

Congress of the United States
Washington, DC 20515

June 27, 2016

The Honorable John F. Kerry
Secretary of State
U.S. Department of State
Washington, DC 20520

Dear Secretary Kerry,

As you well know, the United States, and especially the State Department, has played a critical role in promoting human rights, accountability and reconciliation in Sri Lanka, including the passage of last year's landmark resolution – Resolution 30/1 – at the U.N. Human Rights Council. On June 29th, the U.N. High Commissioner for Human Rights Zeid Ra'ad Al Hussein will report to the Council on progress toward implementing the resolution. We urge you to remain engaged on the implementation of Resolution 30/1, and to increase U.S. public and private messages to Sri Lanka that encourage and press the Government of Sri Lanka to take the difficult steps required to honor its commitment to ensure peace and security for all the island's communities. The U.S. should continue to provide Sri Lanka with the technical and capacity-building support it needs to successfully implement the provisions of Resolution 30/1. At the same, we urge that the U.S. make clear that additional funding, trade and military-to-military incentives are dependent upon substantial and sustained implementation of the resolution's requirements and credible advances in the areas of transitional justice, ending impunity, military and security sector reform, rule of law, and addressing the concerns of the Tamil people set forth in Resolution 30/1.

Adoption of Resolution 30/1 in October 2015 was a major achievement and an important milestone in Sri Lanka's journey toward lasting peace and a just settlement of its decades-old ethnic conflict. President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe displayed admirable political courage in working with Council members and negotiating a consensus resolution that contains many of the elements needed for a sustainable peace. We anticipate High Commissioner Zeid will acknowledge progress that has been made, such as the return of some land to civilians, the drafting of a new constitution and an ambitious reform agenda.

However, progress in implementing Resolution 30/1 had been slow and often grudging, and there are growing doubts about the government's political will and ability to see the complex process through. In particular, we ask that the U.S. government remain significantly engaged in the following:

- **Transitional Justice and Accountability.** There has been only halting efforts made in developing the four transitional justice mechanisms pledged by the Sri Lankan government to the UNHRC – a truth commission, reparations, a missing persons' office, and an independent special court for war crimes with international participation. Successful implementation of these mechanisms is central to the success of the government's larger agenda to promote good governance and rule of law. While an Office of Missing Persons (OMP) has been approved by the Cabinet and the parliament to help thousands of families seeking information about relatives missing during the civil war, it lacks any effective link to criminal investigations and, thus, maintains *impunity* for large-scale enforced disappearances. The design of the OMP also lacked genuine consultation with victims' families, undermining confidence among victims' groups and civil society. Last month, in a welcome move, the Sri Lankan government ratified the U.N. Convention on Disappearance, but this will have little meaning if genuine consultation with

victims continues to be ignored and if the government remains unwilling or unable to prosecute cases of forced abduction and murder, for which they already have substantial evidence.

- **Meaningful Consultation with Victims.** As noted above, genuine consultation with victims on the Office of Missing Persons failed to occur prior to its design approval by the parliament. Meaningful consultation and inclusion of victims are essential to the credibility not just of the OMP, but for all of the justice and accountability mechanisms established under Resolution 30/1.
- **Rule of Law, Witness and Victim Protection, and Legal Reform.** Confidence is faltering in the government's commitment to restore rule of law, a pledge that was central to Sirisena's election. Investigating complex financial crimes and political killings under the former regime is difficult and dangerous work. There is increasing evidence that senior officials in the Attorney General's department and in the military have blocked important criminal investigations. The government must take steps to dismiss or discipline such obstructionists and remove from policymaking roles officials undermining efforts to support justice and accountability. Credible reports indicate that witnesses in criminal cases implicating the security forces face serious threats. The government has yet to establish an effective witness protection program or revise its weak witness protection law, in compliance with provisions in Resolution 30/1.
- **Repeal of the Prevention of Terrorism Act (PTA) and the Public Security Ordinance Act.** While adoption of some important legal and institutional reforms is said to be close – including legislation to replace the repressive Prevention of Terrorism Act (PTA) – recent actions by the government and security forces increase doubt about how real the commitment is to such reform. Recent arrests under the PTA have violated due process and reawakened fears of a return to “white van” abductions, which were a primary method used for hundreds of disappearances under the Rajapaksa regime. Further, detainees are still being held under the sweeping provision of the PTA law. Both Acts should be replaced with anti-terror legislation that comply for due process and with international law. However, the government should not wait for the repeal of the PTA before ending violations. For example, it should end abuses by the Terrorism Investigation Division (TID) of the police, which continues to detain suspects without charge, often holding them in abusive and humiliating ways, in contravention of procedures outlined by Sri Lanka's own Human Rights Commission.
- **Security Sector Reform.** The government should initiate independent civilian oversight to disentangle the military, security, intelligence and police forces – with the express goal of ensuring the independence of police forces, reducing the role of the military in internal security matters, and making clear the distinct roles and chain of command in all branches of the security sector.
- **Demilitarize the North and East.** A comprehensive plan for security sector reform should also reduce the military's social, political and economic footprint in the North and East, namely the Tamil and ethnic minority regions and areas of the civil war. The military should be returned to barracks and demobilized from this highly militarized region. The heavy military presence in these regions and the military's continuing role in civilian and commercial activities perpetuate an atmosphere of fear and prevent the return to normal life. Such a plan should also include job training, re-employment programs and psycho-social support for demobilized soldiers. Many ex-soldiers are severely traumatized and caught in continued cycles of violence, in the home, on the street and as hired thugs for politicians and elites.

- **Ethnic Issues and the Legacy of the War.** While the president and senior officials have set a more conciliatory tone, in the past seven months, there has been little progress on the key issues of concern to the Tamils in the North and East reflected in the text of Resolution 30/1: the release of hundreds of detainees under the PTA, the return of land held by the military to Tamil and Muslim civilian owners, investigations into the tens of thousands of forcibly disappeared people, the safe return of the internally displaced (IDPs), and the removal of the military from civilian affairs in the North and East. Progress has been so slow and grudging that what were intended to be confidence-building measures have now become confidence-wakening measures. In addition, confidence has been damaged by the tight and often intimidating surveillance of Tamil civil society and activists by military and police, and by unwarranted arrests. The government's inability to gain effective civilian control over the military affects its slow implementation of other Council commitments, which in turn undermines public confidence, especially among the Tamils, in the government's political will to guarantee justice for all.

Mr. Secretary, we do not underestimate the difficulties faced by the Sri Lankan government in carrying out these reforms. We firmly believe, however, that U.S. and international attention and encouragement have been crucial to any progress accomplished to date, both during the U.N. Human Rights Council process and afterwards. We therefore ask that the U.S. sustain its substantial role in ensuring a credible post-war process for Sri Lanka. It is the only way forward and ensuring a lasting peace and a prosperous future all the people of Sri Lanka.

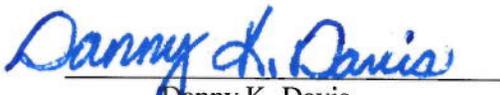
Sincerely,



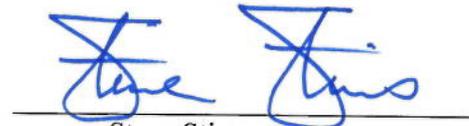
James P. McGovern
Member of Congress



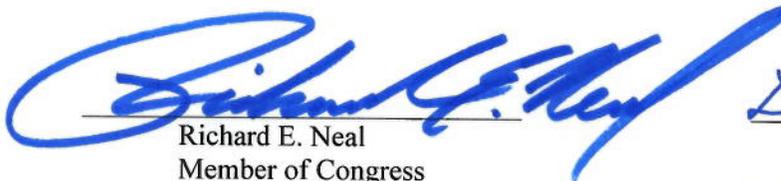
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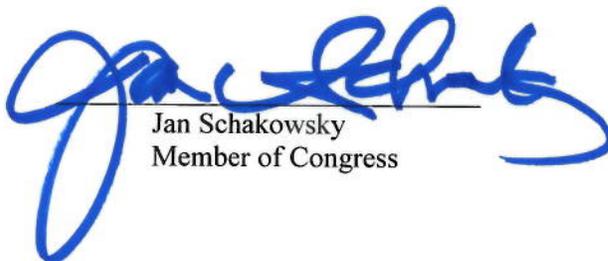
Steve Stivers
Member of Congress



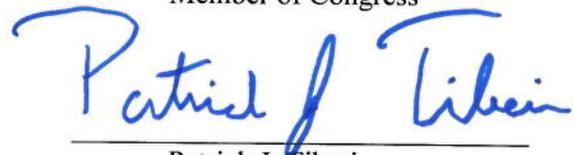
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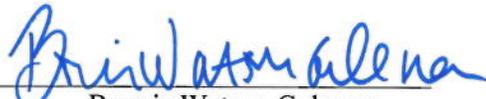
Jan Schakowsky
Member of Congress

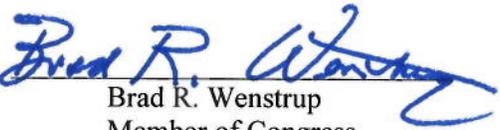


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Member of Congress

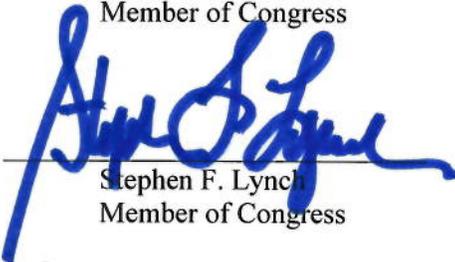

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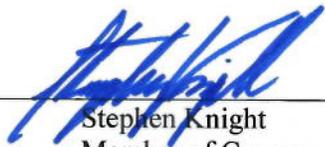

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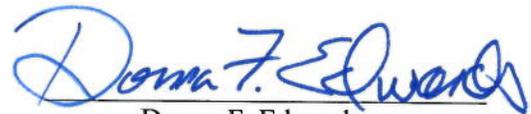

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Stephen Knight
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Barbara Lee
Member of Congress

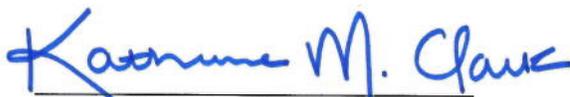

Niki Tsongas
Member of Congress

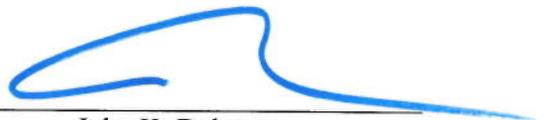

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