

Sri Lanka, Jaffna Hospital Zone

A. Reuters dispatch of September 26, 1990

[Source: De Silva, D., *Reuters Dispatch*, Colombo, September 26, 1990]

N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

Sri Lankan army vacates garrison and offers it to red cross

COLOMBO, Sept 26, Reuters – Sri Lankan troops who battled their way into a colonial fort in the heart of rebel territory less than two weeks ago abandoned it on Wednesday and requested that the International Red Cross take it over, a government minister said.

Deputy Defence Minister Ranjan Wijeratne said the move would allow a major hospital to reopen less than one mile [...] from the fort.

But the Liberation Tigers of Tamil Eelam (LTTE), the main guerrilla group fighting for a separate Tamil homeland, said the troops had retreated from the fort after heavy fighting.

“Contrary to the government’s claim that they evacuated voluntarily, the fort fell into LTTE hands after heavy fighting that started at two o’clock this morning”, Lawrence Thilakar, LTTE spokesman in Paris, told Reuters by telephone.

He said the Tigers now occupied the fort and had recovered heavy weapons and vehicles from it.

The Tigers had pounded troops in the 350-year-old Dutch fort in Jaffna with mortars and rocket-propelled

grenades since they launched an offensive in June.

The hospital, with about 1,500 beds, had been shut since June because it was near the fighting.

Wijeratne said he told Philippe Comtesse, head of the International Committee of the Red Cross (ICRC) in Sri Lanka, to take over the fort and resume operations at the hospital. He was awaiting a response.

“Even if the ICRC does not take it, we will not go back to the fort so that we can avoid bombing the area,” Wijeratne told a news conference. [...]

Wijeratne said withdrawal from the fort did not mean that the government had abandoned the fight against the rebels in their stronghold of Jaffna. He warned that if the Tigers attempted to move into the vacated base “effective action” would be taken against them.

Military analysts said the fort was not of any strategic importance to the government or the rebels. But since it was located in the heart of the minority Tamil community, it had become a focus of the independence struggle.

Hundreds of government troops fought their way into the garrison two weeks ago and relieved soldiers and policemen who had been trapped there by the rebel siege.

The Tigers launched the June offensive in the north and east after abandoning 14 months of peace talks with the government.

Tamils, who form 13 per cent of the island's 16 million population, say they have been discriminated against by the majority Sinhalese-dominated government since independence from Britain in 1948.

B. ICRC press release of November 6, 1990

[Source: ICRC Press Release, Delegation in Sri Lanka, November 6, 1990]

In order to allow the early reopening of Jaffna Teaching Hospital, which was badly damaged during the fightings in Jaffna, the International Committee of the Red Cross (ICRC) set up a number of rules to be respected by all parties involved. These provisions are in line with universally recognised practices in situations of conflict. They intend to provide in the future security from the fighting to the patients and the staff of the hospital. These rules have been notified by ICRC to both the Sri Lanka Government and the LTTE, and are to be implemented as of November 6, 1990.

These rules are as follows:

- The premises of Jaffna Hospital are placed under ICRC protection. They will be regarded by the Parties

as a Hospital zone:

- the compound will be clearly marked with red crosses for easy identification from the ground and the air
- no armed personnel will be allowed within the compound;
- no military vehicle will be stationed at the entrance of the Hospital Compound;
- no vehicle other than those of the hospital, the Sri Lanka Red Cross and the ICRC will be admitted into the compound;
- Around the Hospital, a safety area is established. The rules governing this safety area (which includes the hospital compound) are:
 - the area will be clearly marked in such a way that it can be easily identified both from the ground and from the air
 - the area will remain void of any military or political installation;
 - no military action will be undertaken either from or against the safety area;
 - no military base, installation or position of any kind will be established or maintained within the area;
 - no military personnel will be stationed and no military equipment will be stored at any time within the said area;
 - no weapon will be activated within the area, either from the air or from the ground;
 - no weapon will be activated from outside the safety area against persons or buildings located within the safety area.

In case of severe or persistent violation of these rules, the ICRC may unilaterally withdraw its protection of the hospital.

The ICRC trusts that the parties concerned will strictly observe the above-mentioned rules as it is on this sole condition that the Jaffna Teaching Hospital will be able to resume, and keep on carrying out thereafter, its much needed humanitarian tasks in favour of the sick and wounded of the Northern Province.

Colombo, November 6, 1990

Discussion

1. Is the conflict in Sri Lanka an international or a non-international armed conflict? Is any kind of protected zone provided for in the law of non-international armed conflict? On which legal basis could such a zone be established? (GC I-IV, Art. 3)
2. What is the aim of the hospital zone? Of the safety area around it?
3. Which of the rules listed in the ICRC press release would apply anyway under IHL even if no hospital zone or safety area were established? (GC I-IV, Art. 3)
4. To which kind of zone provided for in the IHL of international armed conflicts does the hospital zone described in the ICRC press release correspond? To which does the safety area correspond? How can its rules become binding for parties to a non-international armed conflict? (GC I-IV, Art. 3; GC I, Art. 23; GC IV, Arts 14 and 15)
5. Why does the Sri Lankan government want the ICRC to take over the fort in Jaffna? What arguments

exist for the ICRC in favour of and against accepting that task? Under what conditions would you accept if you were the ICRC?

6.

- a. If the IHL of international armed conflict is applied, may the emblem be used for the hospital compound? Why, according to the rules, is only the hospital zone to be clearly marked with red crosses for easy identification from the ground and the air? May the safety zone also be so marked? Why/why not? (GC I and GC II, Art. 44; GC IV, Annex I, Art. 6; P I, Art. 18).
- b. In non-international armed conflicts, when can the emblem be used? By whom? Under what conditions? Could the emblem be used if the zones were not under ICRC control? (GC I and GC II, Art. 44; P II, Art. 12)

7. Why does the ICRC plan to withdraw if the rules are violated? Do the wounded and sick not need the presence of the ICRC most urgently when the rules are violated?

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