



# General Assembly

Distr.: General  
27 June 2019

English only

---

## Human Rights Council

### Forty-first session

24 June–12 July 2019

Agenda item 10

### Technical assistance and capacity-building

## **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.

[03 June 2019]

---

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



**OISL report 30/1, more precisely A/HRC/30/61, is seriously flawed.  
There was no Torture as OISL report para 537, 538 and 539 accused**

**Introduction**

On 23rd March 2017, GSLF sponsored and handed over comprehensive report called “A Factual Appraisal of the OISL Report: A Rebuttal to the Allegations Against the Armed Forces” (the “Rebuttal”) to the Human Rights Officer, Asia-Pacific Section, Mr. Thomas Hunecke at the 34<sup>th</sup> Human Rights Council session negating all above allegations.

However, there is no any response from the UNHRC, especially from the outgoing UNHRHC, relating to our first submission (the “Rebuttal”) to clear the Sri Lankans from the alleged War Crimes.

Therefore,

We the GSLF, take with thank this opportunity to just brief you why and how we deny the allegations and established the truth referring to the Rebuttal and various exculpatory evidence.

*How?*

“...OISL conducted 48 extended and detailed interviews with Sri Lankans, ages 23 to 58, including 12 women, who were direct victims of torture and other cruel, inhuman or degrading treatment by the security forces. These confidential interviews took place in six different countries. Additional information was gathered through interviews with other sources, including organizations who work with victims of torture, as well as from medical files of victims”

OISL report, para 537, 538, 539; Rebuttal to OISL, para 260.

**The following are crucial paragraphs where the OISL describes the types of acts that were perpetrated on victims:**

forced to drink urine, lick blood off the floor, being spat on or urinated on, or being made to eat food “like a dog”

death threats to victims or members of their family, threats that family members would be raped, or victims being forced to watch others being tortured and being threatened with similar treatment

Detainees were also frequently subjected to ethnic slurs, for example being called a “Tamil dog”.

**This is how OISL reporting the interrogation taken place:**

LTTE cadres or supporters, victims described being taken into rooms by groups of three or four officials.

While one or two of the group - often wearing civilian clothes and introduced as belonging to the CID or TID - would lead the interrogation, sometimes in possession of a “file” on the accused, the other – often wearing military or police uniforms –

Sessions would typically last between 30 minutes and two hours... sessions were repeated daily, or several times per week throughout the first weeks and months of a victim’s detention... eventually, over time, interrogation became less frequent and less severe

Interrogation related to suspected LTTE activities, such as the location of weapons caches, information on commanders or foreign support networks, or on planned attacks

Suspected high- ranking LTTE cadres, and those suspected of having belonged to “elite” units such as the LTTE Sea Tigers or intelligence service were singled out for particularly brutal torture

### **The defects with the Panel's arguments about torture:**

Intrinsic problems with relying on the testimony of victims whose statements are not available for scrutiny:

- Even though OISL refers to “medical reports”; those are also classified for 20 years.
- The general problem with witness statements that are kept secret were not considered as credible:
  - The International Criminal Court (ICC), the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Court of Justice (ICJ) refused to consider such reports based on the fact that they were second-hand accounts which were uncorroborated and potentially biased.
  - The ICC has highlighted that... there are inherent difficulties in ascertaining the truthfulness and authenticity of such information.
  - The International Criminal Court (ICC) has held that “Heavy reliance upon anonymous hearsay, as it often the basis of information contained in reports of nongovernmental organizations (“NGO reports”) and press articles, is problematic... In such cases, the Chamber is unable to assess the trustworthiness of the source, making it all but impossible to determine what probative value to attribute to the information.
  - It is also a general principle that evidence from anonymous witnesses is of extremely limited value and... puts the Defence in a difficult position because it is not able to investigate and challenge the trustworthiness of the source(s) of the information.
  - The international Criminal Tribunal for the Former Yugoslavia (ICTY) found that reports created by non-parties “are hearsay in nature” and lack the reliability of the primary source material.

Photographic or video... confessions by security forces officers... documentary evidence such as e-mails, memos, manuals, and so on, that show that the security forces hierarchy endorsed or condoned torture:

- There is no any evidence such as the Abu Ghraib photos depicting torture by Americans of Iraqi prisoners. The respected American investigative journalist Seymour M. Hersh first broke the Abu Ghraib story in an article published in the New Yorker. In that article, he discusses the Taguba Report, a report by an American Army investigator, which had uncovered abuse at Abu Ghraib
- There will be officers in the security forces who for reasons of conscience or some other reason come forward and reveal some of the things they had done or had seen being done, and such officers will have collected documentary evidence of the use of torture, for instance, memos and other documents sent by their superiors, in order to corroborate their allegations if such torture had been taken place. Ironically, there are no such testimony by security forces officers that they engaged in or witnessed torture of suspects as produced by General Taguba which had uncovered abuse at Abu Ghraib.
- There are no documentary evidence that shows that the torture in question was sanctioned by the chain of command.
- If as the Panel claims the Sri Lanka armed forces have been torturing suspects for years, how is it that the Panel has not been able to find any of the above types of evidence?
- The conclusion is inescapable that, at the time the Panel was producing its report, it did not *have* such evidence. Under the circumstances, and given also the fact that the only other evidence the Panel adduced to support the allegations of torture are witness statements which in turn are kept secret, it is difficult to understand how the Panel can make sweeping statements about torture being endemic in Sri Lanka.

Failure to mention anywhere in the chapter on torture that ICRC personnel have had access to detainees in Sri Lanka's prisons... observations or assessments by such Red Cross personnel:

- In page 229 of the ICRC's annual report for 2009, in the section on detainees visited by ICRC, it is stated inter alia that "Government-held detainees: 34,423 visited, of whom 13,490 monitored individually....during 643 visits to 173 places of detention"
- Since the contention of the Panel is that the security forces of Sri Lanka have been torturing suspects especially LTTE cadres in their custody for years, the Panel had a marvelous opportunity to establish its allegations with solid evidence by asking the ICRC personnel who monitored the aforesaid 13,490 detainees about their observations of how detainees in this country are treated, and also by considering documents those ICRC personnel may have had, for instance, notes, reports and other such records produced in the course of their field work.
- There is not the slightest indication that the Panel made an effort to interview any of the aforesaid ICRC personnel, or to retrieve any such documents, which further weakens the Panel's assertions about torture in Sri Lanka.

## Summary

Even though OISL refers to "medical reports"; those are also classified for 20 years.

Does the OISL report recorded act can be called as torture? Have you ever not seen, even in a movie, interrogators are questioning suspects holding files in front of them?

If there were torture; do you believe that persons will introduced them by their names and unit or department what they are belongs to?

Since OISL's primary source of evidence with respect to torture is the testimony of the witnesses plus the purported medical reports that confirm torture it is difficult to see why OISL could not have released at least part of the transcripts of the witness statements including the medical reports with relevant private details of the witnesses appropriately blacked out, in order to provide for verification.

## Conclusion

So, once again OISL has failed to establish at a standard of "reasonable grounds to believe" that the GOSL pursued a deliberate policy of Torture during the period in question.

Therefore, we propose UNHRC that there is no ethical grounds to reprimand Sri Lankan soldiers or chain of command and therefore all charges imposed under the OISL shall be withdrawn with immediate effect and shall be awarded with due dignity and compensation for the loss of credibility of Sri Lankan soldiers and the then chain of command.

---

Global Srilankan Forum Executive Committee, an NGO without consultative status, also shares the views expressed in this statement.