

War criminals still feel safe from prosecution in Sri Lanka

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Since this blog began, I planned to feature contributions from colleagues to whom I owe much inspiration and motivation. Today's blog was written by Andreas Schüller, head of the International Crimes and Accountability Program at the European Center for Constitutional and Human Rights (ECCHR). As part of his work he focuses on war crimes and crimes against humanity committed during the Sri Lankan civil war. The name of the Tamil man featured in this piece is known to ECCHR but has been changed for safety reasons.

Madan is a German-born Tamil in his mid-twenties. His parents have lived in Germany since fleeing Sri Lanka at the outbreak of the civil war in the 1980s. I meet with Madan on a number of occasions, first in Berlin and then in the Ruhr region, and hear about his experiences in Sri Lanka. I soon realize how lucky he was to have escaped, and how many like him are no longer here to tell their stories.

Towards the end of 2008, Madan visited his grandmother in northern Sri Lanka, the region with the largest Tamil population. He planned to stay for three weeks but ended up spending twelve months there – a horrific year for Madan.

In October 2008 the Sri Lankan army launched their final offensive against the Liberation Tigers of Tamil Eelam (LTTE). According to conservative estimates from the United Nations, around 40,000 people died in the period leading up to May 2009; other sources place this figure at 70,000 or higher. President Mahinda Rajapaksa waged a ruthless war, and the civilian population was not spared. Rajapaksa took his cue from the new political order – in which even Western powers did not shy away from human rights violations as part of the ‘war on terror’ – and showed the world his own ‘solution’ in the fight against terrorists in Sri Lanka.

Beaches once again a popular tourist destination

Along with more than 300,000 other Tamils, Madan fled with his grandmother and other relatives to the northern coast of Sri Lanka. The coast was officially designated as a protected civilian zone, but the Sri Lankan military subjected protected zones and even hospitals to months of prolonged bombardment. Madan buried himself in the fine sand and managed to survive the air strikes. Many of his friends and relatives died in the hail of bombs. On these beaches today there are almost no reminders left of what Madan experienced. The coast is once again a popular holiday spot – including for tourists from Germany.

Madan was not able to return to Germany until November 2009, when his family managed to buy his freedom from the internment camp he had been held at since May 2009. For months the Sri Lankan military interned, interrogated, tortured and sexually abused hundreds of thousands of Tamils at the camp. Some of those who were interned alongside Madan are still missing today.

The rest of the world knew little about these war crimes at the time. War president Rajapaksa expelled journalists and aid agencies, and the UN withdrew its staff in October 2008.

UN to present investigation report in September

In September, six years after the official end of the civil war, the UN will for the first time present its own investigative report into the crimes in Sri Lanka. Madan has contributed to the report. Like many other Tamil refugees, he spoke with UN investigators and described what he experienced – or, more accurately, suffered – in 2008/2009. His account is in grim accordance with the testimonies of other witnesses and with other evidentiary and film material, including the documentary “No Fire Zone”. The UN investigators’ report will be used as the basis for the Human Rights Council’s decision on how to ensure that prosecutions are sought.

Sri Lanka has to date failed to investigate the war crimes or make any efforts towards securing prosecutions. Assurances on the issue made by President Maithripala Sirisena when he took office in January have not led to any satisfactory action. The survivors are reliant on international support. As Sri Lanka has still not signed the Rome Statute, the International Criminal Court cannot step in, but there is scope for action in third party states.

Madan and other witnesses are placing their hopes on Europe and are prepared to testify to investigating authorities. They hope that the suspected war criminals, who consider themselves immune from prosecution in Sri Lanka, may face trials elsewhere. The laws in Europe certainly make this possible.