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Sri Lanka unlikely to face war crimes investigation

UN chief says independent inquiry would only be launched with country's agreement, despite report finding 'credible allegations'



Sri Lanka's foreign minister, Gamini Peiris, asked the UN this month not to publish the report on alleged war crimes. Photograph: Ishara S Kodikara/AFP/Getty Images

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The Sri Lankan government appears unlikely to face a full international inquiry into alleged war crimes during the final stages of its civil war in 2009, despite a UN report that claims tens of thousands of civilians were killed, most of them in shelling by government forces.

Ban Ki-moon, the UN secretary general, said on Tuesday he would only launch an international investigation if the Sri Lankan government agrees or an "international forum" such as the United Nations security council calls for an inquiry.

Ban's statement comes in the wake of the release of the report (pdf) of an "expert panel" appointed by the UN to look into the events at the end of the 26-year long separatist conflict in the spring of 2009.

The report, posted on a UN website late on Monday night, accuses both sides in the conflict of potential war crimes. It charges the Tamil Tiger separatists (the LTTE) with using civilians as human shields as troops closed in on their final positions in the north-east of the island, and says "multiple sources of evidence" back claims that up to 40,000 non-combatants were killed by indiscriminate shelling on no-fire zones by the Sri Lankan national army.

The Sri Lankan government had attempted to stall the publication of the report, the findings of which had been widely leaked.

A government statement said its findings were "baseless, biased and unilateral". The panel's report calls for further investigation both of the Sri Lankan government and Tamil Tiger rebels. It said there were "credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law was committed both by the government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity".

The final weeks of the war saw thousands of fighters from the LTTE corralled into a small patch of land by the sea. With them were hundreds of thousands of refugees. Though media were denied access to the battlezone at the time of the fighting, reports of the civilian casualties provoked outrage in the west.

Sri Lanka's allies, particularly China and Russia, consistently protected the government of President Mahinda Rajapaksa against such criticism. The same nations are now likely to block any moves to continue investigations beyond the panel. Human rights groups have called on the UN to continue inquiries into possible war crimes.

"The expert panel's finding that the government and Tamil Tigers committed abuses and that the government has failed to hold its forces accountable shows the need for an international investigation," said Brad Adams, Asia director at campaign group Human Rights Watch.

In addition to using civilians as human shields, the report accused the LTTE of killing refugees fleeing areas they controlled and forcibly conscripting children and teenagers.

Government forces killed civilians through widespread and indiscriminate shelling, and deprived people in the war zone of humanitarian aid, the report says.

Hospitals were hit despite the fact that their locations were known.

The report also alleged that some people whom the government separated out from displaced civilians during screening were summarily executed, some women may have been raped and others may have been "disappeared".

One controversial and widely criticised measure taken by the government was the temporary internment of hundreds of thousands of civilians and thousands of fighters. Officials said this was necessary while villages in the war zone were cleared of mines; almost all have now been released and returned home.

The panel found that the Lessons Learnt and Reconciliation Commission, set up by the government to investigate wrong-doing during the conflict in response to international pressure, was "deeply flawed".

As the content of the report leaked, the Sri Lankan government mounted a diplomatic campaign to rebut its chief findings.

The Sri Lankan foreign minister, Gamini Peiris, told reporters that the UN panel's 10-month investigation had overstepped its mandate. "It's wrong to publish the report. It's equally wrong and unacceptable to take any steps at all on the basis of any findings or recommendations contained in the report," he said.

"We are very conscious of the fact that the need of the hour is reconciliation. Does [the report] further that objective, or does it make the accomplishment of that objective more difficult than it needs to be?"

The panel also criticised UN bodies and international officials for not acting to protect civilian lives and not publicising casualty figures to show the human toll of the war. Rajapaksa, who was re-elected in a landslide election last year, remains popular with voters from Sri Lanka's Sinhalese majority, particularly in rural areas. He has said that economic development will bring reconciliation and allay concerns among the nation's Tamil minority about discrimination. Last week Rajapaksa called for May Day celebrations to be used as an opportunity for Sri Lankans to show "solidarity" in the face of an "injustice done to the country before the world". Sri Lankan state television has pledged days of demonstrations on the island nation to protest the release of the report.

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