

The Washington Times

Sri Lankan war crimes suspect gets post as representative to U.N.

By Ashish Kumar Sen

The Washington Times

6:20 p.m., Sunday, December 5, 2010

The Sri Lankan government has appointed a senior army officer accused of war crimes in the conflict with Tamil rebels as its deputy permanent representative to the United Nations.

Maj. Gen. Shavendra Silva's presence in New York coincides with U.N. Secretary-General Ban Ki-moon setting up a panel of experts to advise him on accountability for human rights violations during the final stages of the conflict in Sri Lanka.

In an interview with the Sunday Leader newspaper late last year, Gen. Sarath Fonseka, the Sri Lankan army chief who led a campaign that ended more than two decades of conflict with the Liberation Tigers of Tamil Eelam (LTTE) in May 2009, said Defense Secretary Gothabaya Rajapaksa gave Gen. Silva orders "not to accommodate any LTTE leaders attempting surrender and that 'they must all be killed.'"

The army's 58th Division, which was under Gen. Silva's command, allegedly executed civilians, killed LTTE fighters as they tried to surrender and shelled medical facilities.

Gen. Silva denies the allegations.

Alan Keenan, Sri Lanka project director at the International Crisis Group, said Gen Silva's appointment is "disturbing."

In a phone interview from London, Mr. Keenan said it appeared to be more than a coincidence that Gen. Silva would be appointed to the mission in New York at the same time as Mr. Ban set up the panel of experts.

"So it seems fair to assume that he is trying to influence it, which is the right of the Sri Lankan government. But I think that is disturbing that someone who himself was

involved in the very incidents that the U.N. has begun looking into should have any chance to influence the panel's operations," Mr. Keenan said.

Reports, including some received by the U.S. Embassy in Colombo and confirmed by Gen. Fonseka, document an incident on May 18, 2009, in which three LTTE leaders tried to surrender with their families while holding white flags. According to a Tamil eyewitness, Sri Lankan troops opened fire on the group. Everyone was killed.

"Because of the [Sri Lankan] government's failure to seriously investigate laws of war violations during the fighting, this alleged incident should be part of an international investigation," said James Ross, legal and policy director at Human Rights Watch.

A senior Sri Lankan army officer has confirmed in a sworn affidavit to the group Tamils Against Genocide (TAG) that the army was given orders to kill guerrilla leaders and then burn their bodies.

Jan Jananayagam, a U.K.-based member of TAG, while declining to identify the officer over concern for his safety, said the officer told her group the army's field commanders received oral orders from the defense secretary in the last months of the battle.

Mr. Rajapaksa, who is the brother of Sri Lankan President Mahinda Rajapaksa, has denied giving such orders.

Gen. Silva also said the defense secretary never instructed him to kill LTTE leaders trying to surrender and that reports the army attacked hospitals are fabricated.

"I, being a disciplined and professionally trained military officer, who respects and believes in human rights and has a thorough knowledge on humanitarian law, have never given any instructions under my command relating to the execution of LTTE leaders, or anyone else," Gen. Silva said in a written response to questions from The Washington Times.

"Never under my command have I ordered any attacks on hospitals or medical facilities during the humanitarian operations that were conducted during the final stages of the war," he added.

Gen. Silva said he had not been contacted by the U.N. panel.

Gen. Silva's appointment is in line with a long-standing practice of the Sri Lankan government of appointing high-ranking military officers to diplomatic posts.

A U.N. spokeswoman said the world body has no say in such appointments.

"It is not for the U.N. to tell countries who to appoint to its missions," said spokeswoman Soung-ah Choi. "Every sovereign state has the right to appoint its own representatives."

Jaliya Wickramasuriya, Sri Lanka's ambassador in Washington, described Gen. Silva's record as exemplary.

"Allegations that he violated the rights of surrendering LTTE officers are unfounded," Mr. Wickramasuriya said in a written response to questions from The Times.

More than two decades of conflict between the Sri Lankan military and the LTTE, a Tamil separatist group, came to an end in May 2009.

The last few months of fighting were some of the bloodiest. According to some estimates, as many as 40,000 civilians were killed.

In a cable exposed by the website WikiLeaks, U.S. Ambassador to Sri Lanka, Patricia Butenis, wrote that the Sri Lankan president, along with the country's top civilian leadership and Gen. Fonseka are largely responsible for the alleged war crimes.

"There are no examples we know of a regime undertaking wholesale investigations of its own troops or senior officials for war crimes while that regime or government remained in power. In Sri Lanka this is further complicated by the fact that responsibility for many of the alleged crimes rests with the country's senior civilian and military leadership, including President Rajapaksa and his brothers and opposition candidate General Fonseka," Ms. Butenis wrote in a Jan. 15 cable.

She cited this as the reason for the slow progress in the investigation of allegations of war crimes.

"The cable makes clear that the allegations pertain to the top leadership," said Mr. Keenan, adding, "We are not talking about rogue elements, but what was clearly a government policy coming down from top and from the president's brother and likely the president himself."

The Sri Lankan foreign ministry said in a statement that it was in the process of obtaining the contents of the leaked cables that pertain to Sri Lanka.

If "the contents reveal any material relevant to Sri Lanka's interests, these will be taken up through diplomatic channels," the ministry said.

Reports from the State Department and human rights groups cite violations by both the military as well as the Tamil Tigers.

The LTTE, which is designated a foreign terrorist organization by the State Department, has been accused of using civilians as human shields. Its recruitment of child soldiers is also well documented.

A State Department report in March said the Sri Lankan government's "respect for human rights declined as armed conflict reached its conclusion."

"Credible reports cited unlawful killings by paramilitaries and others believed to be working with the awareness and assistance of the government, assassinations by unknown perpetrators, politically motivated killings, and disappearances," the report said.

After the war, the Sri Lankan government established a presidential commission of inquiry, called the "Lessons Learnt and Reconciliation Commission." However, International Crisis Group, Human Rights Watch and Amnesty International declined an invitation to testify before the panel. They cited the lack of independence of the commissioners, witness protection and a clear mandate to look into war crimes.

Gen. Fonseka challenged Mr. Rajapaksa in a presidential election and was later convicted of corruption by a court-martial this year.