

LTTE reply doesn't answer the question. (1995, October 15). *The Sunday times.*

rights organisation, Amnesty International, has expressed deep concern about the LTTE's actions against villagers at Kallarawa in the Trincomalee District this year.

Amnesty International's Secretariat, in a reply, justifying the killing of the Ven. Matarara Thero under International Humanitarian Law.

In its reply that it believes the killing should not be considered to be a violation of International Humanitarian Law. Amnesty International publishes the correspondence between the LTTE and Amnesty International.

Amnesty International's Deputy Secretary general Derek G. Evans replied to the LTTE's Lawrence Thilakar on September 11, 1995.

"I am writing in reply to a statement of 10 July 1995 setting out observations by the Liberation Tigers of Tamil Eelam (LTTE) on the Urgent Action appeal issued by our organization following the killing of 42 Sinhalese villagers at Kallarawa, Trincomalee District in late May 1995. In the appeal, we had urged for an immediate halt to deliberate and arbitrary killings of non-combatant civilians.

The central issue addressed in the LTTE statement concerns the legitimacy under international humanitarian law of the deliberate and arbitrary killing of people settled in certain areas by the Government of Sri Lanka, some of whom may have been armed. You appear to acknowledge, without explicitly saying so, that the villagers living at Kallarawa were killed by the LTTE. You argue, however, that their killing can be justified under international humanitarian law because they were considered by the LTTE to be actively taking part in the current conflict between the Sri Lankan security forces and the LTTE. We believe these views are misleading, and fail to address the fundamental issue of respect for human rights and basic principles of international humanitarian law.

First of all, I must reiterate a point we have outlined in previous communications by monitoring or addressing political armed groups such as the LTTE. Amnesty International offers no special recognition or status to them.

Our appeals and contacts are purely humanitarian in nature. Nor does Amnesty International's intervention

LTTE reply doesn't answer the question

imply any judgement about the character of the conflict in question. Amnesty International does not by taking action imply that the situation it addresses necessarily constitutes an armed conflict in terms of international law; it seeks in all situations the observation of minimum humane standards drawn from basic principles of human rights and humanitarian law.

We have noted the LTTE's announcement in February 1988 that it would abide by the provisions of the Geneva Conventions and its Optional Protocols I and II. Despite the LTTE's continuing pledges we have received consistent reports that it fails to do so.

Since May 1990, we have repeatedly raised our concerns about reports of gross abuses of human rights with the leadership of the LTTE, conveyed via you or other representatives of the LTTE outside Sri Lanka. They have included the deliberate killing of hundreds of non-combatant Muslim and Sinhalese civilians, the arbitrary killing of civilians in bomb attacks on public buses and trains, the torture and killing of prisoners, and abductions for ransom. We have also expressed concern about reports of execution-style killings of prisoners accused of being traitors and those held for committing crimes in line with our organization's policy of total opposition to the death penalty in any form. In cases where we learned of the imposition of death sentences, we have appealed for their commutation.

We have also appealed for an immediate halt to incommunicado detention and have asked to be informed of the fate or whereabouts of individual prisoners held by the LTTE, some of whom have reportedly been tortured and killed. They include student and writer Thiagarajah Selvanithy and dramatist Thillainathan, who were both arrested on 30 August

1991. I use the opportunity of this letter to appeal that these two prisoners of conscience, if still alive, be released immediately and without conditions. If they have died in detention, we urge the LTTE to reveal their fate or whereabouts.

There are other potential concerns that we are currently investigating. They include reports of unfair trial of members of the Tamil community in contravention of Article 6 of Protocol II as well as of Common Article 3 of the Geneva Conventions. Paragraph 2 of Article 6 states that "(N)o sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality". In this context, I would like to remind you of our request of April 1992 for information about the reported creation of a law enforcement and judicial system in some of the areas of Sri Lanka under control of the LTTE. Other potential concerns that we are currently investigating include abuses in the context of the forcible recruitment of children by the LTTE forces.

Allow me now to come back to the specific arguments put forward in the LTTE statement of 10 July 1995 with regard to the legitimacy of killing people such as the villagers at Kallarawa and the Buddhist priest at Dimbulagala.

Although sometimes difficult, we believe it is an essential obligation under international humanitarian law to at all times maintain the distinction between the civilian population and combatants and that in case of doubt regarding the status of any individual, he or she should be presumed to be a civilian. This position is in line with the official Commentary of the International Committee of the Red Cross (ICRC) on the Geneva Conventions which explains that participation in hostilities

implies "a direct causal relationship between the activity engaged in and the harm done to the enemy at the time and the place where the activity takes place." (ICRC, Commentary on the Additional Protocols, paragraph 1697).

The ICRC Commentary on Protocol II's Article 13 is of particular relevance too. I quote:

Those who belong to armed forces or armed groups may be attacked at any time. If a civilian participates directly in hostilities, it is clear that he will not enjoy any protection against attacks for as long as his participation lasts. Thereafter, as he no longer presents any danger for the adversary, he may not be attacked; moreover, in case of doubt regarding the status of an individual, he is presumed to be a civilian [Ibidem, para. 4789, emphasis added].

Considering there were no reports of any of the Kallarawa villagers having used arms prior to or at the time of the attack by the LTTE, Amnesty International believes that they could not be considered to be legitimate targets under international humanitarian law. Amnesty International is concerned that the 42 villagers were deliberately and arbitrarily killed in direct violation of the Geneva Conventions.

In this light, I would like to reiterate our concern about the killings at Kallarawa and urge that they be investigated and that all steps be taken to ensure that individual members of the LTTE suspected of having committed or ordered these deliberate and arbitrary killings are removed from any position of authority or duties which bring them into contact with prisoners or others at risk of abuse. We would also welcome any further information you may be able to provide on this incident and any measures taken by the leadership of the LTTE to prevent such killings in the future."