

# Can genocide be prevented

BY AGHA SHAHI

At the Stockholm International Forum in January 2004, observing the 50th anniversary of the adoption of the Genocide Convention, UN Secretary General Kofi Annan declared that there can be no more important issue and no mere binding obligation than the prevention of genocide. When asked "if confronted with another Rwanda and a new Srebrenica, would the world respond effectively and in good time", he replied "the day has not yet come." According to Professor Gregory Stanton the President of Genocide Watch Coordinators, at least 55 genocides and politicides have taken place since the founding of the UN in which about 75 millions have died, most of them murdered by their own governments – more than the deaths in all the wars combined.

In Rwanda in 1994, 800,000 men, women and children of the Tutsi minority and moderate Hutus were slaughtered in just 100 days. In the following year in Bosnia, some 8,000 Muslim men and boys were segregated by Serbs, taken out of Srebrenica and massacred. The UN had the capacity to prevent both genocides but lacked the will to do so.

In his statement in the thematic debate on the Prevention of Genocide held by the Committee on the Elimination of Racial Discrimination (CERD) at its 66th session last March, the SG's Special Adviser on Prevention of Genocide warned that indicators of early warning of massive violations of human rights such as refugee outflows and hate speech directed at vulnerable populations, identify five countries most at risk and ten with a potential risk of massive violence based on national, ethnic, racial or religious grounds. But he did not name them.

The Special Adviser's mandate calls for him to act independently to give early warning with his recommendations through the Secretary General to the UNSC for early action to prevent potential situations that could result in genocide. However, the Special Adviser interprets his mandate as not authorising him to identify which violations such as war crimes and crimes against humanity would be tantamount to genocide. The thematic debate was called for by me as a member of CERD at its preceding session last August. This Committee consists of 18 members elected by 169 States, parties to the International Convention on Elimination of All Forms of Racial Discrimination (ICERD). It monitors the implementation of the Convention – whether they are complying with their obligation to ensure that their citizens enjoy civil and political rights and economic, social and cultural rights without any discrimination, on grounds of their race, colour, ethnicity, descent or national origin.

The participants in the debate which took place at its 66th session, included members of CERD, other UN human rights bodies, the Special Adviser on Prevention of Genocide, the Special Rapporteur on Racism and Xenophobia as well as international and national NGOs. The purpose of the debate was to activate civil societies and world public opinion into urging their governments to summon the will to prevent genocide and to suppress it if prevention fails.

On the 10th anniversary of the Rwanda genocide on 7 April 2004, Kofi Annan, declaring that the risk of genocide remains frighteningly real, presented an

Action Plan to the Commission of Human Rights. This Action Plan *inter alia* called for swift and

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sive action, including military action by the UNSC in extreme cases, as a last resort to prevent or halt genocide. Earlier in that year in his address to the Stockholm International Forum, Premier Perssons of Sweden had emphasised the need for a preventive strategy that must include action in the worst case when prevention fails and atrocities occur.

In September 2003, Kofi Annan had announced the appointment of a high-level panel of eminent personalities to focus on the current challenges to peace and security including the best ways to respond collectively to threats of genocide or other comparable massive violations of human rights. The Panel submitted its report in the first week of December last. With reference to prevention of genocide the Panel observed that: Where a state fails to protect its civilians the international community has a further responsibility to act through humanitarian operations, monitoring missions and diplomatic pressure – and with force if necessary though only as a last resort."

Accordingly, the draft Declaration on Prevention of Genocide which I presented to CERD includes a call for contribution by the developed countries of their own military contingents to peace enforcement operations beside funding by G7 developed nations to train, equip and provide logistic support to the contingents provided by developing countries. It also urges the UN to build the capacity of these contingents for more rapid deployment. At the present time, contingents earmarked by national armed forces cannot, on early warning, be deployed sufficiently in time to stem the blood dimmed tide of genocide.

The draft Declaration considered it imperative to dispel the climate of impunity that is conducive to genocide, including war crimes and crimes against humanity by promptly referring their perpetrators to the International Criminal Court for prosecution.

CERD adopted this draft Declaration on Prevention of Genocide with the addition of some important provisions such as developing national strategies for the prevention of genocide in close collaboration with civil society, national human rights institutions, non-state actors and the Office of the High Commissioner for Human Rights. Another amendment calls for stronger interaction between human rights treaty bodies and the UNSC to raise awareness of possible outbreak of violent conflict and genocide.

The Declaration will be considered by the UN General Assembly at its summit session of heads of State and governments next September in the context of the consideration of the high-level Panel's recommendations for its reform to enable the UN system it to meet the threats and challenges to peace

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The Declaration will be considered by the UN General Assembly at its summit session of heads of State and governments next September in the context of the consideration of the high-level Panel's recommendations for its reform to enable the UN system to meet the threats and challenges to peace and security, violations of human rights and attain-

ment of the millennium development goals including substantial poverty reduction and extending education and health care by the year 2015, in the context of economic globalization which frequently has negative effects on disadvantaged communities and in particular on indigenous peoples.

Kofi Annan, though weakened by criticism of his management of the Iraq oil for food programme, has strongly supported the Panel's recommendations. Reviews have been generally positive but certain specific proposals such as those relating to the expansion of the UNSC, confront acute differences among the 191 member states of the UN.

Plan A which provides for the expansion of the present five permanent members with right of veto by six new permanent members but without the veto right (aspirants include Japan, Germany, Brazil, India, South Africa and Egypt/Nigeria) is not likely to attract the two thirds majority of 191 states to gain acceptance. The alternative Plan B, which provides for no new permanent members and envisions the addition of eight for a four year renewable term seats and one 2-year term non-renewable seat to be divided among Asia, Africa, Europe and Americas seems likely to attract greater support.

Pakistan's earlier advocacy of confining the expansion of the UNSC to only non-permanent members by increasing their number from at present 10 rotating members serving a two year term to 20 with the present five veto wielding powers is highly desirable for democratizing the UN and providing a greater opportunity for representation to the overwhelming majority of the UN member States aspiring for two year rotating seats. But Pakistan will find it difficult to make headway in its principled approach given the post 9/11 international "power realities" – submission to big power domination at the cost of further erosion of the principle of sovereign equality of states large or small.

Another example of the Panel's departure from principles to accommodate the privileged position of the big powers is its failure to take into account state-terrorism regarding which international law is insufficient for dealing with military strikes by states causing the so called "collateral damage." A 100,000 civilian deaths were caused by the illegal invasion and occupation of Iraq, thousands of Palestinians were killed in refugee camps and the destruction of their homes and nearly a 100,000 Kashmiri killed under the Indian occupation.

On the other hand, The Panel condemns terrorism which it defines as "...any action intended to cause death or severe bodily harm to citizens or non-combatants with the purpose of intimidating a population or compelling a government or international organization to do or abstain from doing anything."

Does this formulation rule out the legitimacy of national liberation struggles against alien occupation and foreign subjugation? Consensus on the Panel's definition which reflects the thinking of the great powers is another appeasing gesture towards them, perhaps with a view to rehabilitating the credibility and authority of the UNSC which was marginalized by the unilateralist preemptive use of force by the US war on Iraq. At least the Panel has ruled out unilateralism in the case of prevention of genocide reserving the use of military force exclusively to the multilateralist UNSC.

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