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Press Release: Sri Lankan Army Commander Sanctioned by United States Government for gross violations of human rights.

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New York: The US government's sanctioning¹ of the Commander of the Sri Lankan Army, Shavendra Silva, under Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act is on the basis of credible allegations that he has command responsibility for gross violations of human rights including extrajudicial killings, perpetrated by the 58th Division of the Sri Lanka Army during the final phase of Sri Lanka's Civil War in 2009. This should be a wake up call to other governments and the United Nations in their dealings with the Sri Lankan security forces.

"Successive Sri Lanka governments behaved with gross impunity, repeatedly promoting an alleged war criminal until he was made Army Commander and acting Chief of Defence Staff. It's sheer arrogance that they thought there would be no consequences," said Yasmin Sooka², ITJP's executive director, in New York to address the UN Security Council's first debate on transitional justice.

Lieutenant General Shavendra Silva was named by a [United Nations](#) investigation³ for his part during the the final phase of the civil war in commanding the 58 Division of the Sri Lankan Army. This unit was responsible for repeated and deliberate attacks on hospitals, food distribution queues and displacement camps in 2009, resulting in tens of thousands of civilian deaths in a matter of months. Silva is alleged to have been personally present at the location of the so called ["white](#)

¹ <https://www.state.gov/public-designation-due-to-gross-violations-of-human-rights-of-shavendra-silva-of-sri-lanka-under-section-7031c-of-the-department-of-state-foreign-operations-and-related-programs-appropriations-a/>

² Ms. Sooka was one of three international legal experts appointed in 2010 by the United Nations Secretary General to look into the conduct of the final War in Sri Lanka.

³ <https://www.ohchr.org/en/hrbodies/hrc/pages/oisl.aspx>

[flag” surrenders⁴](#) on 18 May 2009, and has personally confirmed that he was in overall command of the area. An eyewitness says he saw Silva shake hands with the political leaders of the Liberation Tigers of Tamil Eelam (LTTE) as they surrendered to him; a few hours later they were dead. The UN’s Investigation found that the political leadership of the LTTE were summarily executed, despite assurances from the Government that they could safely surrender under a white flag, in clear violation of international humanitarian law..

In 2019 the ITJP published a 137-page dossier⁵ on Silva, detailing his role as a commander during the 2008-9 War. The dossier build on the UN investigation’s report, compiling an extensive body of evidence implicating him personally. The evidence includes photographs, contemporaneous SMS and witness testimony, including from military insiders, and evidence from official Army releases.

At the time the ITJP called for Silva to be suspended immediately and a criminal investigation instituted. Instead he was promoted.

“This is also a wake up call to the UN Secretary General immediately to suspend all peacekeeping contributions by the Sri Lankan Army given the whole institution is tainted by their commander,” added Ms. Sooka. *“The Sri Lankans have never put behind bars their peacekeepers who systematically sexually exploited children in Haiti. By now it’s clear the security forces have for decades inculcated a premissive culture in which grave crimes such as summary execution, enforced disappearance, torture and rape are systematic and routine. The government of Sri Lanka has for the last decade, failed to deliver on its international and domestic obligations to hold those responsible at command level for the atrocity crimes perpetrated.”*

ends

⁴ <http://white-flags.org>

⁵ https://itjpsl.com/assets/shavendra-Silva_-final-dossier.pdf

The ITJP's dossier on Shavendra Silva details the attacks on a series of towns and villages in the north of Sri Lanka in 2008-9 by the 58 Division which he commanded. It makes the case that those attacks involved:

- - indiscriminate and intentional attacks conducted against the civilian population,
- - attacks on hospitals and medical staff,
- - attacks on No Fire Zones,
- - the use of prohibited and indiscriminate weapons.

Command responsibility

Under international law, a commander like Shavendra Silva can be held directly responsible for:

- ordering his subordinates to carry out unlawful acts,
- failing to act when the unlawful acts have been committed by his subordinates (irrespective of whether he ordered them). Silva must know this, as the Army says he has been teaching international humanitarian law to soldiers.

The dossier finds the scale of civilian casualties and injuries among the civilian population nothing short of catastrophic. Thousands of photographs that have emerged clearly show how this was a war on civilians. Eyewitnesses describe scenes of total panic in the makeshift hospitals as they came under repeated Government attack:

"It was complete chaos, it cannot be described in words. Crying and screaming parents carried their wounded children here and there in panic. The children were severely wounded, some with their half-severed limbs hanging from their bodies."

Tamil survivors of the 2009 War still suffer nightmares and trauma a decade on, haunted by the images of the dying. One described a baby's head landing next to him; another remembers passing a man holding in his intestines which were hanging out. Some tried to dig trenches for protection and kept finding decaying corpses; others talk of running barefoot through puddles of blood. They frequently describe seeing people carrying their loved ones to shelter, not having realised they had already died. Horrific images have remained with the War survivors, many of whom also suffered torture and sexual violence in detention in the post-War period.

"In one family everyone died except one child of about 18 months and his father. Both were wounded in the head and the boy was so hungry. The blood was running from his head. He had no idea what was going on around him and I think he was just sucking his thumb because he was so hungry, disregarding the blood and the pain of his headwound."

Kilinochchi Attacks

Major General Shavendra Silva was in command during the repeated attacks on and capture of Kilinochchi. There are reasonable grounds to believe that Shavendra Silva ordered attacks with the deliberate intention to

hit the civilian objects, such as the hospital and UN buildings, resulting in civilian casualties.

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PTK Attacks

The 58 Division was directly involved in the military operation in PTK led by Shavendra Silva. He knew about PTK Hospital's coordinates as they were communicated to the Government, and he had access to drones and UAVs that surveyed the area. There are reasonable grounds to believe that Major General Silva was fully aware that PTK Hospital was being bombarded and shelled as UN officials informed the Sri Lanka Army on multiple occasions that the hospital was coming under attack. Major General Silva knew, or must have known, that subordinates under his effective control were committing serious violations of international humanitarian law in the predominantly civilian area and did not stop the attacks even though he was in command and it was in his power.

Pokkanai Attacks

Troops under the effective command of Shavendra Silva were involved in the military operations in Pokkanai, when indiscriminate and intentional attacks were directed against civilians, including at milk powder distribution points, which resulted in heavy civilian casualties, including the killing and injuring of women and children.

There are reasonable grounds to believe that Silva knew or had reasons to know that subordinates under his effective control were intentionally directing attacks at the civilian population and civilian objects in a densely populated area, as well as launching indiscriminate attacks that caused death and injury among civilians. The attacks were repeated over a prolonged period of time and the information of the previous attacks must have reached him.

Putumattalan Attacks

The evidence in this report confirms that Major General Shavendra Silva led the military operation against the hospital in Putumattalan and that troops under his command captured the hospital. There are also reasonable grounds to believe that Major General Silva planned and ordered attacks at Putumattalan, including at the hospital, which resulted in the extensive civilian casualties in and around the hospital. There are reasonable grounds to believe that Major General Shavendra Silva ordered attacks with the intention to hit civilian objects, as the hospital was attacked on a number of occasions. Furthermore, there are reasonable grounds to believe that the attacks against the Putumattalan were disproportionate.

Valayanmadam Attacks

There are reasonable grounds to believe that Shavendra Silva's troops were involved in attacks against the hospital and church in Valayanmadam, which resulted in the civilian casualties and damage to the buildings. The Sri Lankan Army, including 58 Division, employed shelling, tanks and cluster munitions, which points to an indiscriminate means and method of warfare. There are reasonable grounds to believe Major General Silva had reasons to know that subordinates under his effective control were intentionally directing attacks at the civilian population and at civilian objects in Valayanmadam as well as launching indiscriminate attacks likely to cause extensive death and injury among civilians.

Mullivaikkal Attacks

There are reasonable grounds to believe that Major General Silva knew or had a reason to know that subordinates under his effective control were intentionally directing attacks at the civilian population and civilian objects in Mullivaikkal as well as launching indiscriminate attacks likely to cause extensive death and injury among civilians. Moreover, the evidence indicates that he was present in the area as he “personally directed ground troops” and therefore must have witnessed displaced civilians being affected by the attacks, given that the Third No Fire Zone (NFZ-3) was only 2km² in size. There is no indication that he punished those responsible under his command or tried to take all necessary and reasonable measures to prevent the attacks.

Surrenders

The UN report states that the surrenders at the Wadduvakkal Bridge were to the 58 Division. An eyewitness interviewed by the ITJP confirms that Major General Shavendra Silva, who has said he was in overall command of the area, personally shook hands with LTTE political leaders who surrendered to him; their corpses were seen on the roadside some time later on the other side of the Wadduvakkal Bridge. Given his presence in and command over the area, there are reasonable grounds to believe that Major General Silva knew of or consciously disregarded information which clearly indicated that the troops under his responsibility were responsible for the enforced disappearance of those who surrendered, summarily executing some of them⁶.

Rape and other forms of Sexual Violence, and Torture

A witness, who was himself tortured, testified that Major General Shavendra Silva indicated that he approved of the use of torture. In light of the OISL report and of evidence set out in this dossier, there are reasonable grounds to believe that Shavendra Silva knew about or had reason to know about the torture committed by the troops under his effective control, and that he failed to prevent these violations or to punish those responsible. Similarly, given the evidence set out in this dossier, and the findings by the OISL, Major General Shavendra Silva can and should face charges of war crimes of rape, torture and outrages upon personal dignity, as well as torture as a separate crime, committed by troops under his effective command and control.

⁶ <https://disappearance.itjpsl.com/#lang=english> for names and photographs.

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