is the situation.

Mr. Russ Hiebert: So again, to make the source of this information clear, who is asking you? The minister or somebody the minister talked to? Do you have a name?

Mr. Roy Samathanam: The minister talked to the NIB director.

Mr. Russ Hiebert: Who is that?

Mr. Roy Samathanam: I don't know his name but he is the director of the National Intelligence Bureau of Sri Lanka.

He said if I do that, then the minister can write to my wife. My wife told me to do that, but I just can't. This is blackmail.

Mr. Russ Hiebert: From what you can tell, how many people are still in prison?

Mr. Roy Samathanam: In the detention centre in Boossa there were about 150 when I was there in 2008. At the inquiry headquarters in Colombo, there are about 50 to 60 people most of the time for what are just inquiries. These are illegal, not legal, detention centres.

At the Boossa one they have about 55 to 60 females and about 100 males, so there are somewhere between 150 to 200.

Mr. Russ Hiebert: Today.

Mr. Roy Samathanam: Not today. Today it's even more. I'm talking about 2008.

Mr. Russ Hiebert: Can you tell me what things are like today?

Mr. Roy Samathanam: The numbers, you mean?

Mr. Russ Hiebert: Yes, do you have any idea?

Mr. Roy Samathanam: On Boossa I don't have specific numbers, but there are more than 200. About 50 or 60 are detained at the TID; and then at the detention centre at Welikada Prison, there are 59 to 70; and at Anuradhapura Prison in the centre of Sri Lanka, there are another 70. It goes on like that at different locations.

Mr. Russ Hiebert: Okay, thank you.

Ms. Grewal.

The Chair: You have 30 seconds, Ms. Grewal.

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

Do you think the Tamils are being included in any domestic reform or reconciliation processes?

Mr. Roy Samathanam: That has just not been happening in the past two or three years. From the day I was born in 1970—I am 40 years old—there have been ethnic riots. Tamils were chased in the 1958 riots, the 1977 riots, and in 1983. Our family was personally affected by all three riots.

So this reconciliation thing is all false. I don't believe anything about it because they're not changing. For example, a UN special representative visited our prison and recommended that we should be taken to court, and there should be a judge. Nothing has happened yet.

My house and belongings were burned in the 1983 riots and in the communal riots. In 1977 when I was seven years old, they burned it down, so we went to a refugee camp. We built it again in 1983.

I was not even born in 1958, but my parents told me that Colombo was totally burned then. I studied in Colombo at S. Thomas' College. My wife is Sinhalese, and I have nothing against any Sinhalese.

But at that time the opposition party ruled the country. So both parties have ruled after independence and nothing has happened. Both are the same, so something different has to happen.

• (1350)

[*Translation*]

The Chair: Ms. Pécelet, the floor is yours.

Ms. Ève Pécelet (La Pointe-de-l'Île, NDP): Thank you very much for being here.

[*English*]

Do they have translation?

[*Translation*]

Can everyone understand?

[*English*]

I could ask my question in English, but it's just not going to be as fluid and as clear as I would wish it to be.

So we want the United Nations to have a study. We want the United Nations to go to Sri Lanka and have an independent trial, if we can say that, or a study.

What are the obstacles? Why is the United Nations not making the decision? We have the proof, we have the witnesses, we have organizations that went into the field and know what happened. The government cannot deny what happened.

What are the obstacles preventing the United Nations from taking those actions?

Mr. Alex Neve: I think it all comes down to politics.

Ms. Ève Pécelet: Yes.

Mr. Alex Neve: Obviously, most things within the United Nations do.

I think the starting point is to highlight that the Government of Sri Lanka itself is strongly opposed to the idea of an international investigation going forward. That in itself would obviously be one very significant obstacle to carrying out an effective international investigation, because without the cooperation and collaboration of the Sri Lankan government, it will be difficult. It wouldn't be impossible, but it would be very difficult for that investigation to be carried out. One could imagine, for instance, the Sri Lankan government even refusing to grant permission to international staff, members of that investigation, to travel to Sri Lanka to do on-the-ground work. So that's one obstacle.

The second obstacle is that there are a number of other governments within the UN system that are willing to support Sri Lanka's cause here, which is not new or unusual. There have certainly been times in the past when Sri Lanka has been able to rally other governments to its side on crucial UN votes. One thinks of the special session of the UN Human Rights Council that was held in May 2009, in the aftermath of the horrific final few months of the armed conflict in Sri Lanka, a time when rampant human rights violations by both sides in the conflict were at the forefront of the international community's attention. The Human Rights Council should have grappled with that very seriously. Instead, Sri Lanka rallied other governments to its side, and the outcome of that special session was a congratulatory message to the Sri Lankan government for having won the war.

Those are the dynamics and politics that tend to play out within the UN around Sri Lanka, and that's why it's going to take a very thoughtful, comprehensive strategy to get us there and some small steps, as I was laying out, including at the next session of the UN Human Rights Council. That would be one small step forward. Those are the kinds of things we need to be focusing on.

Ms. Ève Pécelet: So the first step would be to secure the cooperation of the Government of Sri Lanka, not going to the United Nations. So you're saying that the United Nations didn't want to act because it knew that it wouldn't get the cooperation of the Government of Sri Lanka.

What steps should the Commonwealth organization or something like that take towards the Government of Sri Lanka? Are there other things we could do to ensure their cooperation before going to the United Nations?

• (1355)

Mr. Alex Neve: We have to remember when we talk about the United Nations, there is no such thing as the United Nations. It's of course a whole bunch of different nations, all of whom have slightly different positions and policies and goals on any issue, including Sri Lanka.

Some may be thinking very constructively, okay, if we're going to move forward with some sort of UN led investigation there, it's really only going to be effective if we get Sri Lanka on side. So let's constructively think of the way to do so. There are other nations who aren't thinking constructively but obstructively. They're receptive to Sri Lanka's pleas to block this, and Sri Lanka is saying, we don't want this to happen, so stand with us in opposing this.

The strategies need to take account of both of those possibilities. Ultimately we may reach a point where it becomes clear that it's going to be absolutely impossible to obtain any kind of cooperation and collaboration from the Sri Lankan government, and at that time we and other organizations might say to UN member states, you have to move forward with it anyway. Here's the way you need to do so, even without Sri Lanka's collaboration and cooperation.

Ms. Ève Pécelet: Thank you.

The Chair: We'll turn now to Professor Cotler.

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

I want to express appreciation to all the witnesses today; to Mr. Samathanam for his compelling testimony about his personal experience of the situation; and, of course, to representatives of Amnesty International who have been with this issue for a considerable period of time.

I will mention parenthetically that just before coming here, Wayne Marston and I held an urgent press conference on the matter of the imprisoned Egyptian blogger, Maikel Nabil, who's in the 87th day of a hunger strike. In that press conference, where we called for his immediate release and the dropping of charges, I mentioned that Amnesty International had actually adopted him as a prisoner of conscience in August 2011. He became, in effect, almost the first prisoner of conscience in the post-Mubarak era. So I want to express appreciation for that.

Mr. Alex Neve: I express appreciation back to you, then.

Hon. Irwin Cotler: I'm now serving as his international legal counsel, so it's very much appreciated.

Now, on this issue, it seems to me that the generic concern here is to establish an international, independent accountability mechanism to combat the culture of impunity, to ensure that a negative precedent will not be set by failing to do that, and to assist with reconciliation in Sri Lanka. This was the recommendation made by Ban Ki-moon's own advisory panel. He then said he did not have the authority to do that. I don't know why, because it seemed to me that he did—but we'll leave that aside.

I know that in your report, you recommend that Ban Ki-moon should work together with the UN Security Council, the General Assembly, and the UN Human Rights Council for that purpose. From your testimony today, I think the more specific and direct route might be going to the UN Human Rights Council immediately, and where Canada can play a role is by effectuating the establishment of such an appropriate accountability mechanism and mandate as quickly as possible.

Turning to the last point—because much of this has been by way of inviting any comment—you also mention in your report that member states, under the principle of universal jurisdiction, can themselves seek to exercise that principle and hold Sri Lankans responsible with respect to any violations of international humanitarian and criminal law.

Is it your view that Canada would have a role to play in this? I would think we would, because we are one of the countries that has actually established a universal jurisdiction mechanism through the Crimes Against Humanity and War Crimes Act and we are a state party to the ICC.

Mr. Alex Neve: That's a very good point.

It's important to highlight that there are two ways forward in ensuring that justice and accountability advances in Sri Lanka. The first is the need for a large, overarching process of some kind—an independent international commission or investigation—but the second is case-specific work.

We strongly endorse the notion that when individuals are found in other countries who may have been in the Sri Lankan military or among the Tamil Tigers—or either side of the conflict—and against whom there are credible allegations of their responsibility for serious crimes under international law, such as war crimes and crimes against humanity, then absolutely, countries should act.

Canada could and should be a leader there. As you highlight, our law is in order. The Crimes Against Humanity and War Crimes Act gives us the jurisdiction to do so. We have the personnel in place: we have specialized units within the Department of Justice and the RCMP to advance that kind of work. That's another way in which Canada can demonstrate how serious we are about advancing an international accountability agenda for Sri Lanka.

• (1400)

Hon. Irwin Cotler: Is my time up?

The Chair: You have one minute, Mr. Cotler.

Hon. Irwin Cotler: I noted in your report, and I understand the reasons you gave today, why you wouldn't and didn't appear before the LLRC. But I think you indicated that if a credible, independent commission were established—with an appropriate mandate respecting accountability, with witness protection, and with an undertaking to bring those responsible to justice, etc., as set forth in your report—then Amnesty International might be prepared to appear, under those circumstances.

Mr. Alex Neve: Absolutely. We want to put our money where our mouth is when it comes to this need for justice and accountability.

We feel we have a lot to contribute and offer in Sri Lanka, whether it be the results of our many years of human rights research in Sri Lanka, or some of the recommendations and thinking we've done over the years—in collaboration with Sri Lankans themselves, of course—about the kinds of reforms that are necessary to move forward with human rights change in the country.

We would welcome the right body and the right process being in place to come forward and share that sort of information. But the LLRC is not it.

The Chair: Thank you.

Ms. Grewal, we go to you next.

Mrs. Nina Grewal: Thank you, Mr. Chair.

Could you please tell us to what extent the government's political opponents, other dissidents, and other kinds of human rights defenders are able to operate without any harassment?

Mr. Alex Neve: Do you mean if they able to cooperate with the LLRC?

Mrs. Nina Grewal: Yes. Without harassment are they able to operate there?

Mr. John Argue: Sorry, I didn't understand your question.

I don't believe others are, no. I think the mandate and the practice of the LLRC, during the months it did operate and listen to groups or individuals, discouraged many people—or certainly groups. To my knowledge, there's certainly no international human rights group that has appeared before it.

Mrs. Nina Grewal: In your assessment, have this year's local government elections been free and fair?

Mr. John Argue: As always, there's discussion and dispute about that. The general comments have been that they were free and fair. The established statements are that, in fact, they were free and fair. But there are qualifications: Individual reports by the organization to which I contributed my time pointed to serious questions. I think, at the least, Amnesty would say there should be improvements to the process. There can certainly be improvements.

Mrs. Nina Grewal: David, do you have any questions?

The Chair: It sounds as though we've completed our questions.

I'm a bit worried. Early on I cut off Mr. Neve when he was about to go through some stuff.

I have a sense that you were trying to get through a series of recommendations. I'm not sure if you managed to squeeze them all in. If not, now might be the opportune moment to finish them.

Mr. Alex Neve: I had three main recommendations. I think I got two of them in front of you. One is that we certainly look to the Canadian government to remain very active at the UN Human Rights Council, and the March session in particular. We think that's vital. The other is to really move forward with a two-year Commonwealth agenda, starting now and leading up the summit in 2013.

The third would simply be, in a more general sense, to highlight how important it is that Canada maintain, and we would say even strengthen, the attention given to human rights concerns, in particular justice and accountability issues, in our bilateral relationship with Sri Lanka.

The Chair: Thank you very much to all our witnesses.

To all of our witnesses, thank you very much. We appreciate your coming forward and bringing this very important matter to our attention. Thank you.

I just have to take a moment to consult with the clerk about something before I dismiss the members of the committee.

There was a matter I was looking at with the clerk, but it sounds as though she's been talking with members behind the scenes. We've made the necessary changes to the witness list.

The meeting is adjourned.

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