



Tamil Information Centre

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UN failed to stand up for the rights of people they were mandated to assist

The UN Secretary-General Ban Ki Moon, speaking at the UN General Assembly on 30 November 2012, expressed concern over the “new and appalling height of brutality” in Syria, and the human rights violations “being carried out on a wide scale”. He said “I am horrified and saddened and condemn the seemingly daily massacres of civilians”. The very same Secretary-General has presided over an institution that knowingly allowed massacres of civilians, including possibly genocide of Tamils, to take place in Sri Lanka in 2008 and 2009 and thereafter took deliberate measures to cover-up the involvement.

The UN withdrew from the Vanni on 29 September 2008, following an order by the Sri Lankan Ministry of Defence and Public Security, although Tamil civilians gathered at UN offices and pleaded with the officers not to abandon them. The UN knew at the time that the Sri Lankan government intended to launch attacks by air, sea and land and this would result in large-scale civilian deaths. The UN was also aware that the government had ordered humanitarian agencies out of the Vanni to carry out civilian massacres without witnesses. Some UN officers in the Vanni and Colombo made futile attempts to convince their superiors that the UN should not withdraw but consolidate its position in the Vanni for the purpose of carrying out its mandate of civilian protection.

On 22 June 2010, the Secretary General appointed a three-member Panel of Experts to advise him on international standards and experience relevant to an accountability process, having regard to the alleged violations of international humanitarian and human rights law during the final stages of the armed conflict in Sri Lanka. In its report dated 31 March 2011, the Panel of Experts said it found credible allegations of a wide range of serious violations of international humanitarian and human rights law committed by the Sri Lankan government, some of which would amount to war crimes and crimes against humanity. The Panel of Experts summarized the crimes of the government: i) Killing of civilians through widespread shelling; ii) shelling of hospitals and humanitarian objects; iii) denial of humanitarian assistance; iv) human rights violations suffered by victims and survivors of the conflict, including both IDPs and suspected LTTE cadre; v) human rights violations outside conflict zone, including against the media and other critics of the Government. The Panel of Experts also said that the LTTE committed a number of violations. These were summarized as follows: i) Using civilians as human buffer; ii) killing civilians attempting to flee LTTE control; iii) using military equipment in the proximity of civilians; iv) forced recruitment of civilians; v) forced labour; vi) killing of civilians through suicide attacks.

In its recommendations, the Panel of Experts called up on the Secretary-General to immediately proceed to establish an independent international mechanism, whose mandate should include the following concurrent functions: i) Monitor and assess the extent to which the Sri Lankan government is carrying out an effective accountability process, including genuine investigations of violations; ii) conduct independent investigations into the violations having regard to genuine and effective domestic investigations; iii) collect and safeguard for future use information provided to it that is relevant to accountability for the final stages of the war, including the information provided by the panel and other bodies in the UN system. Hardly any progress has been made by the UN to implement these recommendations, probably due to the influence of the Sri Lankan government, and this also appears to be part of the UN cover-up.

The Panel of Experts also recommended that the Secretary-General should conduct a comprehensive review of actions by the UN system during the war in Sri Lanka and the aftermath, regarding the implementation of its humanitarian and protection mandates. In accordance with this recommendation, the Secretary-General commissioned an “Internal Review Panel on United Nations Action in Sri Lanka” headed by Assistant Secretary-General Charles Petrie, which published its report on 14 November 2012. Judging from subsequent events, it appears that the Secretary-General had no intention of publishing the report, but was forced to do so after the report was leaked to the BBC. However, before publication the Executive Summary was removed from the report and many sections in the report were blacked out by the UN. This extraordinary suppression of information and the truth was committed by an institution that claims to have “developed a robust accountability system which rests on internal controls and oversight mechanisms, and tools to promote transparency and integrity”.

The Internal Panel Report describes how the UN behaved during and after the last stages of the war. Writing to the Sri Lankan government on 7 February 2009, the UN Resident Coordinator said that there is a “high probability that fire from both LTTE and government positions” led to civilian casualties. But the letter failed to mention that according to figures collected by the UN most casualties were caused by government fire and included attacks on UN premises and hospitals. The letter also emphasized the “grave responsibility the LTTE has for this terrible situation”. The Internal Panel Report says that some UN Colombo staff expressed their dismay that the UN was placing primary emphasis on LTTE responsibility when the facts suggested otherwise and urged a more public stance. In a meeting with the diplomatic corps in Colombo on 9 March 2012, UN members listed the casualty figures between 20 January and 2 March 2009 in Mullaitivu as 2,683 deaths and 7,241 injuries, two-thirds of which occurred in the government-established No-Fire Zone. Their briefing and documents described LTTE violations in detail but failed to explicitly address government responsibility for the situation or for the shelling. Regarding the lack of food in the Vanni, the briefing did not explain that the most immediate cause for the severe shortfall had been government obstruction to the delivery of assistance, including its artillery shelling. On 13 March 2009, UN members including the Resident Coordinator and Chef de Cabinet Vijaya Nambiar attempted to pressurize the UN Human Rights Commissioner Navi Pillay to exclude specific reference to the number of casualties and possible crimes and violations of international law by the government. The Internal Panel Report says that throughout the final stages of the war, the UN issued many statements and reports accusing the LTTE of human rights and humanitarian violations but almost completely omitted to explicitly mention government responsibility for violations of international law.

After the defeat of the LTTE on 19 May 2009, the 280,000 Tamil civilians held in internment camps were screened by the security forces and those suspected of affiliation to the LTTE were detained in surrendee camps. The Internal Panel Report points out that the UN Sri Lanka Country Team informed the diplomatic corps of its efforts to be present at the screening locations but did not mention the reports of people disappearing from other screening locations to which the UN had no access. According to the Internal Panel Report, at the informal interactive dialogue meetings of the UN Security Council, senior UN Secretariat officials presented statements that focused on the humanitarian situation, but did not emphasize the responsibilities of the Sri Lankan government and did not give full information on deaths of civilians. The Security Council did not issue a statement until three days before the end of the conflict. The special UN Human Rights Council session on 26 and 27 May 2009 adopted a draft resolution that praised the Sri Lankan government and welcomed its commitment to human rights, but failed to mention accountability. The UN Council rejected the draft resolution which deplored abuses by both government forces and the LTTE, urged the government to provide protection to civilians and displaced persons, and to respect media freedom and investigate attacks against journalists and human rights defenders.

The actions and omissions of the UN during and after the last phase of the war indicate that deliberate decisions were made by the UN to allow the Sri Lankan government to have its own way in committing war crimes and crimes against humanity. The UN cannot claim that it did not expect Sri Lanka to launch a massive attack on civilians because UN’s own institutions have criticized Sri Lankan governments for 30 years over indiscriminate killing of civilians, disappearances and torture.

The UN, in this regard, was heavily influenced by the Sri Lankan government. This is evidenced by the fact that in January 2012 the Secretary-General appointed, Sri Lanka army’s Major General Shavendra Silva to the UN Special Advisory Group on Peace Keeping Operations (SAG). Shavendra Silva led the Army’s 58th Division which launched attacks on civilians in the Vanni and is accused of war crimes and

torture. The appointment was made despite the notorious reputation of the Sri Lankan security forces as grave violators of human rights, and the fact that in 2007, Sri Lankan peacekeeping troops were deported from Haiti for allegedly committing crimes of sexual violence against Haitians, including underage girls. In the face of international condemnation and opposition from UN Human Rights Commissioner Navi Pillay, the Chairperson of SAG Louise Fréchette informed Shavendra Silva on 22 February 2012 that he would be debarred from attending the meetings of the Group. However, according to the Inner City Press, Shavendra Silva continued to visit and inspect the UN Mission in Lebanon UNIFIL from 28 November 2012.

It is clear that the UN failed gravely to carry out its protection mandate in the final phases of the Sri Lankan war and thereafter, and failed the Tamil people of the north-east who expected protection from the world body. As the internal report's Executive Summary points out, "many deaths could have been averted had the Security Council and the UN Secretariat, backed by the UN country team, spoken out loudly early on, notably by publicizing casualty numbers". At least at this late stage the UN and the Secretary-General should take some action to bring justice to the families of more than 40,000 Tamils who were killed during the last phase of the war, thousands who suffered torture and other abuse at the hands of the Sri Lankan security forces, and thousands more who suffer from physical or mental injury and other effects of the war. It is certain that the failure of the UN to protect civilians during the war in Sri Lanka and thereafter will have profound implications for the protection of human rights.

The Tamil Information Centre calls upon the UN Secretary-General take immediate measures to

1. ensure that an international war-crimes investigation relating to the war in Sri Lanka is carried out;
2. ensure that persons involved in the war crimes and crimes against humanity in Sri Lanka are not protected and are brought to book;
3. improve the UN system, including mechanisms for transparency and accountability, so that such UN failure does not occur in other conflicts around the world.

The Tamil Information Centre also urges the UN Security Council to refer this issue to the International Criminal Court for the prosecution of perpetrators of war crimes and crimes against humanity.