

Report makes legal case for war crimes charges against Sri Lanka

Sri Lankan forces and Tamil Tiger fighters both carried out killings of civilians, according to new report which sets out evidence of war crimes



Civilians stand behind the barbed-wire perimeter fence of the Manik Farm refugee camp located on the outskirts of northern Sri Lankan town of Vavuniya in 2009 Photo: REUTERS

By Dean Nelson, South Asia Editor

2:18PM GMT 05 Feb 2014

The Sri Lankan Army and the Tamil Tigers murdered civilians, including pregnant women and medical workers, during the last months of their conflict, according to the most detailed report to date by war crimes experts and former United Nations investigators.

The report, by the International Crimes Evidence Project, is a legal assessment of reported human rights abuses and fresh allegations which could form the basis of a new UN war crimes investigation following its Human Rights Council meeting in Geneva next month. A UN Expert Panel has estimated as many as 40,000 civilians were killed in the last months of the civil war.

Britain and the United States are ready to call for a war crimes investigation at the meeting if the Sri Lankan government fails to take credible steps towards launching an independent inquiry in the next few weeks.

The report was overseen by a committee of experts which included John Ralston, former Chief of Investigations at the UN International Criminal Tribunal for the Former Yugoslavia, Professor William Schabas, a member of Sierra Leone's Truth and Reconciliation Commission, Colonel Desmond Travers (Rtd), former member of the UN Fact-Finding Mission on Gaza, and Gordon Weiss, the UN's former spokesman in Sri Lanka during the last months of the conflict.

Their report, *Island of Impunity*, found "reasonable grounds" to conclude both sides had committed war crimes, including murder, torture, the targeting of civilians - among them medical staff at hospitals - rape, the conscription of children and the use of civilians as human shields. It also details murders of senior Tamil Tiger figures after they were captured, including the 12-year-old son of their leader Prabhakaran.

While both sides had committed atrocities, the evidence indicates "members of the Sri Lankan Security Forces perpetrated the vast majority of alleged crimes", the many report found.

It supported earlier claims that government forces had conducted "indiscriminate artillery bombardment of areas of known civilian concentrations", including many people sheltering in No Fire Zones which the government had pledged not to attack. One aid worker told the investigators how young mothers and their children were massacred in one shell attack as they queued for milk powder. "There were dead bodies everywhere. I remember seeing a pregnant woman lying on the ground with a fetus coming out of her.

"We registered approximately 78 people as dead on this occasion including 38 children," the aid worker said.

Similar attacks on Karaiamullivaikkal, Vellamullivaikkal and a third No Fire Zone may amount to war crimes of attacking civilians and causing excessive "incidental civilian losses", the report said. It rejected Sri Lankan Army claims that the attacks had been driven by military imperatives and questioned why it had designated No Fire Zones in areas where Liberation Tigers of Tamil Elam [LTTE] fighters were known to be.

The LTTE also appeared to be guilty of war crimes by using civilians as human shields and launching attacks from within the No Fire Zones. In the last months before the LTTE's final defeat in May 2009, witnesses reported civilians being gunned down as they tried to flee.

One eyewitness told the investigators: "The LTTE opened up on them with [a] lot of AK-47s . People started falling while others ran with their baggage, some ran past [the compound]. More than 6-7 were taken to the hospital with serious injuries who later died. Five or six were dead on the spot." The dead included women and children.

The government had underestimated the numbers inside their No Fire Zone and had failed to provide sufficient food, which may amount to another war crime - that of denial of humanitarian assistance.

"The amount of food provided was grossly inadequate. ICEP has compelling evidentiary material suggesting civilians starved to death," the report said.

It cited a letter from a senior government official in the area who complained that inadequate medical supplies meant doctors had to carry out several amputations on the same limbs because they did not have enough penicillin to halt infections. "We were in total frustration when we had to re-amputate the limbs at higher levels in days after initial life-saving amputations, just because of lack of IV penicillin and other antibiotics essential to prevent fatal sepsis."

Edward Santow of the Australia-based Public Interest Advocacy Centre [PIAC] which commissioned the report, said it brings the prospect for a war crimes investigation closer.

"We have undertaken the most detailed legal analysis of these allegations. The conclusion is stark: it is very likely that shocking war crimes and crimes against humanity were committed in the final phase of the Sri Lankan civil war. The only way to achieve lasting peace and reconciliation in Sri Lanka is for these credible allegations to be subjected to a formal international commission of inquiry," he said.

The Sri Lankan government has denied committing war crimes and warned an investigation will set back the prospects for peace and reconciliation in the country.



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