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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Written statement* submitted by African Green Foundation International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2019]

* Issued as received, in the language(s) of submission only.



Rebuttal to the allegations against Sri Lankan armed forces

No country has had an armed force compete a military operation and a humanitarian operation simultaneously – except Sri Lanka

Which foreign military or even UN peace force has carried out a similar rescue operation of this magnitude? – none except Sri Lanka

Why is the UN asking Sri Lanka to investigate credible allegations when the UN/OHCHR already undertook 2 investigations to do so (Darusman Report & OISL)?

Is the UNSG's Panel of Expert report legal because it was appointed without UN General Assembly or UN Security Council mandate but was used as a basis for several resolutions and was extensively quoted by both OHCHR heads in their reports/statements though it was not tabled officially

Darusman Panel declared LTTE as 'the most disciplined and most nationalist of the Tamil militant groups'.

How did 'credible allegations' claimed by the PoE turn into 'credible evidence'

How did "there could have been as many as 40,000 civilian deaths." as quoted by PoE turn out to be more than 40,000 dead some figures even going as far as 200,000?

Why was the UN country team figure (7721 deaths) rejected, when pro-LTTE website quoting dead was also 7398 and when even Navi Pillay quoted 2800 dead on 13th March 2009. Why is no one explaining how 2800 deaths on 13th March became 40,000 dead 36 days later? No one is also telling how 37,200 died between 13th March 2009 - 18th May 2009 and where these bodies are. So far none of those making these wild allegations have come up with details of the dead nor have they produced the skeletons. When UNSG arrived 3 days after the conflict ended and he flew over the conflict area surely he and his team would have seen & taken pictures of newly dug graves. In such a small area no one can still explain where the dead disappeared to (if they were killed)?

- Under the same law LTTE also does not enjoy right to combatant status or prisoner of war status.
- Rule 6 declares that civilians are protected against attack unless and for such time as they take a direct part in hostilities – this leads to further questions not answered
- Does the UN know how many civilians did not take part in hostilities?
- Does the UN know how many civilians took part in one or two acts of hostilities making distinction further complicated?
- Does the UN know how many civilians volunteered to take part in hostilities?
- Does the UN know how many civilians may have died while taking part in hostilities?
- Does the UN know how many will admit and own up to being a civilian but taking part in hostilities?
- Does the UN know how many civilians 5 years on will admit to taking part in one or more hostile acts
- Can the UN rely on these civilian accounts if all those saved claim they did not take part in hostilities and thus provide them the package of witness protection for no reason?

The biggest question is how the initial call from the UNSG to investigate the last 3 months of the conflict ended up investigating even beyond 2009 and also included non-conflict related issues which could have been easily broached at the Universal Periodic Review.

The other question is why is the UN /OHCHR only concentrating on one set of victims only (Tamils) totally ignoring the other victims (Sinhalese & Muslims) they were virtually

ethnically cleansed from their original habitats in the North by the LTTE & the Indian Army.

The UN & OHCHR claims to want accountability and truth but conveniently brushes under the carpet calling for the crime list of the LTTE since the 1970s and the Indian Army from 1987 to 1990 and India for being a state sponsor of terror because India clandestinely trained unemployed Sri Lankan Tamil youth in India which is clearly established in the Jain Commission report and is the best evidence anyone can produce to direct guilt at the Indian government.

How can only part of a conflict be investigated when it is an injustice to all victims? How can a handful of cases be used targeting one party in order to accuse only that party? These are all legal violations and morally indefensible.

Why is there never mention of the other associated entities that fanned the conflict for 30 years – LTTE fronts that were banned under UNSC Resolution 1373, the Church, the Christian NGOs, foreign envoys, UN officials, politicians and all others who were providing some sort of material support covertly or overtly. They were all aiding and abetting the crime and should also be including to be punished.

Why is the whole emphasis from the PoE to the OISL and now to a hybrid court only on targeting the Sri Lankan Army?

UN/OHCHR undertakes 2 investigations and cannot yet present a legally binding case for war crimes/crimes against humanity on the one party (Sri Lankan Army) they are targeting (except highlight individual folly which does not constitute a systematic command order) and is now asking Sri Lanka to find the evidence

A plethora of people from former UN officials, media, human rights organizations, foreign envoys have said war crimes have been committed. They have even given numbers of the dead. But why have they not given the names, the addresses or family details of these dead that are supposed to range from 40,000 to 100,000 people?

OISL - If the report as per Summary says that it contains the principal findings ‘during the armed conflict in Sri Lanka’ why is it covering the period after May 2009?

OISL - If the report as said in the Introduction was to cover the period covered by the LLRC why has the OHCHR exceeded the mandate by extending the investigation to 2011?

OISL - If the accusation is that war crimes have been committed how can the accusations change just because ‘signals of engagement’ comes from the newly elected Government (Intro.2)?

OHCHR report says that the report represents a ‘human rights investigation, not a criminal investigation’ but says that the team ‘attempted to identify the patterns of violations of international human rights and humanitarian law perpetrated not only during the final stage of the armed conflict but during the whole period covered by investigation’ (this does not make any sense)

Why is the report going to lengths to write about food insecurity, inflation, lack of livelihood opportunities when their scope did not cover these aspects?

If the investigation team says it has ‘documented long-standing patterns of arbitrary arrest and detention by government security forces and of abduction by paramilitary linked to them’ where is the documented evidence?

On what substantiated proof and with what credible evidence is the Panel claiming that these abductions are taking place in ‘white vans’ and why is the Panel taking pains to link this to the PTA and seeking its removal through its report?

On what grounds that the Team says that ‘those who disappeared after handing themselves over to the army at the end of the conflict were deliberately targeted’ when 11,000 of the LTTE cadres who surrendered are all alive and 594 child soldiers were given a Presidential Pardon? With such hard proof what is the proof that the Panel has to say otherwise?

Team highlights ‘requirements of distinction’ but has no explanation to give for LTTE cadres firing in civil clothes or civilians who were combatants willingly while others were

forced recruits. In such a scenario how does the UN provide the security forces the means of distinction! Noteworthy too that all 11,000 LTTE cadres that surrendered did so in civilian attire – if the argument that the security forces were indiscriminately killing held true how come all 11,000 are alive?

Where is the ‘documented’ proof that the Sri Lankan security forces used torture after the armed conflict?

On what grounds does the Team say that the GOSL restricted humanitarian organizations and personnel to exercise their functions effectively? According to the law the GOSL need only to provide the access but statistics are available to showcase that it was not only the GOSL, the WFP, the ICRC and other entities all took relief items. The ICRC was in the Vanni till the 15th of May 2009 and it was only after that they wound up operations after the last batch of civilians were released. Has the Team looked at the statistics of the ICRC and other entities and why have these not been made public for the people also to look at.

On what grounds is the Team concluding that the relief sent to the Vanni was insufficient when there are photos of relief items being used as LTTE bunker safeguards instead of being shared among the civilians. There are civilians who are witnesses who claim they LTTE confiscated the food to be given to their cadres and their families and some civilians had to pay exorbitant amounts for food. Why have these witness accounts not been highlighted by the Panel?

Why is the High Commissioner recommending a hybrid special court to try war crimes/crimes against humanity when the report doesn’t have proper evidence to showcase any crimes?

Why should the GOSL invite the OHCHR to establish a full-fledged country presence to monitor the situation of human rights and provide technical assistance when the conflict ended in 2009. If there UNHRC has issues on human rights it can be taken up during the UPR sessions why mix it up HR with IHL?

Any war crimes tribunal and allegations of genocide or war crimes holds water if there are dead bodies or at least skeletons. So far other than plucking numbers from the sky there has been no names given of the 40,000 dead. UNSG who toured the conflict zone 3 days after the conflict in a helicopter did not even make any statement to seeing newly dug graves and the US satellite images also could not produce evidence to where the 40,000 dead could have been buried. This questions why PoE refused to accept the UN country team estimate of 7721 deaths

So many questions but very little answers

(Reference - Shenali D Waduge)

Global Srilankan forum excom NGO(s) without consultative status, also share the views expressed in this statement.