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Agenda item 2

**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, 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.

[11 February 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 Shelling of Hospitals

Does the SLA committed the OISL charges (para 731) shelling of hospitals during the last phase of the war? Some of the hospitals that the Panel says were shelled are: PTK, Mullivaikkal, Udayakaardi, Putumattalan.

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 34th 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 received no information to indicate that Government-run or other hospitals and ambulances were used by the LTTE for military purposes. ...the information gathered by OISL indicates that there are reasonable grounds to believe that the LTTE launched attacks from the close proximity of hospitals... the LTTE constructed military fortifications (mostly earthen bunds and trenches) and positioned artillery and other weaponry close to, and sometimes adjacent to hospitals and the surrounding densely populated civilian areas, marked by a heavy presence of makeshift tents or shelters belonging to IDPs. In doing so, the LTTE failed to comply with its obligation to take all feasible precautionary measures to protect the civilian population from attacks.”

OISL report, para 771, 774, Rebuttal to OISL report, para 113.

“From February 2009 onwards, the LTTE started point-blank shooting of civilians who attempted to escape from the conflict zone, significantly adding to the death toll in the final stages of the war. It also fired artillery in proximity to large groups of internally displaced persons (IDP’s) and fired from, or stored military equipment near, IDP’s or civilian installations such as hospitals.”

Darusman report, p iii; Rebuttal to OISL report, para 120.

“A nursing officer who was attached to the Mullaitivu General Hospital stated with regard to the Vallipunam makeshift hospital that on 21st January 2009, after 7 pm, shells had fallen in the vehicle park at the hospital and a few patients had suffered minor injuries. When questioned further he stated that he did not know from where the shells came.”

LLRC report, p 76, para 4.119, Rebuttal to OISL report, para 124

“A nursing officer who served at the Anandapuram makeshift hospital stated that the facility had functioned for about 20 days in February 2009. There had been a large armoury located near the hospital and there had been a Kfir attack on the armoury which had destroyed it. He added that two days later there had been a similar attack on the makeshift hospital but by then the patients had been moved as the Medical Superintendent had decided to shift the hospital after the attack on the armoury.”

LLRC report, p 76, para 4.121, Rebuttal to OISL report, para 124

“...the location of LTTE military positions, occasionally in the vicinity of hospitals and United Nations premises, and used at times to fire from near hospitals calls into question the LTTE’s own respect for their obligations to take all feasible precautions to protect the civilian population and civilian objects against the effects of attacks.”

OISL report, para 792, Rebuttal to OISL report, para 127.

“On 1st February afternoon between 3.00 and 4.00 PM Puthukkudiyiruppu Hospital was struck by two shells, according to ICRC statements, hitting first the kitchen and then the church. Two persons were killed... ICRC reported that a few hours later at 10.20 PM the same day a ward with women and children was hit. In all, nine persons were killed and twenty injured on that day. On 2nd February at 6.40 PM the hospital was hit again and a nurse was injured... the shelling was that the Army’s 59th Division... was trying to fight its way and take Puthukkudiyiruppu... The LTTE had gun mounted vehicles which were used to fire at Kfir bombers coming in support of the Army... A senior educator familiar with the hospital told us that the LTTE largely disregarded the ICRC’s request not to drive or park its vehicles in front of the hospital, as these could be spotted by the UAV’s leading to shell attacks.”

UTHR (Jaffna) Special Report No. 34, 13th December 2009, paragraph 2.6, Rebuttal to OISL report, para 128.

“I had at various points in the conflict remonstrated with LTTE commanders about munitions being placed near to hospital buildings. Sometimes they were sensitive to the need to remove these munitions and at other times my objections were ignored. During the last two weeks of the fighting there was a breakdown in the command structure of the LTTE and no request that I made to move munitions away from the hospital were listened to.”

Corrupted Journalism: Channel 4 and Sri Lanka, 2013, Rebuttal to OISL report, para 130.

“I reject the claim by Gorden Weise, the former UN spokesperson in Sri Lanka, that hospital in the Wanni were shelled 65 times during the last stages of the battle between the LTTE and the Sri Lankan Governments Forties. I witnessed only 04 such instances in which hospitals were shelled with a shell each falling within the hospital complexes of Vallipuram, Mullaivalikkal and Vellamullivalikkal and with two shells falling into the Puthukurudiyiruppu Hospital. One of these shells damaged the roof of the hospital.”

Dr. Veerakathipillai Shanmugarajah, MO, Teaching Hospital, Jaffna stated in his affidavit, Corrupted Journalism: Channel 4 and Sri Lanka, 2013

As per the Rome Statute of the International Criminal Court, Article 8 War crimes, sub article 2 (e) (ii) it will be a war crime if “Intentionally directing attacks against buildings, material, medical units and transport...” only.

As per the Rome Statute of the International Criminal Court, Article 8 War crimes, sub article 3; “Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.”

As per the above quotes, there is no any proof that SLA has shelled hospitals intentionally, on behalf of GOSL; SLA has exercised its rights to protect territorial integrity and re-establish law and order.

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