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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 the Association des étudiants tamouls de France, 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.

[13 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Killing of Balachandran Prabhakaran: Genocidal war against Tamil*

The Sri Lankan government has not indicated any knowledge about how Balachandran was killed, a position that is not inconsistent with the above revelation.

A series of photographs taken a few hours apart and on the same camera, show Balachandran Prabhakaran. One of them shows the boy sitting in a bunker, alive and unharmed, apparently in the custody of Sri Lankan troops. Another, a few hours later, shows the boy's body lying on the ground, his chest pierced by bullets. The authorities always said Prabhakaran's son was killed in cross-fire, as troops moved in to take the LTTE's last stronghold, located on a scrap of coastline near Mullaitivu in the north-east of the country. In these photographs, which digital image analysis indicates were taken with the same camera, we can see he has been shot five times in the chest.

Professor Derrick identified what he thinks is the first of the shots to be fired at the boy: "There is a speckling (on the skin) from propellant tattooing, indicating that the distance of the muzzle of the weapon to this boy's chest was two to three feet or less. He could have reached out with his hand and touched the gun that killed him."

The professor said the angle of the shots suggested that after that bullet was fired, the boy fell backwards and was then shot four more times. Unlike the men around him, there was no indication that the boy had been blindfolded or bound, so it was possible that the boy may have been made to watch the execution of his guards before the gun was turned on him.

British forensic expert Professor Pounder believes he has identified the first of the shots to be fired at the boy: "There is a speckling from propellant tattooing, indicating that the distance of the muzzle of the weapon to this boy's chest was two to three feet or less. He could have reached out with his hand and touched the gun that killed him."

New photographs have emerged which raise fresh questions about the conduct of Sri Lanka's armed forces during the final stages of the operation against Tamil rebels and have led to claims the 12-year-old son of the militants' leader may have been summarily executed.

A series of photographs taken a few hours apart and on the same camera, show Balachandran Prabhakaran, son of Villupillai Prabhakaran, head of the Liberation Tigers of Tamil Eelam (LTTE). One of them shows the boy sitting in a bunker, alive and unharmed, apparently in the custody of Sri Lankan troops. Another, a few hours later, shows the boy's body lying on the ground, his chest pierced by bullets.

The images were taken in May 2009 at the very end of the Sri Lankan government's operation to crush the LTTE, which had launched a bloody, decades-long insurgency against the state that led to the deaths of more than 146000 people. The authorities always said Prabhakaran's son was killed in cross-fire, as troops moved in to take the LTTE's last stronghold, located on a scrap of coastline near Mullaitivu in the north-east of the country.

But the images, contained in a new documentary, No Fire Zone, which will be screened at the Geneva Human Rights Film Festival during the UN Human Rights Council meeting in March, suggest the boy was captured alive and killed at a later stage.

A forensic pathologist who examined the later images for the film-makers, said the boy was shot five times in the chest. Furthermore, propellant burns around the wound suggest he was shot at very close range.

The new photographs are enormously important evidentially because they appear to rule out any suggestion that Balachandran was killed in cross-fire or during a battle. They show he was held, and even given a snack, before being taken and executed in cold blood, claimed the film's director, Callum Macrae.

It is difficult to imagine the psychology of an army in which the calculated execution of a child can be allowed with apparent impunity. That these events were also photographed and kept as war trophies by the perpetrators is even more disturbing.

No substantive evidence have been presented for us to launch an investigation, he added, referring to alleged human rights abuses.

Sri Lanka has always insisted it did what it could to ensure no civilians were killed during its operation against the LTTE. Yet a team appointed by UN Secretary-General Ban Ki-moon found that up to 70,000 civilians may have been killed.

Channel 4's "Killing Fields" director Callum Macrae wrote last week; A 12-year-old boy lies on the ground. He is stripped to the waist and has five neat bullet holes in his chest. His name is Balachandran Prabakaran and he is the son of the LTTE leader, Velupillai Prabhakaran.

He has been shot dead. Beside him lie the bodies of five men, believed to be his bodyguards. There are strips of cloth on the ground perhaps indicating that they were tied and blindfolded before they were shot – further evidence suggesting that the Sri Lankan government forces had a systematic policy of executing many surrendering or captured LTTE fighters and leading figures, even if they were children. The problem for the Sri Lankan government is that this murder is not isolated. If it was, they could perhaps dismiss it as the act of rogue soldiers.

Killing Prabhakaran's son is that a simple issue? Of course there were lots of children who were victimised as the result of the bloody war, but I must say killing Balachandran is not that simple. Apart from a war crime allegation, it is an extraordinary example of the structural violence in Sri Lankan society. For more than 50 years diplomats, negotiators and social scientists have studied conflict and developed a sophisticated understanding of it. Let me begin by explaining the theoretical background of a conflict.

Not all conflict is violent. Conflict is normal when there is change. Some people want change, but others disagree. If their disagreement or their conflict is managed peacefully, it can be a positive process. But when conflict is not managed properly, it becomes violent. In violent conflict, people fear for their safety and survival. When we say conflict, we are usually referring to violent conflict (Ross Howard).

Violent physical conflict is easily identified and can be commented on by most. Individuals or groups in conflict try to hurt or kill each other and there will be victims. But there can be other kinds of violence which do greater harm to a society and these are more difficult for people to analyse and explain. There can be hidden violence. This includes; cultural violence and structural violence.

Structural violence is harm which is built into the laws and traditional behaviour of a group or society. Harm is permitted or ignored. It can include; institutionalized racism or sexism – laws and practices which allow unequal treatment based on race or sex, colonialism, extreme exploitation, poverty, corruption and nepotism and structural segregation. These kinds of violence are extremely important and need to be identified. Often they are the real cause of direct physical violence. Ending physical violence will not be enough. It will occur again if cultural and structural violence are ignored. After winning the war Rajapaksas preach that there is peace. Is there?

Several independent bodies have reported credible allegations of war crimes and other serious rights abuses committed by government forces during the armed conflict that ended in 2009.

However, the government has taken no significant steps to undertake impartial and credible investigations of these alleged violations. It said the Sri Lankan authorities had not reported any criminal prosecutions for serious rights abuses committed during the final years of the conflict. Indeed, thus far impunity for these abuses has been total.

In 2013, *Channel 4* had said that it had a sworn affidavit of an officer who said that the child, along with his bodyguards, were sent to the army to surrender, but they were interrogated to get the whereabouts of Prabhakaran before getting shot. With documentary evidence and forensic analysis, the channel has now proved this claim.

It is difficult to imagine the mindset of an army in which a child can be executed in cold blood with apparent impunity. It also raises extremely difficult questions for the Sri Lankan military. With every month that passes, the evidence of systematic execution of prisoners grows. The pattern of apparent sexual violence against female fighters is disturbing in the extreme.

Recommendation

The judicial process must purely be of international and under the control of the UN, and we request you to recommend the referral to the International Criminal Court or special tribunal for Sri Lanka, and do not support any domestic or hybrid mechanism under the control of Sri Lanka.

*Tamil Youth Organization, Collectif La Paix au Sri Lanka Swiss, Council of Eelam Tamil (SCET), NGOs without consultative status, also share the views expressed in this statement.