

INTERNATIONAL  
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PROJECT

**Press Release: Enough Evidence to Charge Sri Lanka's new Chief of Army Staff with War Crimes.**

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**Johannesburg:** There is more than enough evidence to suspend Sri Lanka's new Chief of Army Staff, Major General Shavendra Silva, and charge him with war crimes and crimes against humanity, said the International Truth and Justice Project. The South Africa-based investigative group published a 137-page dossier on Silva, detailing his role as one of the most important Field Commanders during the 2008-9 War. The dossier presents the most extensive body of evidence against him - or any Sri Lankan War-time commander - to date. It amalgamates photographs, contemporaneous SMS and witness testimony, including from insiders, and evidence of official Army releases which were deleted offline after the war to hide the truth, as well as drawing on the findings of past UN investigative reports.

*"There is a staggering amount of evidence in this dossier meticulously collected by my team over many years," said ITJP's Executive Director, Yasmin Sooka, "Many successful cases at international tribunals or the International Criminal Court had less to work with. There is now no excuse for this man to remain as number two in the Sri Lankan Army; he must be suspended immediately and a criminal investigation instituted."*

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. This was followed in 2012 by an internal review of the UN's own grave failures in Sri Lanka and then an investigation by the Office of the High Commissioner for Human Rights.

*"After the UN investigation completed its work in 2015, the ITJP continued to document and collect evidence regarding the War. This means our NGO now has the most extensive archive of evidence pertaining to the final phase of the Civil War and violations in its aftermath. This*

*dossier is just a fraction of the information we hold,” said Ms. Sooka. “This illustrates the importance of a dedicated team of experts to do this work with knowledge that builds up over years.”*

Promising reform, in 2015 Sri Lanka’s new Government co-sponsored a UN resolution backing an ambitious transitional justice programme, including a hybrid court - which it then refused to implement. Despite promises to address the past, no senior military official has been convicted for their role in the conflict which ended a decade ago. Instead many alleged perpetrators have been promoted.

Shavendra Silva’s promotion to Chief of Army Staff in January 2019 was the most shocking. It caused alarm and horror in the former conflict areas of Sri Lanka where Tamil war survivors still live. However, some in the south still regard him as a hero.

*“The international community cannot seriously talk about progress on rule of law and accountability so long as Shavendra Silva enjoys impunity. How can the UN Department of Peacekeeping Operations continue to recruit peacekeepers from Sri Lanka when the army is run by this man? It would condone the gravest international crimes. If Sri Lanka fails to act, we look especially to countries in the region with close military ties to Sri Lanka to deny Shavendra Silva visas or, better still, to arrest him under universal jurisdiction,”* added Ms. Sooka.

In 2017, the ITJP filed a series of war crimes cases under universal jurisdiction against Shavendra Silva’s immediate Commander in the War, General Jagath Jayasuriya, who was an ambassador in Latin America. Jayasuriya fled on the eve of the filing of the cases and has shown no sign of returning to Brazil or Chile to test the allegations against him in an independent court of law.

### **Dossier Summary**

This 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.

### **Attacks on Civilians**

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.

#### **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 2km<sup>2</sup> 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 them.

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**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.

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