

NEWS

'Time for International Criminal Tribunal on Sri Lanka'

DISMISSING the response by Colombo that Ban Ki Moon had not appointed panel of experts on other countries where there are "continuing armed conflicts on a large scale, involving major humanitarian catastrophes and causing the deaths of large numbers of civilians due to military action," as "simply untrue nonsense," Francis A. Boyle, professor at the University of Illinois College of Law, said that during the past year alone UN Human Rights Council had authorized Goldstone Commission investigation into Israel war crimes against Palestinians in Gaza.

Noting that the "United Nations is just beginning to do the right thing for the Tamils," Prof Boyle urged that "Tamils around the world could do the same thing for establishing an International Criminal Tribunal for Sri Lanka (ICTSL)."

"Of course this statement by the Government of Sri Lanka (GoSL) is simply untrue nonsense, and the GOSL knows it. During the past year alone the UN Human Rights Council authorized the so-called Goldstone Commission investigation into Israel war crimes and crimes against humanity perpetrated against the besieged 1.5 million Palestinians in Gaza. The Goldstone Report ultimately found that Israel had indeed inflicted war crimes and crimes against humanity against the Palestinians—just short of genocide," Boyle pointed out.

"Any appointment of such a panel as intended, would compel Sri Lanka to take necessary and appropriate action in that regard," Sri Lanka's President had told the UN Secretary General, local media in Colombo reported. The reports did not clarify what the "necessary and appropriate" actions are likely to be.

"The UN Human Rights Council has so far done the right thing for the Palestinians. Unfortunately, the GoSL was able to manipulate anti-Western sentiments there in order to block similar action by the Human Rights Council when it came to the investigation of the GoSL's own international crimes against the Tamils. So now one year after the GoSL's genocidal massacre against the Tamils, the United



Nations is just beginning to do the right thing for the Tamils. But better late than never," Boyle added.

"I already have a proposal for the establishment of an International Criminal Tribunal for Israel (ICTI) that is currently pending before the United Nations General Assembly," Professor Boyle pointed out, and added, "Tamils around the world could do the same thing for establishing an International Criminal Tribunal for Sri Lanka (ICTSL). The UN General Assembly would have the power to establish an ICTSL as a "subsidiary organ" under U.N. Charter Article 22. That way, the concerned GoSL members (e.g., Rajapaksas, Fonseka, General Staff et al) could be held accountable for their international crimes against the Tamils without needing any prior reference by the U.N. Security Council to the International Criminal Court, which would be subject to a likely Great Power Veto—for example by China.

"But there is no veto in the U.N. General Assembly. We would just need a majority vote in the UN General Assembly to set up an ICTSL. Concerned Tamils around the world should contact their respective governments of current nationality or legal residence and ask them to sponsor my proposal for establishing an International Criminal Tribunal for Sri Lanka by the United Nations General Assembly," Boyle said.



UN Secretary General Ban Ki Moon is seeking guidance on 'accountability issues' in Sri Lanka

Experts to advise Ban Ki Moon on Sri Lanka's alleged war-crimes

U.N. Secretary-General Ban Ki-moon plans to ask a panel of experts to advise the world body on "accountability issues" relating to possible human rights abuses in Sri Lanka, Reuters reported quoting spokesperson Martin Nesirky as saying.

Ban has said an investigation of war crimes allegations should be handled by the High Commissioner for Human Rights in Geneva, Navi Pillay, who has called on Sri Lanka to investigate the allegations itself – albeit with outside help, Reuters added.

Calling the action "unwarranted" Sri Lanka said, "[n]o such action had been taken about other states with continuing armed conflicts on a large scale, involving major humanitarian catastrophes and causing the deaths of large numbers of civilians due to military action."

"I am convinced that Sri Lanka should undertake a full reckoning of the grave violations committed by all sides during the war, and that the international community can be helpful in this regard," Navi Pillay told the U.N.'s Human Rights Council in Geneva on Thursday.

Ban told Sri Lanka's President Mahinda Rajapakse that he intended to "go ahead with the establishment of a panel of experts," according to Nesirky.

Gordon Weiss, a former UN spokesperson for Sri Lanka who had detailed knowledge of the ground battles and who resigned from the UN after 14 years and

returned home to Australia, in an interview to the ABC News said, Sri Lanka's military massacred as many as 40,000 Tamil civilians in the final onslaught against the Liberation Tigers in 2009.

Several rights groups have accused Sri Lanka and the LTTE of war crimes during the conflict's final phase and they have demanded an independent probe of the allegations, as has U.N. special rapporteur for extrajudicial executions Philip Alston.

Recently, an independent tribunal in Dublin after two days of in-camera hearings from more than 20 eye-witnesses who escaped Sri Lanka's slaughter of Tamil civilians concluded that Sri Lanka committed war-crimes, but the tribunal stopped short of declaring that the crimes amounted to genocide.

The Sri Lankan government has denied charges of deliberately targeting civilians and other human rights breaches.

Professor Francis Boyle, an expert in International Law, earlier noted that the U.N. Secretary General has the power to order and publish not only investigations into the violations of member countries in the conduct of war, but also the "entire role played by the United Nations Organization and its Officials," during the wars.

"The previous U.N. Secretary General Kofi Annan so ordered two separate investigations concerning the roles played by the United Nations during the geno-

cides in Rwanda and Srebrenica, respectively," Boyle noted.

Observers have asserted, however, that ban on media and eviction of international NGOs from battle zones, while the slaughter was in progress, and for months after the conclusion of the battles, have provided enough space for the Sri Lanka Government to destroy material evidence from battle zones that can establish Sri Lanka's culpability in such crimes.

Spokesperson for the US-based pressure group, Tamils Against Genocide (TAG) said, "United Nations has a moral obligation to be more proactive in conducting investigations into war-crimes allegedly committed by member countries that are not signatories to the Rome statute. Non-signatory countries enjoy some level of protection, and options to obtain justice in International Criminal Court (ICC) for victims who suffered egragious rights violations by non-signatory member countries are limited, and available only if the Security Council initiates the investigation, or an "active" prosecutor exercises his proprio motu powers under Article 15 of Rome Statute. However, prosecutor Moreno Ocampo has, in a recent interview at the CNN, expressed reservations on using his own powers to investigate Sri Lanka."

"Non-signatory status does not create a positive right to commit jus cogens norms violations," TAG spokesperson added.