

# The Guardian

## UN calls for Sri Lanka war crimes court to investigate atrocities

**Government forces and Tamil Tiger rebels most likely committed war crimes during 26-year civil war, report says**



Sri Lankan government troops near the town of Mullaitivu, the epicentre of the civil war, in 2009. Photograph: Reuters

**Jason Burke in Delhi and Amantha Perera in Colombo**

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The UN has found evidence “strongly indicating” that war crimes were committed in Sri Lanka in the closing phases of its civil war, and called for the establishment of a special “hybrid” international court to investigate individuals responsible for the worst atrocities.

Unveiling a 220-page, two-volume report in Geneva, Zeid Ra’ad al-Husseini, the UN high commissioner for human rights, said it described horrific abuses including torture, executions, forced disappearances, sexual abuse by security forces; as well as suicide attacks, assassinations and recruitment of child soldiers by separatist extremists from the nation’s Tamil ethnic minority.

The report found that both sides “most likely” committed war crimes in the years before the conflict, which had wracked the island nations for decades, came to a bloody end in 2009.

“We have not cited names because we were looking at broader patterns of organisation and planning which breach the threshold of ... war crimes and crimes against humanity ... It was apparent that organisation and planning [took place] in the commission of many of these crimes,” Hussein told reporters.

Senior officials in the Sri Lankan army and government have previously been accused of responsibility for very serious rights abuses, as have leaders of the Liberation Tigers of Tamil Eelam (LTTE), an extremist organisation with a long record of violence against civilians, including other Tamils.

Hussein said the report was not “earth-shattering in terms of revelations” but it would provide “focus and clarity” and “a good foundation for criminal investigations to proceed”.

The report comes as the US prepares to co-sponsor a resolution at the UN human rights council in Geneva seeking to improve accountability in Sri Lanka.

Rights groups and some governments want an international investigation, but Sri Lanka has long resisted such a move. The proposed hybrid court appears aimed at allowing a mutually acceptable compromise.

“We have to end this impunity which exists. I hope that Sri Lanka to chart out a new path for itself and set an example for other countries,” Hussein said, adding that the composition of the new court would be the subject of discussions with the Sri Lankan government.

Much of the report focuses on the battles at the end of 2008 and through the first five months of 2009 when the LTTE was forced out of long-held territory and into small pockets of land where civilians and fighters mixed.



Tamil women at the grave of their relatives who died during fighting between the army and Tamil Tiger rebels in Mullivaikkal. Photograph: Eranga Jayawardena/AP

Thousands are believed to have died in indiscriminate shelling by government forces around the town of Mullaitivu, on Sri Lanka’s north-east coast.

The report also says “there are reasonable grounds to believe the Sri Lankan security forces and

paramilitary groups associated with them were implicated in unlawful killings carried out in a widespread manner against civilians and other protected persons [including] Tamil politicians, humanitarian workers and journalists were particularly targeted during certain periods, but [also] ordinary civilians”.

It details “brutal use of torture by the Sri Lankan security forces, particularly in the immediate aftermath of the armed conflict when former LTTE members and civilians were detained en masse” and says that there are “reasonable grounds to believe that rape and other forms of sexual violence by security forces personnel was widespread against both male and female detainees, particularly in the aftermath of the armed conflict”.

The report also criticised the LTTE for recruiting children, “a pattern of abductions leading to forced recruitment of adults” and for stopping civilians fleeing the conflict zone to government-controlled areas.



A destroyed tank, a relic of Sri Lanka's 26-year civil war lies on the infamous Elephant Pass that runs between Jaffna and Kilinochchi in the north. Photograph: Luis Enrique Ascui/Getty Images

The report poses a challenge to President Mathripala Sirisena, who ousted Mahinda Rajapaksa in January in a surprise election victory.

Rajapaksa, who was hailed by many for crushing the LTTE and ending its terrorist threat, was seeking a third term as president.

Officials repeatedly blocked international efforts to look into crimes committed by both sides during the 26-year conflict during Rajapaksa’s rule.

Namal Rajapaksa, the former president’s son and a member of parliament, described the proposal for a “hybrid” court as “a complete insult to the entire legal system in this country”.

“Sri Lankan courts have already demonstrated that they have the capability to conduct credible investigations within the existing legal framework. The double standards practiced by certain sections of the international community is injustice in itself,” he said.

An earlier UN report found that up to 40,000 civilians, almost all Tamils, may have been killed in a final army offensive ordered by Rajapaksa in the last months of the civil war, though the government disputes that figure.

Sirisena, who has repeatedly spoken of his desire to bring reconciliation to the polarised population of 22 million, has to satisfy international calls for strong measures against those senior individuals suspected of involvement in war crimes without weakening his still fragile administration within Sri Lanka.

Sri Lanka has suffered decades of conflict between a largely Buddhist Sinhalese majority and a predominantly Hindu Tamil minority. There is a strong nationalist support base for Rajapaksa and his family - some of whom are accused of playing key roles in the alleged killings - which may now rally to the former leader.

Britain and the US pushed for an investigation into the abuses, but will seek to limit any damage to Sirisena's government.

Campaign groups have said the report has "huge significance" and will not only shape Sri Lanka's future but "could play a major part in defining what is lawful in modern warfare".

"There is now no doubt that war crimes and crimes against humanity were committed by both sides of Sri Lanka's civil war, and that many of the tens of thousands of civilians who died in the early months of 2009 were murdered by their own government," said Fred Carver, campaign director for the Sri Lanka Campaign for Peace and Justice.

"The only way to end this cycle of violence and to build a lasting peace in Sri Lanka is with prosecutions that will break the prevailing culture of impunity. The survivors of Sri Lanka's civil war have made it clear that these prosecutions must be led by the international community."

Sandaya Eknaligoda, whose journalist husband is widely suspected to have been abducted by security forces in 2010, said she welcomed the UN call for those who are guilty to be punished.

"It is now up to the Sri Lankan government to show what they will do, whether they will carry out the promise they gave during elections that they are willing to take hard decisions on reconciliation," she said.

Pressure for an international investigation grew when it became clear that domestic inquiries set up by the then government of Sri Lanka were partisan and ineffectual. The recommendations of a "Lessons learned and reconciliation committee" went largely unimplemented.

An aide to Sirisena said the president agreed a hybrid system was necessary "because we do not have any kind of judicial process in the past that has heard cases on war crimes", but said he was "of the view that he will not agree to anything beyond foreign advisors and technical participation in any such court or commission."

The new report immediately prompted reactions that underlined the continuing ethnic and political polarisation in Sri Lanka.

CVK Sivaganam, chairman the Northern Provincial Council and member of the Tamil National Alliance, said: "We don't trust a domestic mechanism. We had domestic mechanisms and they have not lived up to expectations. In fact they have made the issues worse, by trying to dilute abuse charges. We have been calling for an international investigation because past governments have been responsible for the abuses and we could not expect them to carry out an impartial investigation.

"There has been some change since the January election, but most of it has been cosmetic, we need to see real action that demonstrates this administration is genuine about taking action."

Prakarama de Silva, a Sinhalese retired school teacher from Colombo, said he would support any investigation "as long as it does not send the our armed forces to an international court".

"But we will not support anything that will brand them war criminals, they are not. They won a



bloody war against a merciless terror group,” de Silva said.

A letter signed by more than 50 international supporters of an international judicial process argues that though recent elections have led to some welcome reforms, including curbs on the powers of the executive presidency, increased press freedom, and a drive against corruption and nepotism, the political changes have done little to reign in the power of the military or result in any significant changes in the conditions faced by the Tamils in the north and east of Sri Lanka.

This week Sri Lanka’s government pledged to set up a South Africa-style truth and reconciliation commission to look into atrocities during its civil war, as it came under renewed pressure to prosecute perpetrators.

South Africa, which confronted its own apartheid-era crimes through such a body, would advise the country on how to use the commission to provide remedy to victims and to track down missing people, said the foreign minister, Mangala Samaraweera.

“The reputation of the vast majority of armed forces was tarnished because of the system and culture created by a few people in positions of responsibility,” he said, without elaborating.

The UN was meant to release its report on Sri Lanka in March, but agreed to hold off for six months to let the new government look into why suspects had not been prosecuted.

Vallipuram Amalanayagi, 41, from Batticaloa in the east, said she and her family already knew what was in the report before its publication. “We have lived through it. I have been looking for my husband for almost seven years. When I go to the police or the government agent to inquire whether there is any new information on my husband, they ask me about how many chickens I have, they always want to avoid the real question, that my husband is missing. So how can I trust a state investigation? For now we will wait and see.”

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- Sri Lanka
- South and Central Asia
- United Nations
- War crimes
- Human rights
- news