2ND LEAD (CORRECTIONS)

Kohona admits to sending "Killer SMS"

[TamilNet, Friday, 13 May 2011, 20:26 GMT]

Dr Palitha Kohona, Sri Lanka's Permanent Representative to the UN, admitted to sending an SMS message through a European intermediary giving instructions to leaders of the Libertation Tigers to surrender, Sydney Morning Herald reported in an investigative story in its Friday edition. In this "white flag" incident Sri Lanka Army (SLA) soldiers is alleged to have gunned down all the LTTE members who surrendered. The Journalist Ben Doherty appeared to have visited Sri Lanka and gathered the pertinent evidentiary information, including a statement from an eye-witness to the incident.

Filing with ICC Prosecutor Moreno O'Campo

A report to the UN Secretary-General last month named him as party to the failed surrender talks, and two Tamil groups, US-based Tamils Against Genocide (TAG), and Swiss Council of Eelam Tamils (SCET), have filed a complaint with the International Criminal Court (ICC) in January this year, accusing Kohona of war-crimes.

Dr. Palitha Kohona

Spokesperson for TAG told TamilNet, "A superceding complaint is in preparation for submittal to the ICC, and this will include affidavits from eye-witnesses for the whiteflag incident to persuade the ICC Prosecutor to initiate an investigation into the crime."

Kohona has, until now, refused to respond to accusations of his alleged involvement in the white flag incident.

Full text of the SMH article follows:

MULLAITIVU, Sri Lanka: In the frantic confusion of the last hours of the Tamil Tigers' war, some sought a way out. Through text messages and phone calls they offered an unconditional surrender, in return for safe passage out of the war zone.

Now, two years on, an Australian citizen and senior Sri Lankan diplomat stands accused, in an application to the International Criminal Court, of complicity in the murder of surrendering Tamils. A Herald investigation examines one desperate final act in Sri Lanka's civil war on a lonely, bloody beach at Mullaitivu.

The ruthless separatist war waged by the Liberation Tigers of Tamil Eelam against the Sinhalese-majority Sri Lankan government came to its bloody end, after more than a quarter of a century, in May 2009.

The terrorist army, which at one stage controlled a third of the island, was reduced in the end to a narrow strip of coastal land, hemmed in by the sea, a lagoon, and a relentless assault from the advancing army.

Many Tigers vowed to fight to the death rather than lay down their arms, but as the bodies piled up on the beach, some sought a way to surrender, for themselves, and for the thousands of civilians they held hostage.

Under constant heavy shelling, on mobile phones with waning batteries, they rang and sent text messages to anyone they thought could help rescue them.

They contacted diplomats, journalists, workers of non-governmental organisations, seeking anyone who could broker an agreement between their rump of a resistance and the government.

They made dozens of calls.

Through a European intermediary, they got a message to Dr Palitha Kohona, Sri Lanka's foreign secretary, and at that time the public face of Sri Lanka's war against the Tigers.

Dr Kohona is dual Sri-Lankan Australian citizen, a former Australian diplomat and trade negotiator for the Department of Foreign Affairs and Trade. He is now an ambassador for Sri Lanka, the country's permanent representative to the United Nations.

He was contacted with a message on behalf of a man called Pulidevan, who was the head of the Tiger peace secretariat. Pulidevan was not a soldier, but a key Tiger policymaker. He offered an unconditional surrender.

Willing to walk out with him were members of his family, Nadesan, the head of the Tigers' political wing, a Tigers' Colonel called Ramesh, and more than a dozen civilians. [Note by TamilNet: Mr. Ramesh was Chief of Tamil Eelam Police, a civilian post at the time of the incident]

Over several hours it was negotiated that those who wished to could safely surrender under a white flag. They were told a route to walk from behind a defensive bund into the custody of the army's 58th division. The troops were told to expect them.

At 8.46am on Sunday, May 17, Dr Kohona sent a text message to a third party intermediary, which was passed on to Pulidevan.

"Just walk across to the troops, slowly! With a white flag and comply with instructions carefully. The soldiers are nervous about suicide bombers."

At 6.30am the next day, Pulidevan and Nadesan, each carrying a white flag above his head, and followed by a group of about 15 that included their families, walked from their hideout towards the 58th division.

A Tamil man who was in the war zone and watched them leave - who has since fled Sri Lanka, but asked that his name be withheld for fear of reprisals - told the Herald they walked as instructed and none were armed.

"I saw them with my own eyes. Pulidevan and Nadesan and then behind them the other people. I saw them walk towards the soldiers. The soldiers had trucks, they took the people behind the trucks and behind the sand mound, we couldn't see them any more. Then we could just hear shooting, and people yelling. The shooting was fast, like a machinegun.''

Reports at the time said Pulidevan's wife, a Sinhalese woman, called out to the troops in their native Sinhalese: "He is trying to surrender and you are shooting him". [Note by TamilNet: It was Mr. Nadesan's wife. Mr. Nadesan was married to a Sinhalese lady. Mr. Pulidevan's wife didn't surrender on that occasion and she is alive].

The deaths of Pulidevan and Nadesan were reported within half an hour. The body of Pulidevan's wife was found, too, also shot dead.

The war ended that day. The bodies of some of those who surrendered were found in the days following, but many were not. It is believed that none of those who surrendered survived.

Dr Kohona told the Herald the text message was not part of any negotiations with the Tigers. "I have said … categorically that as foreign secretary of Sri Lanka, I never had the authority to issue orders to troops or to discuss surrender terms of any terrorists, either directly or indirectly."

He did not "honestly believe" an effort was made by the group to surrender.

"The text is likely to have been in response to an inquiry, but not from anyone associated with the LTTE. This was not an effort to arrange a surrender, which I had no authority to do.

"In my understanding this is how surrenders normally take place. This was all

the advice I could give."

The Herald has confirmed with three independent sources the message sent by Dr Kohona to a third party was in response to an offer from Pulidevan of a surrender. The message was passed to Pulidevan.

But while Palitha Kohona was regarded as a key player in negotiations, evidence is emerging the Tigers' planned surrender was foreknown throughout the Sri Lankan government and military, to the very highest levels.

The report to the UN Secretary-General on the conduct of the war, released last month, found: "both [Sri Lankan] President [Mahinda] Rajapaksa and [his brother] Defence Secretary Basil Rajapaksa provided assurances that their surrender would be accepted.

"These were conveyed by intermediaries to the LTTE leaders, who were advised to raise a white flag and walk slowly towards the army, following a particular route advised by Basil Rajapaksa."

Leaked US embassy cables show Norway's ambassador was in regular contact with Tamil Tiger leaders and with both Basil Rajapaksa and another brother, Gotabaya, urging the government to accept a surrender.

And a deposition from a senior army officer, seen by the Herald, says there were instructions from a field commander "to get rid of the LTTE cadres who are surrendering, without adhering to the normal procedures".

The Sri Lankan government has maintained the surrendering Tamils were shot by other cadres as they deserted. It says it pursued a humanitarian rescue operation.

Dr Kohona himself addressed the UN Security Council this week, telling it that at the end of the war, "the government adopted a zero civilian casualty policy''.

He told the Herald he has "absolutely no idea" how Pulidevan and Nadesan died.

"The version [presented by the report to the UN] appears to be a convenient entree to establish criminal conduct. The rump LTTE has been working overtime clutching at straws to get even.''

The UN Secretary-General's report found it was "unable to accept the version of events held by the government of Sri Lanka".

Chronology:

08.12.12 South Africa rejects Silva for deputy ambassadorsh..
07.12.12 Sri Lanka's alleged war-criminal inspects UN Leban..
18.03.12 Shavendra Silva declared "persona non grata" to Br..
23.02.12 War-crime allegations lead to Shavendra's ouster f..
18.02.12 Ban under fire for silence in Shavendra's UN appoi..
09.02.12 US Court dismisses Shavendra case on grounds of im..
08.02.12 Boyle: Appointing alleged war-criminals to UN post..
21.11.11 Treaties provide absolute immunity against civil s..
14.11.11 "Charming Betsy" not so charming towards defendant..
09.11.11 Shavendra not entitled to immunity, argue attorney..
02.11.11 Shavendra raises immunity defense to escape tortur..
24.09.11 Torture case filed against Sri Lanka's ex-General ..
13.05.11 Kohona admits to sending "Killer SMS"
04.05.11 German Rights Group accuses Dias of war-crimes
24.02.11 Ban and Nambiar confer with generals and officials..
22.02.11 Diaspora legal activists speak to Palaka'ni on ICC..
21.02.11 Kohona could face court over Tamil Tiger deaths - ..
13.02.11 TAG, SCET's legal brief asserts ICC obligated to p..
08.12.10 Dual citizen Kohona falls under ICC jurisdiction o..
06.12.10 Suspect Sri Lanka war-criminal in UN post under US..
26.11.10 UN post confers no absolute immunity from war crim..
21.11.10 New York media alerts UN posting of 'War Criminal'..
30.10.10 Denmark Tamils take legal step to file war-crimes ..
15.09.10 European Court to review Jagath Dias case

27.08.10 Sri Lanka's presumptive war-criminal to take UN jo..
01.08.10 Dias case filed in European Court, German Ambassad..
24.07.10 Tamils sue Germany for accepting alleged war crime..
21.07.10 Tamil Country Councils, TAG announce legal partner..

External Links:
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