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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 Unlawful Killings

Nadesan, Pulidevan, Nadesons's wife (the so-called "white flag" incident), Colonel Ramesh, Balachandran Prabhakaran (Piriharan's son) and Isipriya (OISL report para 300, 301, 303, 304, 305, 307, 309, 311, 313, 314, 316)

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 said that they don't know as to who was responsible for those incidents!!!
- So-called LTTE leaders wanted to surrender to spare them and their family members' lives while they forced thousands of LTTE carders to commit suicide by swallowing cyanide instead of surrender or by blowing themselves as a human bomb?
- **Purported killing of Nadesan, Pulidevan and Vineetha (the so-called "white flag" incident)**
 - OISL says it has testimony from several witnesses who say they saw the group carrying a white flag and surrendering to persons wearing SLA uniforms.

OISL report para 300, 301

- OISL is in possession of high resolution electronic photos of a group of dead bodies, among them clearly identifiable are Pulidevan, Nadesan and Vineetha Nadesan... However, further investigation is required to determine the full facts as to what happened and who was responsible for the killings.

OISL report 304, 305

- Is it reasonable to conclude that they were executed by the SLA? **No.** Because:
- ...the Panel says that further investigation is required to determine the full facts as to what happened and who was responsible for the killings.

Rebuttal to OISL report, para 163;

- ...it is impossible for an independent evaluator to say whether the forensic pathologist in question drew the conclusions that the Panel says he drew.

Rebuttal to OISL report, para 167;

- ...alternative interpretation is: in the darkness of the predawn hours Nadesan's group approached the FDL saying they wanted to surrender, but when they neared the troops there was a miscommunication or someone in the group made a wrong move or the surrender was in fact a ruse and an attempt was made to attack the troops.

Rebuttal to OISL report, para 169.

- "...Malathi said that "the people are going to the SLA because there is nothing left to do. The Organization has ordered that people so leaving be shot below the knee." My God..."

Thamilini Jeyakkumaran, former head of the Women's Wing of the LTTE's Political Office, *Under the Shade of a Sharp-Edged Sword*, Rebuttal to OISL report, para 73 c.

- "...the government did not execute surrendering LTTE cadres, including senior leaders, but took them into custody"

Thamilini's memoir, *Under the Shade of a Sharp-edged Sword*, p 212; Rebuttal to OISL report, para 171.

- So it is obvious that SLA has not deliberately killed them, either it may be by LTTE carders itself according to the Thamilini's memoir, or due consequence of ruse attempt to attack to the troops.

- **Purported killing of Col. Ramesh**

- "...OISL received several witness testimonies describing LTTE Commander Thambirasa Thurairajasingham alias Col. Ramesh wearing civilian clothing and unarmed on the road on the north side of the Vadduvakal bridge and walking across the bridge with a small child in his arms... accompanied by a group of his relatives... he was identified and approached by Tamil military intelligence officers... he was extra-judicially executed"

OISL report para 307, 311; Rebuttal to OISL report, para 173.

- "...photographic and video information indicate that after Col. Ramesh, dressed in civilian clothes... at some stage made to change his clothing. In some images Col. Ramesh is wearing a green army uniform, in others he is in LTTE camouflage trousers..."

OISL report para 309; Rebuttal to OISL report, para 173.

- Based on the evidence presented by OISL, can one reasonably conclude that Col. Ramesh was executed by troops belonging to the SLA?
- ...the Panel says that Col. Ramesh was apprehended by Tamil military intelligence officers working for the security forces... A consideration of the above matters leads one to suspect that Col. Ramesh may have been killed by LTTE turned informers... it is impossible based on the evidence cited by the Panel to impute Ramesh's death to SLA soldiers.

Rebuttal to OISL report, para 175, 179, 180.

- **Purported killing of "Balachandran Prabhakaran**

- The allegation is that Balachandran Prabhakaran (Velupillei Prabhakaran's son) was captured alive by SLA troops, and later killed.

OISL report, para 313. Rebuttal to OISL report, para 182.

- Eye-witness to the Balachandran incident says he did not see the boy *being killed*. Panel says that the GOSL has said that Balachandran died in crossfire.

OISL report, para 313, 314. Rebuttal to OISL report, para 186, 187.

- Panel says that it has photographic and video evidence that show Balachandran sitting in a bunker alive and in the custody of Sri Lanka troops.

The Panel does not say whether the bunker in question is a SLA bunker or a captured LTTE bunker.

OISL report, para 313. Rebuttal to OISL report, para 188.

- ...it is likely the very bunker in which Balachandran had been hiding until the last is a bunker situated in the last patch of ground in Nandikandal controlled by the LTTE. It is possible that, even if SLA troops had stormed the bunker and taken it, there were hard-core LTTE fighters still lurking nearby.

Rebuttal to OISL report, para 190.

- Under the circumstances it is plausible that the SLA had had the boy in their custody for a short time, but LTTE fighters nearby attacked the bunker either to rescue the boy, or to kill him so that he will not become a trophy for the SLA, and in the crossfire he was indeed killed.

Rebuttal to OISL report, para 191.

- Therefore, the Panel outright conclusion that the SLA troops executed Balachandran is untenable.

- **Purported killing of Isaipriya. Is it a War Crime against the Government or a crime by a specific troops?**

- The allegation is that Shobana Dharmaraja alias Isaipriya an LTTE news-presenter was taken into custody by Sri Lanka security forces and later killed.

Rebuttal to OISL report, para 192.

- If Isaipriya was captured alive by troops and later turned up dead, a reasonable inference can be drawn that she died in the custody of SLA troops and there's no question that the particular troops in whose custody she was at the time died can be held accountable for her death.

Rebuttal to OISL report, para 193.

- The pertinent question for present purposes, is whether, this indicates a general pattern or style of conduct on the part of the army as a whole, that ties the offence to the chain of command and ultimately to the Government, or whether it is an individual case that could be brought criminal charge against a specific troops who may have killed Isaipriya while in their custody?

Rebuttal to OISL report, para 195, 196, 200.

- "The troops who fished Isaipriya out of the lagoon were behaving respectfully towards her, giving her a cloth with which to cover herself."

OISL report, para 316

- If the chain of command has endorsed a policy of wanton rape and murder of female captives, then how is it that the troops who fished Isaipriya out of the lagoon were behaving respectfully towards her, going to the extent of giving her a cloth with which to cover herself? cloth with which to cover herself?

Rebuttal to OISL report, para 197.

- "...captured LTTE cadres say they were treated kindly captured LTTE cadres say they were treated kindly by SLA troops by SLA troops... on a number of occasions troops had saved wounded LTTE cadres on the brink of death by treating them on the battlefield itself, and transporting them to safety behind Government lines transporting them to safety behind Government lines..."

LLRC report, para 4.99; Humanitarian Operation Factual Analysis July 2006 – May 2009
Humanitarian Operation Factual Analysis July 2006 – May 2009, pg 69;

Rebuttal to OISL report, para 198.

- OISL should have consulted some of these testimonials, available in public sources, before coming to its conclusion on the likelihood of the chain of command endorsing a policy of wanton rape and murder of female captives.

Rebuttal to OISL report, para 199

- So, all that the OISL's evidence shows is that no responsibility can possibly be attributed to the GOSL in respect of such incident.

Rebuttal to OISL report, para 200.

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