

Sri Lankan government's bogus inquiry into the civil war

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Sri Lanka's Commission on Lessons Learnt and Reconciliation (LLRC) has begun its hearings into the reasons for the "failure of the ceasefire agreement" with the Liberation Tigers of Eelam (LTTE), the subsequent renewed civil war and proposals for "national reconciliation".

President Mahinda Rajapakse established the commission to fend off international pressure for a war crimes inquiry. In the final months leading up to the LTTE's defeat in May 2009, the Sri Lankan military killed thousands of Tamil civilians. The LLRC's first sittings confirm that its purpose is to whitewash the role of the government and cover up their crimes.

The commission began its sessions in Colombo on August 11, with sittings due to take place in the East and North of the island where most of the fighting in the 25-year war took place. In the North, hearings will take place in Kilinochchi, which was the LTTE's administrative centre prior to its fall in late 2008.

The commission is anything but independent. C.R de Silva, who heads the eight-member body, is a former attorney general with a record of defending the government against human rights violations. For instance, De Silva opposed a group of international experts set up to oversee a government Commission of Inquiry (CoI), when they questioned the inquiry's independence and credibility.

The CoI was appointed in November 2006 to examine 16 incidents involving allegations against the Sri Lankan security forces of murdering civilians. One particularly notorious case was the execution-style killing of 17 aid workers employed by Action Contre la Faim (ACF) in 2006 August. Rajapakse dissolved the CoI last year without it producing any public report or findings.

H.M.G.S Palihakkara, another LLRC member, was a UN envoy until the end of 2006. He staunchly defended the government against allegations of human rights violations in international forums. The other commission members are former top state bureaucrats, a former judge and an academic, none of whom have any record of defending democratic rights

or standing up to the government.

De Silva's opening remarks revealed the partisan character of the commission. "The time has now come to consolidate the victory achieved one year ago and establish national unity and reconciliation," he said. The military's "victory" has only lead to the consolidation of a permanent occupation of the North and East and the continued abuse of the democratic rights of the island's Tamil minority—hardly the basis for reconciliation.

The purpose of the commission—to justify the Rajapakse government's actions—is clear from its approach to witnesses. Retired defence secretary Austin Fernando was grilled on August 18 in an attempt to prove that the 2002 ceasefire agreement (CFA) had strengthened the LTTE, put the country in peril and that Rajapakse had no alternative but to restart the war.

Fernando was defence secretary when the United National Party (UNP) government—now in opposition—signed the ceasefire agreement with the LTTE. Under questioning, Fernando said that "there had not been proper consultations with the military before the then Prime Minister Ranil Wickremesinghe's government signed the CFA with the LTTE." He was asked whether he was aware that the Norwegian facilitators had drafted the CFA in consultation with the LTTE to make it favourable to them.

The attempt to blame the Norwegians and the LTTE for an unfavourable agreement stands history on its head. Several factors drove the UNP government to sign the ceasefire—a devastating series of defeats at the hands of the LTTE in 2000, a financial crisis as the government attempted to rearm and finally the September 11 attacks on the US. Sections of the ruling class viewed the Bush administration's "war on terror" as an opportunity to force the LTTE to the negotiating table on their terms.

Far from being favourable to the LTTE, the LTTE was compelled to abandon its demand for a separate capitalist state in the North and East of the island at the start of peace talks.

With the backing of the US and other major powers, the UNP government insisted that the LTTE renounce violence and disarm before any final political solution was reached—a demand that ensured peace talks never discussed any issues of substance.

From the outset, however, Sinhala extremist groups, including the Janatha Vimukthi Peramuna (JVP), denounced the ceasefire. The military, which was also bitterly opposed, provocatively intercepted LTTE supply vessels on several occasions, sinking one in international waters. At the same time, the military, which had been outgunned by the LTTE in 2000, used the breathing space to rearm and acquire more sophisticated weapons.

Matters came to a head in late 2003 when the LTTE presented a proposal for a political solution to the government as the basis for resumed talks. Amid JVP denunciations of the UNP for betraying the country, President Chandrika Kumaratunga—from the Sri Lankan Freedom Party (SLFP)—used her executive powers to seize three key ministries including defence. In 2004, she dismissed the UNP government and held an election that resulted in a SLFP coalition with the JVP headed by Mahinda Rajapakse as prime minister.

In November 2005, Rajapakse narrowly won the presidency based on a lie. He claimed to be a man of peace, but based himself on a platform drawn up with the JVP that insisted on a rewriting of the ceasefire agreement—a recipe for war. Amid a series of provocative murders of LTTE supporters, Rajapakse restarted the war in 2006 in open violation of the ceasefire—with the tacit support of the US and all the international backers of the “peace process”, including the Norwegians.

The commission also took evidence from the president’s brother, Gotabhaya Rajapakse, who, as defence secretary, is deeply implicated in all of the military’s war crimes over the past four years. Far from grilling him over the numerous incidents involving the deaths of civilians reported by human rights organisations, the questioning was more like a chat among friends.

The defence secretary was not challenged over his lies: the war had been a “humanitarian operation” to “liberate the Tamils”; government policy was “zero civilian casualties”; the military took steps to “minimise the loss of civilian life”; aid groups were allowed to distribute food and medicine; and so on.

The commissioners even helpfully prompted Rajapakse. For instance, De Silva noted that some surrendering LTTE cadres had said they were guided by soldiers through mine fields. “Had you given an order to the army to guide people?” he

asked. “Actually the order given is in that document to provide safe passage. To see that they were not attacked by mistake,” Rajapakse replied.

The exchange is particularly significant in the light of reports in the British press that Rajapakse had ordered the killing of three top LTTE leaders in May 2009 who were carrying white flags and surrendering. The reports were confirmed by the former army chief, General Sarath Fonseka, provoking bitter denunciations from Gotabhaya Rajapakse. De Silva did not question the defence secretary over the so-called “white flag” controversy, or any other human rights abuses in which he is implicated.

The government’s attitude towards democratic rights was underlined by the testimony on August 26 of former Sri Lankan official at the UN, Jayantha Dhanapala. He urged “the international community” to “adopt a new protocol to deal with the armed forces battling terrorism spearheaded by non-state actors. Armed forces should not be charged with war crimes when they launch offensives against terrorists.” What Dhanapala is suggesting is that the Geneva Convention on war crimes simply be torn up in the name of “fighting terrorism”.

The appeal is directed in particular to the US. The Colombo political and media establishment has bitterly complained that Washington and its allies, while accusing Sri Lanka of human rights violations, are carrying out similar actions in Afghanistan. Certainly the US criticisms are hypocritical, but their purpose is to put pressure on the Rajapakse government and to undermine growing Chinese influence in Colombo—not to seek justice for the victims of Sri Lankan war crimes.

The proceedings of the commission do not in any way constitute an investigation of alleged war crimes, but are aimed at covering them up. In the final months of the war between January and May 2009, the UN estimated that 7,000 Tamil civilians were killed as the army pounded the shrinking patch of LTTE-held territory. A report by the International Crisis Group this year put the death toll between 30,000 and 75,000 and accused the Sri Lankan military of deliberately bombarding hospitals and aid centres.

In line with the Sri Lankan government’s flat denials that the military killed any civilians, the commission is yet to ask witnesses about any of these atrocities.



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