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SUBJECT: SRI LANKA WAR-CRIMES ACCOUNTABILITY: THE TAMIL

PERSPECTIVE

REF: A. 09 COLOMBO 1180 B. COLOMBO 8

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Classified By: AMBASSADOR PATRICIA A. BUTENIS. REASONS: 1.4 (B, D)

¶1. (S) SUMMARY: There have been a few tentative steps on accountability for crimes allegedly committed by Sri Lankan troops and civilian officials during the war with the LTTE. President Rajapaksa named a committee to make recommendations to him on the U.S. incidents report by April, and candidate Fonseka has discussed privately the formation of some form of "truth and reconciliation" commission. Otherwise, accountability has not been a high-profile issue -- including for Tamils in Sri Lanka. While Tamils have told us they would like to see some form of accountability, they have been pragmatic in what they can expect and have focused instead on securing greater rights and freedoms, resolving the IDP question, and improving economic prospects in the war-ravaged and former LTTE-occupied areas. Indeed, while they wanted to keep the issue alive for possible future action, Tamil politicians with whom we spoke in Colombo, Jaffna, and elsewhere said now was not time and that pushing hard on the issue would make them "vulnerable." END SUMMARY.

ACCOUNTABILITY AS A POLITICAL ISSUE

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¶2. (S) Accountability for alleged crimes committed by GSL troops and officials during the war is the most difficult issue on our bilateral agenda. (NOTE: Both the State Department Report to Congress on Incidents during the Conflict and the widely read report by the University Teachers for Human Rights (Jaffna) also detailed many incidents of alleged crimes perpetrated by the LTTE. Most of the LTTE leadership was killed at the end of the war, leaving few to be held responsible for those crimes. The Government of Sri Lanka (GSL) is holding thousands of mid- and lower-level ex-LTTE combatants for future rehabilitation and/or criminal prosecution. It is unclear whether any such prosecutions will meet international standards. END NOTE.) There have been some tentative steps on accountability on the GSL side. Soon after the appearance of the State Department report, President Rajapaksa announced the formation of an experts' committee to examine the report and to provide him with recommendations on

dealing with the allegations. At the end of the year, the president extended the deadline for the committee's recommendations from December 31 until April. For his part, General Fonseka has spoken publicly of the need for a new deal with the Tamils and other minorities. Privately, his campaign manager told the Ambassador that Fonseka had ordered the opposition campaign to begin work planning a "truth and reconciliation" commission (ref B).

¶3. (S) These tentative steps notwithstanding, accountability has not been a high-profile issue in the presidential election -- other than President Rajapaksa's promises personally to stand up to any international power or body that would try to prosecute Sri Lankan war heroes. While regrettable, the lack of attention to accountability is not surprising. There are no examples we know of a regime undertaking wholesale investigations of its own troops or senior officials for war crimes while that regime or government remained in power. In Sri Lanka this is further complicated by the fact that responsibility for many of the alleged crimes rests with the country's senior civilian and military leadership, including President Rajapaksa and his brothers and opposition candidate General Fonseka.

#### THE TAMIL PERSPECTIVE

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¶4. (S) For different reasons, of course, accountability also has not been a top priority for most Tamils in Sri Lanka. While Tamils have told us they would like to see some form of accountability, they have been pragmatic in what they can expect and have focused instead on securing greater rights and freedoms, resolving the IDP question, and improving economic prospects in the war-ravaged and former LTTE-occupied areas. Indeed, while they wanted to keep the issue alive for possible future action, Tamil leaders with whom we spoke in Colombo, Jaffna, and elsewhere said now was not time and that pushing hard on the issue would make them "vulnerable."

¶5. (S) The one prominent Tamil who has spoken publicly on the issue is Tamil National Alliance (TNA) MP, self-proclaimed presidential candidate, and Prabhakaran relative M.K. Sivajilingam. Breaking from both the TNA mainstream and the pro-government Tamil groups, he launched his campaign because he believed neither the government nor the opposition was adequately addressing Tamil issues. Sivajilingam has focused on creating a de-centralized federal structure in Sri Lanka with separate prime ministers for the Sinhalese and Tamils, but he also has spoken about accountability, demanding an international inquiry to get justice for the deaths and suffering of the Tamil people.

¶6. (S) Other Tamil politicians have not made public statements on accountability and are generally more pragmatic in their thinking. In our multiple recent discussions with TNA leader R. Sampanthan, he said he believed accountability was important and he welcomed the international community's -- especially the diaspora's -- interest in the issue. But Sampanthan was realistic about the dim prospects for any Sri Lankan government to take up the issue. Granting that governments in power do not investigate their own, Sampanthan nevertheless said it was important to the health of the nation to get the truth

out. While he believed the Tamil community was "vulnerable" on the issue and said he would not discuss "war crimes" per se in parliament for fear of retaliation, Sampanthan would emphasize the importance of people knowing the truth about what happened during the war. We also have asked Sampanthan repeatedly for his ideas on an accountability mechanism that would be credible to Tamils and possible within the current political context, but he has not been able to provide such a model.

¶7. (S) Mano Ganesan, MP and leader of the ethnic Tamil Democratic People's Front (DPF), is a Colombo-based Tamil who counts as supporters many of the well-educated, long-term Colombo and Western Province resident Tamils, and was an early supporter of Fonseka. The general made promises that convinced him that if Fonseka were to win, ethnic reconciliation issues would then be decided by parliament, not the Executive President. On accountability, Ganesan told us that while the issue was significant XXXXXXXXXXXX accountability was a divisive issue and the focus now had to be on uniting to rid the country of the Rajapaksas.

¶8. (S) TNA MP Pathmini Sithamparanathan told us in mid-December that the true story of what happened in the final weeks of the war would not go away and would come out eventually, but she also said now was not the time for war crimes-type investigations. Finally, on a recent trip to Jaffna, PolOff found that local politicians did not raise accountability for events at the end of the war as an issue of immediate concern, focusing instead on current bread-and-butter issues, such as IDP releases, concerns about Sinhala emigration to traditional Tamil regions, and

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re-developing the local economy.

COMMENT

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¶9. (S) Accountability is clearly an issue of importance for the ultimate political and moral health of Sri Lankan society. There is an obvious split, however, between the Tamil diaspora and Tamils in Sri Lanka on how and when to address the issue. While we understand the former would like to see the issue as an immediate top-priority issue, most Tamils in Sri Lanka appear to think it is both unrealistic and counter-productive to push the issue too aggressively now. While Tamil leaders are very vocal and committed to national reconciliation and creating a political system more equitable to all ethnic communities, they believe themselves vulnerable to political or even physical attack if they raise the issue of accountability publicly, and common Tamils appear focused on more immediate economic and social concerns. A few have suggested to us that while they cannot address the issue, they would like to see the international community push it. Such an approach, however, would seem to play into the super-heated campaign rhetoric of Rajapaksa and his allies that there is an international conspiracy against Sri Lanka and its "war heroes." BUTENIS