



Feature

2ND LEAD

Further 'Sri Lanka' blunder would again lead UN to investigate itself: TN activist

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'Sri Lanka' Army Court of Inquiry has already given a verdict in 2013 that there were no civilian casualties caused by its military and that sums up the would-be course and end result of any domestic mechanism. The OHCHR ignores the role of international actors in the conflict in the island, which the UN Expert Panel Report itself had pointed out. If the UHRC concedes to the forthcoming resolution by the US, it will be another 'systemic failure' caused by going against its own Internal Review Report. "If OHCHR does not resort to Article 99 mandate and refer the case to ICC, we will be witnessing another report, after 4 years, from the UN, terming this fiasco as another systemic failure," writes a Tamil Nadu activist.

Full text of the article by the Tamil Nadu activist follows:


UN, as a system, is supposed to take past records into account before making any recommendations. In the case of Sri Lanka, we have seen that domestic mechanisms have consistently failed in bringing justice.

The Army Court of Inquiry, which gave its verdict on Feb 15, 2013 observed that there were no civilian casualties caused by Sri Lankan Armed Forces and this past record sums up how the end result of any domestic mechanism would turn up. Sri Lanka's internal judicial verdict which is in direct contradiction with UN's own Experts Panel's Report and Internal Review Panel Report is not taken into account by The UN High Commissioner for Human Rights.

The UN High Commissioner refers to Chapter 3 of Geneva Conventions, which primarily deals with armed conflicts of non-international status, in referring the case for domestic investigation. But, OHCHR [Office of the High Commissioner for Human Rights] has ignored the role of International Actors, as observed in Para 56 by Experts Panel's Report which describes it as a conflict with active participation of International Actors, in terming the war as non-international armed conflict.

Besides the active role of International Actors, the conflict was also of international nature based on the territory on which the crimes have taken place. The conflict was not bound to the Island of Sri Lanka, but it spread beyond Sri Lankan Waters and extended towards the maritime border of Indonesia and Australia. Conflict with active participation of international actors and on international waters cannot be construed to be dealt under Chapter 3 and it can be investigated only in ICC.

If OHCHR concedes to the resolutions by US in support of Sri Lanka, and recommends domestic investigation in its report to be tabled in its 30th

 [Report of UN Secretary-General's Panel of Experts on Accountability in Sri Lanka \(9Mb\)](#)

Session, it will be another 'systemic failure' of UN. The Internal Review Panel Report documented UN's inaction in Sri Lanka in 2008 and 2009 and the follow up to this report titled 'Rights Up Front' termed it as a systemic failure. As remedial action, Rights Up Front (RUF) report recommended internal restructuring within UN. But it has not addressed the remedial action to be followed for justice to the victims.

The RUF cited the lack of co-operation among member states for this failure and said that the UN reports must be held to the highest standard for the sake of the victims and for the Secretary-General to carry out the responsibilities of the Article 99 of UN Charter to accurately pass information to the Security Council.

But, now again, UN is on the verge of succumbing to the course dictated by member

states, and not ready to adopt the guidelines laid down by RUF. If OHCHR does not resort to Article 99 mandate and refer the case to ICC, we will be witnessing another report, after 4 years, from the UN, terming this fiasco as another systemic failure.

External Links:

UN: [Rights Up Front](#)

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