

What is the United Nations For?

Written by Michael Aaronson

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MICHAEL AARONSON, NOV 27 2012

On 14 November, under the headline “UN ‘failed Sri Lanka civilians’, says internal probe”, the BBC gave extensive coverage to a leaked UN internal report on how the UN system had handled the crisis that unfolded in the final months of the Sri Lankan civil war. This ended in May 2009 with the military defeat of the LTTE (‘Tamil Tigers’) in a bloody campaign that also saw many civilian deaths and widespread abuses of human rights. These had been described in searing detail in the May 2010 Report of a ‘Panel of Experts on Accountability in Sri Lanka’ (the ‘PoE Report’) set up by UN Secretary-General Ban Ki-moon. One of the recommendations of this Report was that the SG should also conduct a review of how the UN had carried out its humanitarian and human protection mandate during the conflict.

Shortly after the BBC broke the story the new Report (hereafter the ‘Internal Report’) appeared on the UN website, although it was subsequently taken down and eventually reappeared with portions redacted and minus its Executive Summary (helpfully posted here by Inner City Press). This inevitably raises the question of whether it would have been published had the BBC not got hold of a copy. Be that as it may, the full Report is essential reading for anyone interested in the role of the United Nations in international intervention. It is an excellent examination of the difficult issues faced by the UN in the Sri Lankan crisis and contains detailed recommendations as to how the system needs to change if the UN is to do better in future.

Public comment on the ‘United Nations’ often conflates the ‘UN’ as the Secretariat and UN agencies with the ‘UN’ as the Member States that make it up – and this case was no exception. In fact the Report points the finger at both (more diplomatically in the case of the latter as UN officials are bound to be polite in the face of failures by their political masters). On the shortcomings of the UN bureaucracy the Report is detailed and forensic, describing failures of structure, process, and leadership (para 80). But it is equally critical of Member States, saying they “failed to provide the Secretariat and UNCT [UN Country Team] with the support required to fully implement the responsibilities for protection of civilians that Member States had themselves set for such situations” (para 79). Tellingly, “throughout the final stages of the conflict, Member States did not hold a single formal meeting on Sri Lanka, whether at the Security Council, the Human Rights Council, or the General Assembly” (para 33).

The key issue underlying the Report is the difficulty in a crisis such as Sri Lanka’s of balancing (a) the imperative of retaining humanitarian access to civilians needing assistance and protection with (b) the need to speak out where abuses of human rights occur – particularly where a host government, as in the Sri Lanka case, denies this to be happening. This issue is not unique to Sri Lanka, nor to the UN, and illustrates a fundamental dilemma that often faces organisations – like the UN, but also international NGOs – that combine a practical assistance and protection role with a mission based on the notion of human rights.

The Report makes clear that there were significant differences of opinion within the UN hierarchy, including between very senior officials, as to the best way of dealing with the evidence of atrocities, in particular with the Sri Lankan government. The original PoE Report had concluded that “the public use of casualty figures would have strengthened the call for the protection of civilians” (Executive Summary- page vi). The Internal Report considered this, and also acknowledged the contrary views of others who argued that putting these figures into the public domain would have been counter-productive, leading to reduced access. This has to be seen in the context of a Sri Lankan government which had systematically kept the UN at arm’s length within Sri Lanka and successfully used its diplomatic muscle in

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New York and Geneva in order to remain free to pursue its objective of defeating the LTTE militarily.

In its most widely quoted statement the Report concludes: "There was a continued reluctance among UNCT institutions to stand up for the rights of the people they were mandated to assist. In Colombo, some senior staff did not perceive the prevention of killing of civilians as their responsibility – and agency and department heads at UNHQ were not instructing them otherwise" (para 76). Given this apparent lack of clarity about the fundamental purpose of the UN it is easy to understand why the first of the Report's many recommendations is: "Renew a vision of the United Nations" (para 87).

What is one to make of this detailed review of the UN's failure in Sri Lanka? First, although it has been described as Ban Ki-moon's 'Rwanda moment', it sadly seems unlikely to have the same lasting impact as the independent enquiry into the Rwanda crisis did, partly because Rwanda commanded more public attention than Sri Lanka does and partly because of the current focus on other crises, e.g. Syria. This is deeply unfortunate as in many ways Sri Lanka raises exactly the same issues as Rwanda as far as international intervention is concerned. "Never again" already rang hollow after Rwanda; after Sri Lanka, Syria, Gaza, and others it sounds positively empty.

Second, while it is manifestly clear from the Sri Lanka example that the UN bureaucracy could work much better than it does, it is equally evident that this alone would be insufficient to prevent war crimes, as indeed the Syrian case shows. Here Ban Ki-moon did speak out forcefully against human rights abuses – to very little effect as he was not supported by a unified Security Council. The critical element – missing in both Sri Lanka and in Syria, albeit for very different reasons – is the appetite of the Permanent 5 Members of the Security Council to support the efforts of the Secretary-General and Secretariat to protect civilians by intervening in whatever way is necessary and appropriate. The Report reflects on the essentially "political character of human rights crises and the role of UN Member States regarding such situations". It concludes: "The single most effective UN action to protect civilians from gross human rights violations is early and robust political consensus among UN member states in favour of protection" (para 86). Clearly this was completely lacking in the Sri Lankan case, for reasons beyond the scope of the Report and of this analysis.

In this context there is a telling comment in the Internal Report about the Responsibility to Protect (R2P), the doctrine that was supposedly agreed by UN Member States in 2005 as the new framework for intervention to prevent war crimes, crimes against humanity, ethnic cleansing, and genocide:

"Differing perceptions among Member States and the Secretariat of the concept's meaning and use had become so contentious as to nullify its potential value. Indeed, making references to the Responsibility to Protect was seen as more likely to weaken rather than strengthen UN action" (para 74).

This is a deeply depressing comment for those of us who believe that R2P offers the best way yet of securing international consensus on how to deal with mass atrocity crimes such as occurred in Sri Lanka.

Finally, perhaps the most important thing about the Internal Report – important though its findings are – is that it should not be allowed to overshadow the findings of the original PoE Report. This concluded:

"The final stages and aftermath of the war in Sri Lanka were characterised by a wide range of violations by both the Government of Sri Lanka and the LTTE of international humanitarian law and international human rights law, some even amounting to war crimes and crimes against humanity. More than 300,000 people became the victims of the reckless disregard for international norms by the warring parties. Indeed, the conduct of the war by them represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace. The victory of one side has emboldened some to believe that these rules may now be disregarded in the cause of fighting terrorism" (para 258).

The Civil War in Sri Lanka ended in May 2009. Due largely to successful delaying tactics by the Government of Sri Lanka the Panel of Experts was only established in June 2010 and its report was not published until May 2011. To date there have been no international prosecutions for the war crimes and crimes against humanity identified in that

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Report. That is the gravest failure highlighted by these recent disclosures.

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*Sir Michael Aaronson is a Professorial Research Fellow and Co-Director of cii – the Centre for International Intervention – at the University of Surrey in Guildford in the UK. Contact via: m.aaronson@surrey.ac.uk
@MikeAaronson; @cii_surrey*

About the author:

Professor Sir Michael Aaronson was Director General (chief executive) of Save the Children UK from 1995-2005, and from 1988-1995 was the charity's Overseas Director. He first joined Save the Children in 1969, spending two years as a relief worker in Nigeria after reading philosophy and psychology at St John's College, Oxford. Between 1972 and 1988 he held various posts in the UK Diplomatic Service, serving in London, Paris, Lagos, and Rangoon. He is a founder member, and from 2001-2008 was Chair of the Board, of the Centre for Humanitarian Dialogue, a Geneva-based private foundation working to improve the international response to conflict, in particular through independent mediation. Since January 2004 he has been a Visiting Fellow of Nuffield College, Oxford. In September 2008 he was appointed an Honorary Visiting Professor and in May 2011 a Professorial Research Fellow in the Department of Politics at the University of Surrey, where he is also Co-Director of cii – the Centre for International Intervention. He is a Senior Adviser to NATO, working on the political/military aspects of NATO transformation, and is an occasional lecturer at the UK Defence Academy on civil/military collaboration in conflict situations.