

War Crimes in Sri Lanka International Crisis Group 17 May 2010 Executive Summary: The Sri Lankan security forces and the Liberation Tigers of Tamil Eelam (LTTE) repeatedly violated international humanitarian law during the last five months of their 30-year civil war. Although both sides committed atrocities throughout the many years of conflict, the scale and nature of violations particularly worsened from January 2009 to the government's declaration of victory in May. Evidence gathered by the International Crisis Group suggests that these months saw tens of thousands of Tamil civilian men, women, children and the elderly killed, countless more wounded, and hundreds of thousands deprived of adequate food and medical care, resulting in more deaths.

This evidence also provides reasonable grounds to believe the Sri Lankan security forces committed war crimes with top government and military leaders potentially responsible. There is evidence of war crimes committed by the LTTE and its leaders as well, but most of them were killed and will never face justice. An international inquiry into alleged crimes is essential given the absence of political will or capacity for genuine domestic investigations, the need for an accounting to address the grievances that drive conflict in Sri Lanka, and the potential of other governments adopting the Sri Lankan model of counter-insurgency in their own internal conflicts.

Crisis Group possesses credible evidence that is sufficient to warrant an independent international investigation of the following allegations:

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The intentional shelling of civilians.

Starting in late January, the government and security forces encouraged hundreds of thousands of civilians to move into ever smaller government-declared No Fire Zones (NFZs) and then subjected them to repeated and increasingly intense artillery and mortar barrages and other fire. This continued through May despite the government and security forces knowing the size and location of the civilian population and scale of civilian casualties.

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The intentional shelling of hospitals.

The security forces shelled hospitals and makeshift medical centres – many overflowing with the wounded and sick – on multiple occasions even though they knew of their precise locations and functions. During these incidents, medical staff, the United Nations, the International Committee of the Red Cross (ICRC) and others continually informed the government and security forces of the shelling, yet they continued to strike medical facilities through May forcing civilians to abandon them.

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The intentional shelling of humanitarian operations.

Despite knowing the exact location of humanitarian operations and food distribution points, the security forces repeatedly shelled these areas, which were crowded with humanitarian workers, vehicles and supplies, and civilians. Many were killed or wounded trying to deliver or receive basic humanitarian assistance, including women, children and infants.

The consequences of the security forces' shelling were made substantially worse by the government's obstruction of food and medical treatment for the civilian population, including by knowingly claiming the civilian population was less than one third its actual size and denying adequate supplies. (...) There is also strong evidence that the LTTE engaged in:

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The intentional shooting of civilians.

The LTTE fired on and killed or wounded many civilians in the conflict zone who were attempting to flee the shelling and cross into government-controlled areas.

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The intentional infliction of suffering on civilians.

The LTTE refused to allow civilians to leave the conflict zone, despite grave danger from shelling and lack of humanitarian supplies, even when the civilians were injured and dying. The LTTE also forcibly recruited many civilians to fight or serve as labourers and beat some family members who protested the recruitment.

(...) Among the other allegations that should be investigated are the recruitment of children by the LTTE and the execution by the security forces of those who had laid down their arms and were trying to surrender.

Much of the international community turned a blind eye to the violations when they were happening. Some issued statements calling for restraint but took no action as the government continually denied any wrongdoing. Many countries had declared the LTTE terrorists and welcomed their defeat. They encouraged the government's tough response while failing to press for political reforms to address Tamil grievances or for any improvement in human rights. The eventual destruction of the LTTE militarily came at the cost of immense civilian suffering and an acute challenge to the laws of war. It also undermined the credibility of the United Nations and further entrenched a bitterness among Tamils in Sri Lanka and elsewhere which may make a durable peace elusive. Now a number of other countries are considering "the Sri Lankan option" – unrestrained military action, refusal to negotiate, disregard for humanitarian issues – as a way to deal with insurgencies and other violent groups.

To recover from this damage, there must be a concerted effort to investigate alleged war crimes

by both sides and prosecute those responsible. Sri Lanka is not a member state of the International Criminal Court (ICC), and the UN Security Council is not likely to refer these crimes to the ICC in the short term. While some of the LTTE may go on trial in Sri Lanka, it is virtually impossible that any domestic investigation into the government or security forces would be impartial given the entrenched culture of impunity. A UN-mandated international inquiry should be the priority, and those countries that have jurisdiction over alleged crimes – including countries such as the U.S. where dual nationals or residents may be suspected – should vigorously pursue investigations. (...)

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