

# Report Of UN Panel And Rajapakse Under Siege

Monday 2 May 2011, by [DAVID Kumar](#) (Date first published: 24 April 2011).

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The slings and arrows of outrageous fortune have buffeted the Sri Lankan Government (GoSL) of President Mahinda Rajapakse with a suddenness and intensity that has left it reeling. A few weeks ago the US State Department released its Human Rights Report which was scathing in its findings of gross violations of both human and democratic rights in the Sinhalese South, the Tamil North and Vannie, and the ethnically mixed Eastern Province. Then came the real bombshell, the report of the UN Panel appointed by UN Secretary General Ban Ki-moon. The most damning findings in the report are summarised in one sentence (the third) in the Executive Summary, viz:

“... (T)he Panel found credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law were committed both by the Government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity. Indeed, the conduct of the war represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace”.

The reference to LTTE leaders is but posthumous; however the leaders of the war on the side of the state, Mahinda and Gothabaya Rajapakse and General Sarath Fonseka, are very much alive, though the last named is a guest of the Superintendent of Prisons thanks to his conflicts with the other two. The integrity and independence of the three members of the panel, Marzuki Darusman (former Indonesian Attorney General), Yasmin Sooka (former commissioner of the South African Truth and Reconciliation Commission); and Steven Ratner (US academic) are not questioned by anyone except hard apologists for GoSL. Notwithstanding its crimes the now defunct LTTE is not going to be in the dock. The response of Colombo to the Panel report and the events that will follow, regardless of where they lead, ensures that Colombo will be the focus of attention of the world insofar as repression, HR violations and war crimes go. What happened in April 2011 makes it inevitable that the rest of the world will see Colombo and only Colombo as culpable. This scenario is a game changer.

## Defiance in depth

GoSL is not going to curl up and play dead; it is accustomed to artifice, defiance and tactical dissimulation which have served it well for the last six years and it is already mobilising its stratagems in defence. The success of the regime in thumbing its nose at the world is in part a gift from the international community, particularly Delhi which has played dumb, if not quite brain dead and let Colombo get away with this (nothing in the Panel Report is news to Delhi) and renege on a string of promises on a much rumoured political settlement of the national question. An interesting

question is how much further Delhi, Beijing and Moscow can go in protecting GoSL? What rationalisation can the proffer? It is difficult for these patrons to echo the shrill voice of Colombo and assert that the findings of the Panel are fabrications worked out in cahoots with the LTTE rump in the diaspora. Nonetheless, since nothing is impossible in this age of Goblesian disinformation by state actors one will have to wait and see how the cookie crumbles. Still, this is a hard one, and GoSL's primary champions India, China and Russia may retreat somewhat to the sidelines.

Sensing international isolation GoSL is preparing a diplomatic offensive sending delegations led by retired senior civil servants to "neutral" capitals. There are two lines they can opt for: (a) the findings of the report are pure fabrications, or (b) terrible things did happen but were an unavoidable consequence of fighting a ruthless enemy under painful circumstances. The more intelligent defence would have been (b), whether true or false – one can quote Hiroshima, or the fire bombing of Dresden and Berlin, or Kashmir, or the Maoist red belt in India, can't one – but GoSL has shot itself in the foot by its previous stance. President Rajapakse is on record that not a single civilian was killed by the military in the Vannie, that there was nil bombing or artillery shelling of civilian zones, and there is zero state involvement in the 50 or so journalists abducted or murdered. Having said this to win support locally, it becomes imperative for GoSL to assert defence (a) in the main, supplemented by (b). With this methodology GoSL will have considerable difficulty sustaining international credibility. Either the rest of the world – or at least the North Atlantic nations – have gone collectively mad, or something is rotten with the state in Lanka; this dissonance cannot survive long given economic dependence and a thousand strings and the umbilical cord binding Lanka to the countries of the Anglophone West.

GoSL will then have to turn to whipping up support internally by mobilising emotions at home to make up for a possible shortfall in international sustenance. The President has issued a call to make May Day 2011 a day of defiance against the UN Panel and for sure there will be a substantial response from the Sinhalese community which sees the war as a struggle against terrorism and counts the victory as a great triumph against a historical enemy achieved by a heroic army. The community cannot therefore psychologically countenance the possibility that the government or the armed forces engaged in war crimes or crimes against humanity.

It is of vital importance to watch to what degree irrational emotions are whipped up in the coming weeks. The UN has issued a warning to GoSL to guarantee the safety of its staff; excesses against minorities or foreigners could become flashpoints. Obviously government leaders don't want this but emotions on the street once ignited are difficult to control. Lanka has a cabinet minister who led an attack on the UN Headquarters in Colombo some months ago and another who tied a public servant to a tree for dereliction of duty; these are not ordinary times. A worst case scenario that one must hope GoSL will have the sense to avoid is the exacerbation of xenophobic ultra nationalism. It would be helpful if Indian public opinion speaks up at an early stage to discourage such trends.

### **Rational voices**

It is heartening that strong voices have been raised in Sri Lanka against irrational behaviour and emotional outbursts. The most important objection has come from the trade union movement refusing to acquiesce in the government's bid to "hijack" May Day, workers day, for political ends. The trade unions of the LSSP and CP (both member parties in the government) have insisted that there are more important issues facing the working class such as the pro-IMF economic policy. M.S. Rasdeen leader of the LSSP's largest private sector union, the Ceylon Federation of Labour, has gone public expressing his dissent with the plan to use May Day as a day of defiance aimed at the UN.

Anik Pittuwa (The Other Page) a monthly supplement issued with the pro-left Ravaya newspaper by a group which includes the leading figures of the LSSP left-tendency made a statement in their May Day issue which, in rough translation reads as follows.

“The findings of the report released by Ban Ki-moon’s investigation panel are shocking to any right minded person. Although most of these allegations were known before and the Tamils have been insisting in private that they are true, their endorsement by an international panel is a matter for further dismay. The government is seeking to use the report to drive the country further down an ultra nationalist path. The Report is equally critical of both sides to the conflict since it is as scathing about the war crimes of the Tigers as it is about the behaviour of the state’s forces. This state of shock and disbelief in Sri Lanka is not unusual; to this day the Japanese people are in psychological denial of the massacres and brutality of the Japanese Army against civilians in China and SE Asia. Most Americans still hide from the truth about the carpet bombing of civilians in Laos and Vietnam that left tens of thousands dead and maimed. Serbians and Croatians are bitter about the war crimes of the other side but cannot accept that their own forces acted similarly”.

“It is necessary now for Sri Lankans to remain calm and to consider with a clear mind all the evidence in the report, the government’s denials, and the large amount of other material that is now surfacing. Right understanding is what we need; it is a precept of the Noble Eightfold path. People must not allow themselves to be incited to irrational emotions, or to rash acts against minorities, foreigners, the United Nations, journalists who criticise the government, or the political opposition”.

It is also encouraging that the JVP, although it was a shrill champion of the war is now holding fast to its new role as the strongest opponent of the government and a campaigner for democracy. It is pleased by the embarrassment of the Rajapakse brothers and has adopted a conciliatory tone towards the Panel report. Interestingly the part of the Report it has sought to highlight is the criticism of the UN itself for failure to act during the war and to contain humanitarian disasters in late 2008, the first months of 2009 and thereafter. Here is another extract from the Reports Executive Summary.

“During the final stages of the war, the United Nations political organs and bodies failed to take actions that might have protected civilians. Moreover, although senior international officials advocated in public and in private with the Government that it protect civilians and stop the shelling of hospitals and United Nations or ICRC locations, in the Panel’s view, the public use of casualty figures would have strengthened the call for the protection of civilians while those events in the Vanni were unfolding. In addition, following the end of war, the Human Rights Council may have been acting on incomplete information when it passed its May 2009 resolution on Sri Lanka”.

This stricture of course is also applicable to India, China and other supporters of GoSL in the UN Human Rights Council though in the case of India it would be far fetched to suggest that it was not fully aware of what was going on in the Vanni.

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From Eurasia Review

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