



# General Assembly

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## Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 4

Human rights situations that require the Council's attention

### **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.

[22 August 2019]

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

GE.19-14988(E)



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## **Forgetting & forgiving the LTTE for their crimes while a War Crimes Tribunal with Foreign Judges are created as Retributive Justice against Sri Lanka's National Army - Crimes Committed by LTTE**

Though there is no internationally accepted definition for a terrorist, in a conflict the rules of war apply even to the LTTE though it does not ratify any international conventions or treaties. LTTE also had a hierarchical structure, their weapons were illegally acquired. LTTE wore uniforms but killed in civilian clothing too.

### **LTTE war crimes against Sinhalese & Muslims**

- Pre-meditated murder – planning & executing
- Ethnic cleansing – chasing Sinhalese & Muslims out of the North giving 24hours to vacate or be killed
- Theft of lands & property of Sinhalese & Muslims
- Mental & physical pain suffered by Sinhala & Muslim families chased out of home & property
- Storming villages and cutting people & children including babies to pieces
- Targeting civilian installations by bombs and suicide missions & carrying out premeditated murder
- Instilling fear among civilians throughout 3 decades of terror and affecting the country's development, economy, livelihoods, investments etc

### **LTTE war crimes against non-LTTE Tamils**

- Denying Tamil children fundamental right to education violating Article 26 of UN Declaration of Human Rights
- Abducting children as young as 10 to turn into child soldiers
- Forcing Tamil families to 'donate' a child to the LTTE cause – these children were enlisted from poor and low caste Tamil families
- Forcible recruitment of Tamil adults as 'volunteers'
- Forced unpaid labor – a violation of Geneva Conventions Article 4 & 5 of UN Declaration of Human Rights (no one is to be held in slavery/servitude)
- LTTE punishments for LTTE & captured Sri Lankan soldiers in LTTE degrading, cruel and inhuman prisons
- Denying freedom of movement is a violation of Sri Lanka's Constitution – LTTE issued Transport Monitoring Division passes to Tamils
- LTTE violated Article 3 of the Universal Declaration of Human Rights – right to life, liberty and security of persons
- LTTE denies Tamils freedom of thought & expression – anyone opposing LTTE was shot dead
- LTTE confiscated Tamil land & property if they were not supporting LTTE
- LTTE confiscated food and medicines sent by the GOSL to the Tamil people and distributed among only LTTE families & their supporters
- LTTE taxed Tamils both in Sri Lanka & overseas
- LTTE executed Tamils in public for providing information to the Sri Lanka Police/Army
- LTTE forced Tamils to commit suicide biting the cyanide capsule given at end of LTTE training – HRW declares suicide bombing a crime against humanity. Kenneth

Roth, the Executive Director of Human Rights Watch says, [t]he people who carry out suicide bombings are not martyrs, they're war criminals, and so are the people who help to plan such attacks." \* [Rome Statute of the International Criminal Court, Article 28(b), U.N.Doc. no. A/CONF. 183/9 (17 July, 1998), 37 I.L.M. 999].

- Adele Balasingham now living in UK must take responsibility for training children to murder others and murder themselves when caught (commit suicide by cyanide) <http://www.norway.lk/Embassy/Peace-Process/peace/>
- LTTE assassinated over 200 Tamil politicians, parliamentarians, academics, intellectuals, public officials, religious leaders, civil society members, journalists, media personalities, rival militant groups and their leaders and Tamil civilians including children since 1970s.
- LTTE carried out an illicit international network ranging from narcotics, human smuggling, money laundering, credit card, boat smuggling, propaganda to turn economic migrants as asylum seekers.

### **LTTE crimes during the conflict**

- Forcibly abducting Tamil children despite appeals by parents
- Shooting parents who tried to stop their children been abducted & sent into battle
- Shooting fleeing civilians (appeals made by UNSG and foreign envoys to release civilians is evidence that LTTE was stopping civilians from fleeing to Government controlled areas)
- Sending innocent children and untrained men and women to battle.
- Severely torturing forcibly abducted children who tried to escape and were caught
- Parents of children who refused to allow children to be taken assaulted and some fathers put into LTTE prisons
- Confiscating essential commodities including food, medicines and even fuel sent by the Government to the people of the North and East
- Falsely using photos of LTTE murders and claiming them to be done by Sri Lankan Security Forces
- Destroying cultivation areas denying means of livelihood for villages
- UN Secretary General Ban-Ki Moon has accused the LTTE of forcibly cutting hair of girls trying to flee the conflict to mislead the military into thinking there were LTTE. Those who have any doubts may like to read the report that confirms this – [http://www.hrw.org/sites/default/files/reports/lte1208webwcover\\_1.pdf](http://www.hrw.org/sites/default/files/reports/lte1208webwcover_1.pdf)

### **LTTE using Tamils as human shields**

- A violation of Third & Fourth Geneva Conventions & Additional Protocol 1 and International Criminal Court declares 'utilizing the presence of a civilian or other protected person to render points, areas or military forces immune from military operations' is a war crime (UNSG & foreign envoys have been public appeals to LTTE to release civilians & Ban Ki Panel report confirms Tamils were kept as human shields) – LTTE's excuse is that civilians were Volunteer Human Shields (this is out of scope in IHL)
- Article 5 of IHL says Civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances" (Protection of civilian population).
- Article 23 (Third Geneva Convention) specifically states that a prisoner of war is not to be used to render certain points or areas immune from military operation". (Geneva Convention III).

- Article 28 declares illegal the practice of employing human shields under IHL Fourth Geneva Convention the presence of a protected person may not be used to render certain points or areas immune from military operation”.
- Additional Protocol 1 to the Geneva Convention – Article 51(7) says the presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations”.

#### **LTTE fronts continuing LTTE activities abroad**

- Despite bans on LTTE fronts these entities are continuing programs to collect funds
- Tamils living overseas are forced to send their children to these ‘Eelam Madrasas’ and fees charged go into the LTTE kitty
- Tamil civilians living overseas are coerced into peddling lies over electronic media and children are forced to take part in demonstrations carrying Eelam flags which are illegal
- LTTE instils fear among Tamils – Tamil people are scared to say that they suffered because of the LTTE and fearful to condemn LTTE lest their families back home may suffer
- Tamils are forced to feel that if any Tamil relations are living overseas LTTE fronts manipulating the social service systems of foreign nations –as charities and humanitarian organizations channeling money tax-free

#### **Some questions yet to be answered by the International Community:**

- When LTTE violated Additional Protocols to the Geneva Conventions that prohibits acts aimed at spreading terror among the civilian population – what did the IC do to stop LTTE acts of terror?
- When LTTE was banned by 32 nations – what did these do to stop LTTE raising funds overseas and campaigning and why was no punitive actions taken against foreign MPs who attended these pro-LTTE functions?
- What are LTTE’s obligations under IHL given that the conflict is described as non-international armed conflict and what are the actions to be taken against LTTE for these war crimes as the offenders (initiators of terror) shouldn’t LTTE crimes be investigated first, GOSL was only defending its People a legitimate right that a sovereign government has?
- Did the LTTE respect and ensure respect for IHL by all those acting on its instructions, or under its direction or control.
- Did LTTE allow and facilitated rapid unimpeded passage of humanitarian relief.
- Did LTTE keep hostages – a violation of Geneva Conventions.
- Did LTTE keep human shields – a violation of Geneva Conventions.
- Did LTTE blur distinction between combatant and civilian.

LTTE combatants or captured enemy fighters are not prisoners of war in a non-international armed conflict.

IHL amnesties are not applicable to LTTE.

If LTTE does not have any legal status under IHL but LTTE is legally obliged to as an armed group to ensure that its members respect IHL what is the international community doing about LTTE violations?

If the Sri Lankan military had been indiscriminately firing at the No-Fire Zonessince 21 January 2009, how did 11,000 LTTE combatants live to surrenderto themselves to the military and why would the elimination of the LTTE have taken till 19 May 2009 to complete?

If the LTTE was firing from within the civilian safe zone and the army retaliated with fire, who was primarily at fault?

The justice for civilians killed by LTTE an armed non-state actor must be given priority over justice for LTTE combatants. (reference - Shenali D Waduge)

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Global Srilankan forum excom- GLSF UK, GLSF Australia, GLSF Poland, GLSF UAE, GLSF Ireland, GLSF Canada, GLSF Switzerland. NGO(s) without consultative status, also share the views expressed in this statement.