

Translation of an interview of NIMALKA FERNANDO, IMADR PRESIDENT

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Q1:What are the issues contained in the report prepared by the expert panel appointed by the Secretary General of the UN Ban Ki- Moon?

The main challenge before this committee was to arrive at an understanding regarding the incidents that took place during the last stages of the war in Sri Lanka since there were confusing reports and information. Both the government and the LTTE had declared war. It was no more a guerilla warfare both parties were engaged in a conventional war.

During this period allegations were brought against the government by Diaspora as well as several humanitarian agencies. Many spoke about efforts related to humanitarian work being hampered, that hospitals were being bombed, areas inhabited by civilians being shelled and or bombed. There were many such reports re such incidents. Since this is now a conventional war it has to come under such rules like the Geneva Convention. Therefore if such an inquiry is being held as to whether there was compliance to Geneva Convention this is not interference into sovereignty.

Such laws were passed after the 2nd World War. This arose with initiatives taken to give a commitment to people of this world that nobody will be allowed to repeat what happened during the 2nd world war. In other words it was a commitment given that the world will not see such a barbaric and genocidal war again.

There is also an issue of one's conscience. The Secretary General of the UN is primarily responsible for keeping up the international commitments, upholding such principles. If those who are tasked with high responsibilities fail to respond effectively, the very existence of such institutions comes under question. The very essence of the existence of the United Nations is so linked to accountability and responsibility of its members. It creates civilized standards of behavior both within governments and inside member states. This is that forum for not only member states but also for people of member states.

I do not wish to white wash the UN. It is situated in New York in the United States of America. Maybe most decisions taken by the UN has the shadow of American interests at large. But those who are in the government like Mahinda and Vasudeva now criticizing the UN as a forum of imperialists took their complaint against the disappearances in 1989 to this same forum. We should not forget that history.

The Ministry Defense ordered all humanitarian agencies to move out of the conflict zone. No media was allowed into this area. The war in Sri Lanka was widely discussed as the 'War without witnesses'. Not even the local and national media were permitted to enter into these areas. Even though the war ended without witnesses the government failed to address the many problems arising out of this conflict. When we asked the government how many inhabitants are living in Kilinochchi or Vanni they stated that it is a small population and it amounts to about 70,000. But when the exodus took place over 300,000 people came out of Vanni. The government went into crisis with this revelation. Issues arose as to why the government was hiding actual information, why they gave wrong statistics also raised tremendous suspicion.

Then next those displaced started searching for their family members. Many who had surrendered their husbands or sons to various army check points started asking for their whereabouts. In addition there was a big discussion about the killing of people who came to surrender carrying white flags. Of course these renderings of incidents mainly come from the diaspora and IDPs. Maybe the LTTE would have killed those coming to surrender carrying white flags from behind. Even if this happened the government of Sri Lanka has a responsibility to provide necessary evidence to prove the truth of this story since they were present on the ground. But the government did not do so. In such circumstances criticisms were also leveled against the UN system for not taking effective steps to address the violations. It is those circumstances in my view that compelled UN to take such measures now.

Q2:This report not only bring allegations against the government it is also making LTTE too responsible for violations.

Yes. That is true. Yes LTTE too has violated the Geneva Convention. The government has the PTA and various criminal laws to apprehend acts of violence. Therefore they are empowered to take action against anybody in that organization who has committed terrorist activities. This is the duty of the state. At a time when the

leadership of the LTTE has been assassinated the responsibility for inaction also now falls on the government. Because today some of the top LTTE leaders are now holding very responsible position inside the regime. Those who are living are working closely with the government. If somebody has committed a crime can the mere fact that he is now a disciple of the Rajapakse Chinthanaya make him acquit from allegations. He does not become an innocent man just because he switches his political allegiance.

Therefore another challenge before us is to deal with people who are directly responsible from abduction of children. They took children out of homes and engaged them in warfare. Can we nurture a leadership who continue to act in such irresponsible manner?

Q3: This committee in one sense use as the basis evidence given by people to LLRC. ON the other hand they reject the LLRC stating that it has not come up international standards.

This LLRC is one such initiative among many appointed by the government. The government appointed 2 or 3 such groups earlier. This LLRC is one such initiative among many appointed by the government. The reports prepared by other committees were not made public. Media coverage of these reports gave us the impression that victims were found guilty of offences. None of the victims received effective relief. Those who had experienced the final stages of the war gave evidence before the LLRC. We need to strongly affirm what has been revealed by these people. There was no transparency in relation to this commission. They were appointed by the President and it is well known they were handpicked by him. The mandate of the LLRC was not related to the last stages of the war. It was mandated to look into the activities related to the ceasefire agreement and how the CFA process affected the ethnic conflict. The GOSL was trying to find fault with the previous regime and blame them for the war. Ironically the majority of those victims who gave evidence representing the North and East stated their experiences related to the final stages of the war. Even though many wanted to come before the LLRC they were did not get an opportunity to give evidence. They were asked to write the evidence on pieces of paper.

On the other hand those who were giving evidence were photographed which tantamount to intimidation.

Commissions are known as transitional justice mechanisms. Those who are seeking justice through such process receive interim relief. It is not an adjudication process, this is mainly a social and psychological process used in conflict situations. During the commission appointed by Chandrika Bandaranaike, namely the disappearance commission, there was a free environment for people to come and give evidence before the commission. Armed forces personnel were not present taking pictures of those giving evidence. This is the reason as to why the expert committee is rejecting the LLRC process.

Q4: As the report is released the government is stating that there is no truth in what is stated, that they are not willing to accept the report. Nevertheless, we are aware that the government had sent a delegation to meet the panel, led by its own AG.

Yes, this in itself proves that the government has to accept this process, now the government is stating that the diaspora has misled the expert. We should not forget, neither the diaspora nor we can mislead an organization like United Nations. The government is also stating that the report is taking Sri Lanka before international criminal court. This is misleading Sri Lankan citizens, it is a false propaganda. This report has not stated anything like that. I think this report is seeking relief and solutions for hundreds and thousands of people affected by the war. Seeking a response from the government primarily since thousands came seeking protection finally from the government. I consider this report as a blessing. What happened during the war as shared by those who experienced has helped in the formulation of this report. Therefore, without trying to hide facts, we should come forward to bring relief to those who are suffering. The people affected are not asking for punishment, they are not seeking retributive justice, they want normalcy, returning back to their life and where they are living. They are seeking freedom and to live freely in the future. Therefore it is wrong to show that this report has been compiled to send Mahinda Rajapakse to the electric chair.

Furthermore, to reject this report is an inhuman act. In so doing we are rejecting tears of a woman/mother or a child. Lives would have been lost as a consequence of a war of Sinhala, Tamil or any other person. Today in the North and East relatives and friends of those who have died during the war are unable to perform religious traditions for the souls of the departed.

Q5: Various people of the government are stating that they are mobilizing people against this report and will take steps to inform the international community about the real situation. What would be the results of this kind of stubborn behaviour of the Sri Lankan government?

I should first say it is Sri Lanka that has accepted in the recent past the concept of Court Martial or special tribunals. Sarath Fonseka has been found guilty and is imprisoned today as a result of such a court martial. The charges brought against him are not of criminal nature. They were related some 'nuts and bolts'. If the government was following a correct path, such allegations would have been inquired by through our normal judicial process. A country that has resorted to using court martial is shouting and screaming about the international criminal court. Some are saying that there is an international conspiracy behind this report. This is a joke. You cannot hide behind the cover of such stories, like electric chair or the ICC. As I stated earlier, what is most important here is whether the report has a conscience. Whether we have a conscience as a nation as a people.

The most important issue we have to address is the dangerous trend emerging. The government is attacking this report as an imperialist conspiracy. They are now proposing to link up with another imperialist camp seeking protection.

Whether we are against the UN or not, their activities will not stop. You know that Wimal Weerawansa carried out a fast unto death in front of the UN but the UN did not stop from appointing the Expert Panel.

Attempts made to reject the report actually means how much lies we are going to utter before the International committee. Therefore we should not look at this report as something against the motherland and try to whip up racism.

Now we see very dangerous trends. Defence Secretary, Gotabaya Rajapakse, is publicly campaigning seeking assistance from Russia and China to protect Sri Lanka. This statement has grave international implications and will lead Sri Lanka into crisis point. We are all aware of the tensions between India, China and Russia. I don't think India will react well to this statement. Gotabaya Rajapakse is not stating that he is seeking protection from India. On the other hand, what right has Gotabaya Rajapakse to make

such statements which has political implications to this country. He is only an appointed secretary. If at all this statement should be made only by the President. That too should be done after extensive consultation held with the cabinet of ministers. If we behave in this manner the result would be alienation from the International community and we cannot stop that.

Q6: *What do you think the most appropriate action the government should take?*

I have stated earlier that this is something related to the conscience of Sri Lanka. The government of course can ignore this report, because the government has no obligation directly to be linked to this report. But the processes have to be handled with wisdom by Sri Lanka. We all know mistakes happen. They may have occurred unintentionally. It is appropriate that the government establish a mechanism to investigate into all allegations. It should be comprised of representatives of Tamil community, the UN, the President etc. Such a mechanism is normally called a transparent mechanism. Affected people must be allowed to come before this commission to speak freely and facilitate such a transitional justice process. It is very ugly to paint a false picture that this report is taking Sri Lanka before the ICC. This fear psychosis itself reveals that the government has actually committed wrong things.

No democratic country can accept disappearances in the name of motherland. If a person is assassinated or has disappeared we need to investigate it. To call for such an investigation, how can it be wrong? In 1990 Mahinda Rajapakse went to Geneva, because the country failed to address the crime of disappearances. Why can't the President accept the fact that the Tamil fathers and mothers went to another country and gave evidence because they didn't get justice in Sri Lanka which is their own country.

The other issue is this report is not only speaking about the crimes committed by the government, it has also criticized LTTE. The LTTE leaders who can respond to some of these allegations are now working closely with the government. If those who have committed crimes by being promoters of Chinthana, get absolved from crimes it's a big problem. When a person is not a promoter of Mahinda Chinthana, they become conspirators of imperialism.