

Submission to "[OISL\\_submissions@ohchr.org](mailto:OISL_submissions@ohchr.org)"

The Office of the High Commissioner for Human Rights (OHCHR). Investigation on Sri Lanka.

[ <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx> ].

By

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### 1. Introduction.

Here we look at the background to the allegations against Sri Lanka, that links with the Darusman report and indicate that in our view, and in the view of many scholars, the main "credible allegations" of the Darusman report are patently incorrect, with even some of the photographic evidence used by them being "photo-shop creations" that have been naively accepted.

### 2. "LTTE terror and state terror " prior to the launch of Eelam-IV war.

The LLRC and Darusman reports review periods going back to 2002. Here we include some examples of daily events from 2008 to show that the level of violence and terror that existed prior to 2009 May has reduced to almost nothing since the defeat of the LTTE. Hence the claims by NGOs, and by the advocacy groups championing the Darusman report, of escalation of violence against "civil society" in recent times, is completely in error.

### 3. Main accusations leveled at the Sri Lankan Government.

Committing alleged "genocidal" acts, leading to, e.g., loss of 40,000 lives in the last stages of the war is atypical allegation. These so-called "credible allegations" used by Darsuman et al., are found to be false or very questionable.

- a) Alleged shelling and bombardment of safety zones and civilians, and the death toll
- b) Alleged bombing and shelling of hospitals.
- c) Non-provision of adequate food supplies to the people in the war zone.

These allegations are discussed and found to be unfounded or grossly exaggerated.

### 4. Main accusations against the LTTE.

These include "crimes against humanity" in attacking unarmed civilians, suicide attacks, using "human shields", abduction of children and the use of child soldiers, assassination of political opponents etc. If these are taken up, the TNA leaders, as the sole proxy of the LTTE, would face prosecution, in much the same way that the Vichy Government Leaders in France were tried after WWII. This would create enormous social unrest, destroying the peace that prevails in the country. The Govt. has absorbed the TNA into mainstream politics in the name of reconciliation and never sought to prosecute them. The UN-HR investigation's thrust is ill-advised, counterproductive and hurts reconciliation.

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- a) Alleged incarceration of IDPs in 'concentration camps'.
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- c) Alleged Harassment and victimization of journalists.

These allegations are found to be unfounded or grossly exaggerated.

### 6. Alleged lack of effort by the government towards reconciliation with the Tamil population.

- a) Accountability, reconciliation and cultural recriminations.
- b) Alleged militarization of the north.
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These allegations are found to be unfounded or grossly exaggerated.

### 7. Conclusion.

**In our view, the very attempt to investigate the so called "credible" allegations contained in the Darusman report, and indicted via the OHCHR will have such divisive and politically unsettling consequences that it could create ethnic clashes if the panel were allowed in the country, and hence should not be attempted.** The utter failure of

previous “eminent persons’ reviews” in Sri Lanka, Royal commissions in Australia and in Canada, similar commissions in the UK going into Iraq (Chilcott), Irish Issues etc., show that there are serious reasons for doing every thing differently, instead of this misguided effort that would open old wounds. **The investigation must be replaced by an internal review, undertaken with international participation from jurists of countries invited in by Sri Lanka itself, for such review.**

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## 1. Introduction.

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The Office of the United Nations High Commissioner for Human Rights has launched an investigation into the allegedly “human-rights violations and war crimes” committed by the Government of Sri Lanka (GSL) as well as the LTTE, from the time of the ceasefire in 2002 to the end of the war in May, 2009, and during the post-war period ending in 2011. The very legality of this effort has been questioned.

### [The Illegality of UN Secretary General Ban Ki Moon's approach to Sri Lanka , Darshan Weerasekera](#)

The *prima facie* case and the push for launching an investigation are based on :

- (i) Geneva resolutions brought forward by a number of Western Nations led by the USA
- (ii) Pressure from various NGOs groups and Tamil expatriates-linked to organizations like the 'Campaign for peace and Justice in Sri Lanka (CPJSL), Western-funded Colombo based NGOs like the Center for Policy alternatives (CPA), as well as more well-established NGOs like the Human-Rights watch (HRW), and Amnesty International (AI).
  - Click here for [Testimony of Human Rights Watch \(HRW\) at the HR - Subcommittee, Nov-2011](#) to understand the position of the Human-Rights watch, from their presentation at the Canadian HR-parliamentary committee.
  - Click here for [Testimony of Amnesty International \(AI\) at the HR - Subcommittee, Dec.-2011](#) to understand the position of Amnesty International,
  - Click here for [Testimony of Paikiasothy Saravanamuttu, Center for Policy Alternatives \(CPA\), at the HR - Subcommittee, 21-Nov-2013](#) to understand the position of the CPA.
- (iii) the Darusman report, released in March 2011, was prepared initially as an advisory document to the UN-Secy. General. It claims to find “credible allegations” that need to be confirmed, and made very strident indictments against the GSL, and also against the LTTE. This process provided no room to the GSL to cross-examine the “credible allegations”, and covered its sources completely, in the name of witness protection. This document has become the basic manifesto for the case against Sri Lanka.
- (iv) Accusatory movies produced with the help of the Tamil expatriot groups, and screened by the British TV Channel-4 where emotive, horrifying sequences are presented with more attention to viewer impact and with little attempt to establish veracity. For more details, click:  
[Channel-4 movie claims refuted under Oath in a UK court by Medical Doctor who was in the Eelam war.](#)  
[Channel-4 movie and its invalid use as justification of the Human-Rights cry against Sri Lanka](#)
- (v) Books produced by some writers like Gordon Weiss, France Harrison and others who looked for quick sales using emotion-catching scripts rather than the pains-taking recording of ascertainable facts.
- (vi) The information presented to the human rights agencies like AI, HWR, and to the Western governments, OHCHR were source material for those mounting the investigative process indicting Sri Lanka. The vast majority of Sri Lankan immigrants in the West are Tamils. Thus the information about Sri Lanka, collected in camera by the Darsuman panel, and given by Western Human-Rights NGOs, was manly from Tamil refugees who left Sri Lanka to live in the West, rather than going to close-by South India where they were welcome, where Tamil is spoken, and where a culture common to them is available. While there were many victims of state terror and LTTE terror, kidnapping of children etc., a majority were in fact economic refugees who needed to paint a picture of horror at home as this was needed to obtain refugee status in countries like Canada or France. [The Info Navi Pillay Was Fed With, by C. A. Chandraprema](#) [One arrested for collecting signatures on blank UN war crimes complaint forms](#)

An important role was played by some Christian Priests of Tamil ethnicity whose stories were readily and uncritically accepted by western Christian priests and concerned Western citizens, while any statements by the diplomatic representatives of the GSL would be regarded as government propaganda.

(vii) Furthermore, many refugees tend to flock together and form important vote blocks in swing electorates and developed strong political power, enabling them to manipulate, for example, the political parties of the Canadian, British, US and other Western nations. These nations were behind the Geneva resolution indicting Sri Lanka. It has also been suggested that the support extended to the LTTE terrorist group by countries like Norway, in enabling it to prolong the terrorist war (which replaced the genuine Tamil Nationalist movement whose leaders, e.g., Mr. Amirthalingam, were assassinated by the LTTE) were part of the geopolitics of the West in regard to India and China.

Thus we see that a number of diverse factors have operated to create the background for the call for an investigation into Sri Lanka. We will examine some of the main indictments, as found in the Daruman report. This report has been examined by many independent scholars, think-tanks etc., and comments regarding many aspects may be found in the critique of the Darusman report by the **Marga Institute**, and in various scholarly and news websites like [Roberts](http://dh-web.org/hrsits/) <http://dh-web.org/hrsits/>, [Review of the numbers by the Marga Institute](#), G. H. Peiris and others.

Here it is only necessary for us to show that some of its major indictments that it calls “credible allegations” are in fact usually incorrect, naive, and internally inconsistent.

Even the authenticity of some of the photographs presented by the Darusman report can be questioned as being photo-shop constructions presented to a panel ready to accept anything that fits its pre-conceived notions (the panel report itself is a slipshod document where sometimes the subject does not agree with the verb even with regard to tense). That the authors of the Darusman report have strong pre-conceptions is commonly granted. Their colours are seen in Darusman himself from his participation more in abstention in an “eminent person’s panel” convened by Sri Lanka, and in Ms. Sooka’s involvement with the CJPSL, (an advocacy NGO with connections to Basil Fernando, Garry Anandasangaree and others). Ms. Sooka was a guest speaker at the 2013 Global Tamil Forum (GTF) in UK, while it is well known that the GTF is the British face of the LTTE “rump” in that country. Mr. Ratner’s links with pro-LTTE groups in the USA have been commented upon by various writers. **However, even if the information has been collected by biased persons, from individuals and plaintiffs with axes to grind, the information itself may be valid and require serious consideration.**

However, serious students of the history of Sri Lanka and seasoned historians like Prof. Michael Roberts have questioned many of the “credible allegations” of the UN-advisory panel.

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## 2. LTTE terror and state terror prior to the launch of Eelam-IV war.

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The LLRC and Darusman reports review periods going back to 2002. Here we include examples of daily events from 2008 to show that the level of violence and terror that existed prior to 2009 May, has reduced to almost nothing, since the defeat of the LTTE. Hence the claims by NGOs, and by the advocacy groups championing the Darusman report, of escalation of violence against “civil society” in recent times, is completely in error.

In the run up to the Eelam-IV war, there were some 5000 violations of the Cease - Fire Agreement by the LTTE, as against less than a thousand by the government forces in the same period. If the retributive and vindictive approach of the UN panel is applied to go into investigating LTTE crimes and GSL infractions, old wounds would be opened. The LTTE was backed at that time by Mr. Sampanthan, and others of the TNA **who presented themselves as the political representatives of the LTTE**. They have never denounced the LTTE for its HR abuses and war crimes.

he TNA, being the political arm of the Tigers, never condemned the LTTE for its assassinations, attacks on civilians, use of civilians as human shields, ethnic cleansing, torture of prisoners, use of child soldiers etc. [Here an LTTE platoon leader is training a child, amma \('mother'\), akka \('sister'\) and `atthaikal' \(aunts\) to become soldiers. \(click to enlarge\) →](#)



[The Sri Lankan government ignored the TNA's collaboration with the enemy in the name of reconciliation. The picture shows TNA's nexus with the Tigers in the 2001 general election. \(click to enlarge\) →](#)



The Govt. has ignored their tacit complicity in these crimes, and a good personal accord has developed between Mr. Rajapaksa and the TNA leadership. Is the UN-investigative panel proposing to indict the TNA leaders for their culpability to these LTTE acts of terror? They have never denounced them, but taken pains to paint Prabhakaran as a hero. Some of these LTTE crimes are (listed below chronologically). In addition there are kidnappings of children by the thousands for use as child soldiers by the husband of the TNA member Ms. Ananthi Sasitharan; there are suicide killings etc.. If the UN-investigators are allowed in the country, and if they attempt to prosecute the TNA, or members of the Army, the current atmosphere of peace that exists in the country will evaporate.

**Hence we believe that the UNHRC investigators should not be allowed in the country, and that they should re-think their mandate.**

### **Tally of the LTTE terror.**

In 2008 Poland proposed, within the Periodic Review of the UNHRC, that Sri Lanka should ensure a safe environment for human rights defenders and prosecute those responsible for harming them. The biggest systemic violator of Human Rights then was the LTTE, but the Western governments recommended “talks” with the LTTE for power sharing, and not about war crimes, human-rights abuses etc of the LTTE, or prosecuting the perpetrators.

In 2008 alone we have:

3rd Jan 2008

LTTE attack on bus at Narahenpita, killed 5, 3 pedestrians, wounded 28, and killed an A-level student and his mother.

8th Jan 2008

Claymore attack by LTTE killed or wounded Hon. Minister D. M. Dissanayake, his entourage, and innocent bystanders including women and children.

15th Jan 2008

LTTE bombed the Buttala bound bus no 62-6427 near Vaeliaara, killed three children, 14 women, 13 men and wounded others.

16th January

LTTE night raid killed 11 villagers, 2 young men, and wounded others in Thanamalvila-Thambalagamuwa.

1-Feb.-2008

Time bomb exploded at Dehiwela Zoo to target the school children on this holiday, injuring six. Luckily no dead.

2-Feb-2008

Anuradhapura bound bus from Kandy Claymore bombed at Dambulla, wounded 75, killed 19, and these included women and children.

2-Feb-2008

Claymore attack on bus at Padaviya, wounded 17, killed 12 including women and children.

3-Feb-2008

School children (baseball teams) were attacked by an LTTE suicide cadre at the Fort railway station, killing 8 children and wounding many others.

and so on ... (see also):

**[A sample of Tamil Tiger \(LTTE\) atrocities against civilians shown on the U-Tube.](#)**

All this and more fell within the last review period. When these events of daily terror events happened, NGO groups like the Centre for Policy Alternatives, as well as Western political leaders called for 'resuming talks with the LTTE' and 'stopping the military offensive'. This is the very opposite of the philosophy adopted by the West, in dealing with terrorism in their own midst.

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### 3. Accusations leveled at the Sri Lankan Government.

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Committing alleged “genocidal” acts, leading to, e.g., loss of 40,000 lives in the last stages of the war is a typical allegation. These so-called “credible allegations” used by Darsuman et al., are found to be very questionable, as seen from the analyses given below.

a) Alleged shelling and bombardment of safety zones and civilians, and the death toll:

[Death toll in the Eelam war ending in May 2009](#)

b) Alleged bombing and shelling of hospitals.

[Medical Doctors take Oath in UK court and refute Channel-4 claims](#)

c) Non-provision of adequate food supplies to the people in the war zone.

[ICRC \(International committee of the Red Cross\) & the food distribution in the war zone during the Eelam war-IV](#)

d) The genocide myth:

- [McKenzie Institute-Toronto, Briefing 2009](#)    [Article in the Times of India, April 2009](#)

The UNHR panel allegations are utterly unfounded or grossly exaggerated. The UN - panel ignores all reality in favour of an LTTE-created virtual concept in which “*hundreds of thousands of Tamils have died at the hands of a million-strong Sinhalese army which is poison gassing, raping, cluster-bombing and torturing its way through the Vanni, while the valiant Tamil freedom fighters and Tamil civilians stand aside as the silent victims*”.

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### 4. Main accusations against the LTTE.

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These include “crimes against humanity” in attacking unarmed civilians, suicide attacks, using “human shields”, abduction of children and the use of child soldiers, assassination of political opponents etc. **If these are taken up, the TNA leaders, as the sole proxy of the LTTE, would face prosecution, in much the same way that the Vichy Government Leaders in France were tried and punished after WWII.** This would create enormous social unrest, destroying the peace that prevails in the country. The Govt. has absorbed the TNA into mainstream politics in the name of reconciliation and never sought to prosecute them. The UN-HR investigation's thrust is ill-advised, counterproductive and hurts reconciliation. Accusations against the TNA:

[Evolution and Growth of the Nexus Between the LTTE and TNA, DBSJeyaraj, 5 July 2014](#)

1. [TNA1](#)

1. [TNA2a](#) [TNA2b](#)

1. [TNA3a](#) [TNA3b](#) [TNA3c](#) [TNA3d](#)

1. [TNA4a](#) [TNA4b](#) [TNA4c](#) [TNA4d](#) [TNA4e](#) [TNA4f](#) [TNA4g](#) [TNA4h](#) [TNA4i](#) [TNA4j](#)

1. [TNA5a](#) [TNA5b](#) [TNA5c](#) [TNA5d](#) [TNA5e](#) [TNA5f](#) [TNA5g](#)

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## 5. Alleged human-rights abuses in IDP camps amounting to war crimes.

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a) Alleged “incarceration” of IDPs in `concentration camps'.

This allegation, made by the CPA and used by the UNHRC panel has been rejected by independent external observers (e.g., The Mackenzie Institute in Canada)

[IDP camps unjustifiably called "concentration camps by NGOs - John Thompson of the MacKenzie Inst. Discussion of IDP-camps and unfounded criticism by NGOs and political-advocacy groups.](#)

[This picture of IDP-camps protected by barbed wire is used even today by various NGOs to discredit Sri Lanka, even though the camps are closed. The 'Campaign for justice and Peace in Sri Lanka, an NGO where Yasmin Soosa is an advisory member still uses it on its home page](#)



[\(click to enlarge\)](#)

[This picture of barbed wiring at an Australian detention center for illegal immigrants should be compared with the casual and almost irrelevant barbed wiring used to quarantine the LTTE-](#)



[escapee IDPs \(click to enlarge\)](#)

b) Alleged deprivation and suffering, rape, executions etc., caused on persons held in IDP camps.

See [IDP Camps and the False propaganda of the Tamil Diaspora On IDPs by Narendran](#)

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## 6. Alleged lack of effort by the government towards reconciliation with the Tamil population, amounting to alleged HR abuses.

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These can be listed under the following headings.

**a) Accountability, reconciliation and cultural discriminations.**

It is alleged that the efforts of the government to ensure accountability for crimes committed by its officers are half-hearted or non-existent. The UN-panel, taking the cue from foreign-funded NGOs, has unjustly rejected the LLRC and other presidential commissions, without using a **yardstick** that should be constructed by examining how countries like Australia, Canada, USA etc., have dealt with their own accountability problems with respect to alleged assassinations, kidnappings, rape and other abuses of minorities and less- privileged groups.

[The LLRC \(Lessons-learnt and reconciliation commission\)](#) [Royal Commission on Aboriginal people in Canada, and neglect of its recommendations](#)

[Royal Commission on Aboriginal People, Australia, aftermath evaluated in film: Utopia, by John Pilger.](#)

Furthermore, the government has taken a **giant step towards reconciliation** in not trying to press charges of collaboration with the enemy and such acts of treason against the members of the TNA who are now fully included into main-stream politics. “Karuna” and “KP”, two ex-LTTE leaders, and many others have also been absorbed in to mainstream politics, while the vast majority of LLTE- prisoners have been rehabilitated without retributive justice. Hence, within this background, the aims and methods of the UN-panel are out of place and destructive to reconciliation.

NGOs bent on inciting the Sinhala extremists have attempted to argue that the non-use of an “Official Tamil version of the National Anthem” is a typical example of the lack of attempts to reconciliation. If such a “Tamil version” is sung, just after a 30-year civil war, it will enrage certain militant groups both among Sinhalese, and Tamils (n.b., The Canadian Anthem in French enrages the “Bloc Quebecois”).

[Should the National Anthem be sung in Tamil as well?](#)

This attempt to bring up an contentious issue comes from the LTTE- proxy parties and NOGs. Use of a Tamil version may seem a reasonable request until one looks at how, say, USA or France or Canada handles the same problem. The Tamil population of Sri Lanka is 8-12% depending on how it is evaluated (the CIA fact book gives 5% !) USA has a Hispanic population exceeding 18% and even more if illegals are included. But there is no “official Hispanic version of the US national anthem. In France, over 14% of the population speak Arabic, but there is no “official” Arabic version. In Canada, the French to English populations are more like 2:3, and there is a strong justification for two national anthems in both French and English, and yet the “Bloc Quebecois” walks out of the hall when the French version of the national anthem is played. Even in India, the national anthem is not sung in Tamil.

**b) Alleged militarization of the north.**

NGOs, some members of the UN-panel, and the TNA, and a pro-ITTE Bishop have alleged strong militarization of the North as a strong human-rights abuse leading to continued war-crimes, harassment, rape etc., of the population by the government.

However, due to to modern Satellite Technology, anyone can watch a Jaffna street scene live, via Google Maps, or frequently updated U-tube movies. It is easily ascertained that there is NO militarization or police presence. Certainly less than, say, in the Latin quarter in Paris!

[A U-tube video, Jaffna street, March 2014, where is the military? \(click to enlarge\) →](#)



[Street view 1 of Jaffna: do you see soldiers? \(click to enlarge\) →](#)



[Street view 2 of Jaffna: do you see soldiers? →](#)



[Street view 3 of Jaffna: do you see soldiers? \(click to enlarge\) →](#)



A detailed analysis with numbers and credible reports may be found in the following documents:

[Militarization of civil society in Sri Lanka - I](#) [Militarization of civil society in Sri Lanka-II](#) [Militarization of civil society in Sri Lanka -III](#)

**c) Alleged Harassment and victimization of journalists.**

Much of the claims are based on the reports by the The Committee for the Protection of Journalists (CPJ) recently (2013) released a list of 19 `journalists' claimed to have been killed since 1992 in Sri Lanka. CPJ includes 39 journalists killed worldwide in 2013, but NONE killed in Sri Lanka since the end of terrorism.

Those who take up arms against the state become targets of the army, just as happened in the short FLQ uprising in Quebec.

The 19 killed are said to be journalists, but some of them were terrorists killed in action, while many were killed by the

LTTE. This is not stated by CPJ and this leads to false impressions of “credible evidence”. A more detailed discussion is given via the following links.

[Journalists and rights in Sri Lanka](#) [Tissanayagam, journalist taken into custody in Sri Lanka](#) [Issipriya's case in the HRW testimony](#)

**d) Alleged disappearances.**

["White vans and abductions in Sri Lanka](#) ; [War Widows in Sri Lanka](#) ; [Women still missing after the Eelam war](#)

Compare the above with the situation in Canada to obtain a fair yardstick for comparison of government actions.

[Missing-women inquiry in Canada](#)

Thus the UN-panel's allegations are unfounded, grossly exaggerated, or inconsistent with the yardstick used in, say a Country like Canada that has not been mired in a civil war that lasted three decades.

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## 7. Conclusion.

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**In our view, the very attempt to investigate the so called “credible” allegations contained in the Darusman report, and indicted via the OHCHR will have such divisive and politically unsettling consequences that it could create ethnic clashes if the panel were allowed in the country, and hence the investigation should not be attempted in the manner envisaged by the UN-panel.**

The utter failure of previous “eminent persons” reviews” in Sri Lanka, e.g.,

[IGEP -Investigation by the International Group of Eminent Persons \(IGEP\) - A Fiasco](#)

Royal commissions in Australia and in Canada, similar commissions in the UK going into Iraq (Chilcott), Irish Issues etc., show that there are serious reasons for doing every thing to stop this misguided effort that would open old wounds.

**The investigation must be replaced by an internal review, undertaken with international participation from jurists of other countries invited in by Sri Lanka itself, and including Sri Lankan jurists, historians, social scientists etc.**