

Association Des Etudiants Tamoule de France
(NGOs in Consultative Status with ECOSOC)

Killing of Balachandran Prabhakaran: Genocidal war against Tamil.

77th Session - 5th & 6th Cycle Review on Sri Lanka

**SHADOW REPORT TO THE UNITED NATIONS COMMITTEE ON
THE RIGHTS OF THE CHILD CONCERNING SRI LANKA**

Joint written statement* submitted by :

ONG CNRJ

Association des étudiants tamouls de France,

Association Bharathi Centre Culturel Franco-Tamoul,

Association Burkinabé pour la Survie de l'Enfance,

Association Mauritanienne pour la promotion du droit,

Association Solidarité Internationale pour l'Afrique (SIA),

Society for Development and Community Empowerment,

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Non-ECOSOC NGOs

Collectif La Paix au Sri Lanka

Nambikkayin Veedu (House of Hope)

Tamil Mouvement

Killing of Balachandran Prabhakaran: Genocidal war against Tamil.

How did Balachandran Prabhakaran die?

At least in the case of Balachandran Prabhakaran, there are no more questions - the cause of death is crystal clear. The 12 year old boy was captured by the Sri Lankan army, held prisoner, given a snack and then shot dead in cold blood. Five shots were fired into his chest at close range. The burn marks around the wound make it impossible that he was killed in cross-firing or in the course of a battle.

The release of Photographs by the British Channel 4 TV showing Balachandran the 12 year old younger son of LTTE leader Velupillai Prabhakaran alive in a military bunker and lying dead has evoked much controversy.

While the TV charges that Balachandran was killed by the Sri Lankan military after he and bodyguards had surrendered to the army the Sri Lankan Defence secretary Gotabhaya Rajapaksa has categorically denied it. It may be recalled that charges of a similar nature were raised last year too when images of Balachandran lying dead were shown in a Channel-4 documentary. The charges were denied then too by Sri Lankan Govt authorities who suggested Balachandran may have been killed in the crossfire.

However the release of photographs showing the boy alive eating a snack in what appeared to be a bunker has created strong doubts as to whether Balachandran had died in the crossfire or been deliberately targeted and executed in cold blood in captivity. Although the allegation that he was killed by the Sri Lankan army cannot be proved conclusively through the photographs concerned the suspicion that the military was indeed responsible has gained more strength.

It is against this backdrop that an exclusive news item published by the “Lankanewsweb” in June 2012 alleging that Balachandran was murdered by Maj-Gen Kamal Gunaratne on the orders of Defence Secretary Gotabhaya Rajapaksa is reproduced here due to its topical relevance

*« Major General Kamal Gunaratne had murdered Balachandran on Gotabhaya's order. »
Thursday, 14 June 2012 17:39 Exclusive -Lankanewsweb.*

LTTE Leader Velupillai Prabhakaran's 12 year old son Balachandran Prabhakaran had been killed after surrendering to the army on a direct order of Defence Secretary Gotabhaya Rajapaksa.

Lanka News Web learns that Balachandran had been killed under the supervision of the Commander of the 53rd Brigade Brigadier Kamal Gunaratne.

Balachandran had surrendered to the army near the Nadikadal Lagoon at 7.30 a.m. on May 19, 2009. He had surrendered to a group of eight soldiers led Sergeant Mutubanda from the 4th Vijayaba Infantry Regiment.

A long-delayed investigation ordered by Sri Lankan government will conclude that video evidence of war crimes and extra-judicial killings presented by Channel 4 in a series of news reports and documentaries is “unlikely to be faked” according to a draft.

The findings represent a dramatic rejection of claims by the government of former president Mahinda Rajapaksa, that the video evidence presented on Channel 4 News and in a series of Channel 4 documentaries culminating in the Emmy nominated [“No Fire Zone: The Killing Fields of Sri Lanka”](#) was faked.

The report of the “Missing Person’s Commission” led by retired Sri Lankan High Court Judge Maxwell Paranagama into war crimes and disappearances – a report ordered by President Mahinda Rajapaksa himself. The report contains some uncorrected typos and other minor errors, but informed sources who have seen it believe it to be genuine.



A. Balachandran Prabhakaran death

The report also discusses images of the 12-year-old Balachandran Prabhakaran, the son of the Tamil Tiger leader Velupillai Prabhakaran first revealed in the Channel 4 documentaries which show him alive, apparently in government custody, then dead with several bullet wounds to the chest. The report notes: “Forensic pathologists instructed by Channel 4 suggest that the child was executed. Clearly if this allegation is proved, this a clear breach of the laws of war.”

Remarkably it also quotes former Chief of Staff of the Sri Lankan Army, Major General Udaya Perera, as stating: “More than the Government of Sri Lanka, it is we, the army who should take responsibility, if that cowardly killing happened at the hands of our men.”

Other sections deal with video evidence including that first revealed on Channel 4 News in 2009 which showed the execution by shooting of a number of naked bound prisoners. On this, the report describes itself as “mindful of the fact that forensic pathology and other corroborative expert evidence support the video footage as genuine.”

It adds: “In the Commission’s view, the Channel 4 programmes provide enough material to form a reasonable basis to believe that war crimes may have been committed, warranting an investigation.”

[Watch the original report from 25 Aug 2009: "Sri Lanka execution video: evidence of war crimes?"](#)

While accusing the channel of “theatrical and dramatic presentation” and “occasionally extravagant language” it also notes that “Military Courts of Inquiry, in these circumstances, may appear to lack the impartiality and independence to inspire confidence.”

This is an implied criticism of a military court of inquiry set up specifically by the army to look at what it called “The Channel 4 allegations”. In 2013 the president of that court, Major General Chrishantha De Silva – who has since been promoted to be Commander of the Army – provoked some international astonishment when in spite of the overwhelming evidence he concluded that the war had been conducted “strictly in accordance with the ‘Zero Civilian Casualty’ directive made by His Excellency the President Mahinda Rajapaksha” The court also found that “at all stages... the Sri Lanka Army behaved as a well-disciplined military force.”

Instead the Paranagama report make a number of recommendations for an accountability process – some of which are likely to cause controversy, particularly among hard-line Sinhala nationalists and supporters of the former President. It notes, for example, that “there can be no effective domestic mechanism for the purpose investigating international crimes that apply in all conflicts, including non-international armed conflicts,” unless Sri Lanka incorporates into its domestic law, core crimes recognized under international law. That idea has been specifically rejected by the new government of President Maithripala Sirisena.

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 146,000 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 Prabhakaran 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.

Why Balachandran Had to Die

Balachandran did not represent a threat to Sri Lanka in any shape or form and would not have made a difference to Sri Lanka's victory. Nothing was to be gained by the execution of this child. And yet, Balachandran was killed; shot five times at close range. It was an act imbued with momentous significance. In executing Balachandran, the Sinhala military was also annihilating the Tamils' struggle and affirming to itself its complete dominance over the Tamil people. The Sri Lankan military's abuses cannot be seen as individualised violations. Rather they are part of the state's collective targeting of the Tamil population.

These acts are part of Sri Lanka's on-going efforts to violently assert Sinhala supremacy over the Tamils. In November last year Jaffna students peacefully and privately observing a remembrance for the war dead were violently attacked. Following its victory, the Sri Lankan military has demolished war cemeteries and Prabakaran's home. It also imprisoned his frail parents. After his mother died, Sinhala soldiers desecrated her remains. This zealous compulsion to destroy all aspects of Tamil nationalism means that it is impossible for Sri Lanka to come up with a satisfactory political solution satisfactory to on-going ethnic conflict.

The trophy photographs taken by Sinhalese soldiers have provided the international community with ample evidence of war crimes. Undoubtedly time will bring forth even more photographic evidence of yet more crimes. However, even as the international community takes steps to pressure Sri Lanka, the state is intent on causing irreversible damage to the Tamil nation through targeted killings, abductions, colonisation and land grabs by the Sinhala army.

Not only must the international community act decisively if it is to protect the Tamil population from systematic and on-going abuse, it must also understand and recognise the symbolic, targeted and collective nature of Sri Lanka's crimes. This means moving beyond the individualised framework of human rights, and acknowledging that in targeting this or that individual Tamil, the Sri Lankan state seeks to 'cower', subdue and fragment the population as a whole. The point was underlined this week by Human Rights Watch's UK Director David Mepham; describing the systematic rape of Tamil detainees as a coercive form of intimidation that was used as a "deliberate policy", he said: "it is our view that this is not random [but] much more about installing fear and cowering this [Tamil] population."

Sri Lanka's preferred solution to the Tamil population is to violently erase the Tamil identity. In the wake of the images, unless unequivocal action is taken Sri Lanka will feel vindicated and emboldened in its current path and continue along it. This is what 'time and space' means for the Colombo government. If it is serious about peace and stability in Sri Lanka, the international community must act to arrest the slow genocide -the the 22nd UNHRC session and the Commonwealth Heads of Government Meeting in November are key opportunities in this regard. The Tamil nation, meanwhile, is unbowed, despite the horrors the Sri Lankan state continues to visit on it. In that sense Balachandran has become precisely what his murder was intended to prevent: a lasting reminder of why our resistance to Sinhala hegemony must be unrelenting and unending.

RECOMMENDATIONS

- Need and international investigation on killing of 12 year old Balachandran Prabhakaran
- Need for accountability measures for violations committed against children. The suffering of the children of Sri Lanka must be well documented as part of the long road to peace in Sri Lanka. The Office of the Special Representative of the Secretary-General on Children and Armed Conflict and all United Nations partners must come forward to address Sri Lanka's lack of accountability and bring Justice to the Child victims.
- Investigate, as part of national reconciliation, any allegation of violations and abuses against children perpetrated in contravention of applicable national and international law, by all parties during the armed conflict, and ensure that those responsible for the violations are held accountable. Launch an immediate investigation to establish the whereabouts of all children who were recruited, including those who are now over 18 years of age and whose fate remains unknown.
- Expedite the vacating of all schools and health-care facilities currently being used by the military and fully restore their educational and health-care functions;
- Call on the government to release residential and cultivation lands occupied by the military and expedite demilitarization in the North and East in order to ensure child protection services for children affected by the conflict, including psychosocial support, community-based support and social infrastructure. This would ensure children from sexual exploitation, detention and torture.
- Plan and develop a comprehensive post-conflict action plan for children that comprehensively addresses outstanding protection and psychosocial issues, with a focus on various groups of children with special needs, including, but not limited to, former children associated with armed forces and groups, formerly displaced children and children who have lost one or both parents in the conflict.
- In accordance with recommendations of the last review (cycle 4) Repeal PTA and release child detainees under 18 in order to ensure children are ill-treated and protected from torture. Strengthen the National Human Rights Council not only to monitor and report progress and violations but also provide directives to relevant authorities.
- Sri Lanka should in line with CRC's previous recommendation and other Committee's recommendation, ratify Rome Statute of the International Criminal Court.
- Last but not least, we call on the Committee to urge the government of Sri Lanka to pave the way for Tamil to realize their inalienable right to self-determination in Sri Lanka, which is not only strongly emphasized in the Vienna Declaration and Durban Declaration and Programme of Action but also underlined in the Article 1 of the International Covenant on Economic Social and Cultural Rights and International Covenant on Civil and Political Rights; This would ensure justice to the victim communities without a doubt as successive governments have failed to do so.