

Sri Lanka Monitoring Accountability Panel's
Open Letter to the United Nations High Commissioner for
Human Rights:
'Sri Lankan Victims Deserve Real Justice'

Mr Zeid Ra'ad Al Hussein
UN High Commissioner for Human Rights
United Nations
Geneva, Switzerland.

Sri Lanka Monitoring Accountability Panel
Contact: Richard J Rogers
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3 February 2016

Dear High Commissioner:

The Sri Lanka Monitoring Accountability Panel ('MAP') has been established to provide independent monitoring, advice, and recommendations on the transitional justice mechanisms in Sri Lanka. We focus on accountability from a victims' perspective. Please see <http://war-victims-map.org/> for more information.

We understand that you will visit Sri Lanka in the coming days to discuss the progress made by the Sri Lankan Government to address the mass atrocities and other human rights abuses committed during, and since, the armed conflict. The types of judicial and non-judicial measures necessary to deal effectively with these violations were outlined in the OHCHR Report, dated 28 September 2015. The subsequent Human Rights Council Resolution (A/HRC/30/L.29) - which was co-sponsored by the Sri Lankan Government - reiterated the need to establish a special judicial mechanism to investigate and prosecute "violations and abuses of human rights and violations of international humanitarian law." The Resolution affirmed "the importance of participation in a Sri Lankan judicial mechanism, including the special counsel's office, of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators."

We note with concern the recent statement by President Maithripala Sirisena (BBC interview, 21 January 2016) that he will "never agree to international involvement" and that "[w]e have more than enough specialists, experts and knowledgeable people in our country to solve our internal issues". This statement goes against both the word and spirit of the Resolution. It is also patently incorrect - as clearly outlined in successive reports by independent UN experts, the Sri Lankan justice system does not have the requisite independence, impartiality or expertise to administer fair and effective war crimes prosecutions. The Sri Lanka Government must not be allowed to backtrack on its

commitments or use technical legal excuses to block full international judicial and prosecutorial participation.

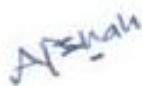
If the accountability mechanisms are to “uphold the rule of law and to build confidence in the people of all communities of Sri Lanka” there must be a meaningful consultation process. The victims’ voice must be heard. And their views on the need for full participation of foreign judges and prosecutors within the judicial process must be accommodated.

We urge you to insist that the Sri Lankan Government conducts broad consultations with all stakeholders and respects its international commitments by implementing the word and spirit of the Resolution.

Please accept, Excellency, the assurances of our highest consideration.



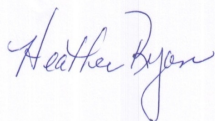
Marie Guiraud



Justice Ajit Prakash Shah



Peter Haynes QC



Heather Ryan



Richard J. Rogers

Attached: Panel Bios.

Monitoring Accountability Panel, Members' Bios

Richard J Rogers (UK) - Panel Member and Secretary

Richard Rogers, a USA (California) and UK qualified lawyer, has 20 years experience in international criminal law and human rights. He has held senior positions in the UN and OSCE: He was the OSCE's Chief legal system monitor in post-conflict Kosovo, the Principal Defender at the UN's Extraordinary Chambers in the Courts of Cambodia, and the head of legal support for the Appeals Chamber at the UN's International Criminal Tribunal for Yugoslavia. Richard is currently assisting several victim groups before the International Criminal Court and has worked with national war crimes courts in Bangladesh, Bosnia and Herzegovina, Croatia, Kosovo, and Uganda. Richard has recently provided expert testimony before the US Congress House Committee on Foreign Affairs, and spoken to human rights issues before the European Parliament's human rights committee and the Bosnian Parliament. He is a founding partner of Global Diligence LLP.

Justice Ajit Prakash Shah (India) - Panel Member

Justice Shah, a renowned Indian jurist, has been practicing law as an advocate and judge for around 40 years. Following his practice as a lawyer in Bombay, Justice Shah was elevated to the bench in 1992, becoming a permanent Judge of Bombay High Court in 1994. He was promoted to Chief Justice of the Madras High Court in 2005 and Chief Justice of Delhi High Court in 2008. He retired from the bench in 2010. Until August 2015, Justice Shah was the Chairman of the 20th Law Commission of India, a body established by the Indian Government to promote legal reform throughout the justice system. He was also the Chairperson of the Broadcasting Content Complaints Council, a self-regulatory body for non-news TV channels set up by the Indian Broadcasting Foundation in consultation with the Ministry of Information & Broadcasting.

Marie Guiraud (France) - Panel Member

Marie Guiraud, a French lawyer, has worked on human rights and international criminal law for fifteen years. She is currently the Civil Party Lead Co-Lawyer for the victims at the UN-assisted Extraordinary Chambers in the Courts of Cambodia (ECCC). Representing the interests of nearly 4,000 victims who participate in Case 002/02, Marie serves as the co-lead court advocate. She has been heavily involved in the design and implementation of judicial reparations for victims of crimes under the Khmer Rouge regime. Prior to her current role, Marie worked at a major international human rights organization and then as a private lawyer in criminal litigation, both before French and foreign Courts: In France, she represented both defendants and victims in complex and serious criminal cases. Abroad, Marie represented victims of international crimes before Ivorian and Congolese Courts and was a Civil Party Lawyer in case 002/01 before the ECCC.

Peter Haynes QC (UK) Panel Member

Peter Haynes QC is a British barrister with more than 30 years' experience in domestic and international criminal courts. He currently acts as the Lead Counsel for Jean Pierre Bemba at the International Criminal Court (ICC) and is the Lead Legal Representative of Victims at the Special Tribunal for Lebanon (STL). He is one of the very few practitioners who have led cases before the International Criminal Tribunal for the Former Yugoslavia (where he appeared for the defence of General Vinko Pandurevic in relation to the Srebrenica massacre), the ICC and the STL. He has appeared in cases involving genocide, war crimes, crimes against humanity and international terrorism. He has been responsible for development of the jurisprudence, practice and procedure of the representation of victims in international / hybrid courts. Peter regularly lectures on the functioning of international criminal courts and, in particular, victim representation.

Heather Ryan (USA) - Panel Member

Heather Ryan, a US lawyer, has been working in the field of international law for over 15 years. She is currently a special consultant for the Open Society Justice Initiative monitoring the Extraordinary Chambers of the Courts in Cambodia (ECCC), a hybrid tribunal set up to prosecute senior leaders of the Khmer Rouge Regime responsible for mass atrocities from 1975-1979. She has been involved since 2005 in evaluating and reporting on the development and implementation of the ECCC in terms of compliance with international fair trial standards, as well as the court's effectiveness in meeting its goals with respect to the victims and public. Her experience also includes work at the Carr Center for Human Rights Policy at Harvard's Kennedy School, Global Greengrants Fund, The Coalition for International Justice, teaching international criminal law, as well as private law practice.