

APPEAL TO THE UN HUMAN RIGHTS COUNCIL

APPEL A LA PRISE DE CONSCIENCE DU CONSEIL
DES DROITS DE L'HOMME - NATIONS UNIES

LLAMADO PARA REACCION URGENTE DEL CONSEJO DE
DERECHOS HUMANOS-NACIONES UNIDAS

SRI LANKA'S SYSTEMATIC VIOLATIONS OF UN COVENANTS AND CONVENTIONS

WEBSITE : www.tchr.net

21st session / 21ème session / 21º período de sesiones

10/09/2012 -- 28/09/2012



TAMIL CENTRE FOR HUMAN RIGHTS - TCHR
CENTRE TAMOUL POUR LES DROITS DE L'HOMME - CTDH
CENTRO TAMIL PARA LOS DERECHOS HUMANOS
(ESTABLISHED IN 1990)

BRANCHES

SWITZERLAND, UNITED KINGDOM

ON THE ORIGINS OF RACISM

"Given Buddhism's presumed non-violent philosophy, the question arises, how could committed Buddhist monks and their wider community in Sri Lanka actively take part in the political violence of the Sinhalese against the Tamils? The nature of the participation of monks in national politics became increasingly volatile from the 1940s. Some Buddhist monk ideologues have been seeking to establish an 'ideal Buddhist-administered society' (Tambiah 1992). In this, they refer to and rely on the 'Myth of Re-conquest' (*Mahavamsa*), which eulogizes the ancient victories of the Sinhalese Prince Dutugemunu over the Tamil King Ellalan in which thousands of Tamils were killed, and makes a virtue of killing in defence of Buddhism. It also inculcates the belief that Sinhala Buddhists are racially superior to the Tamils. In the early 20th century, the leading proponent of these ideas was Anagaraka Dharmapala (1864-1933). In Dharmapala's view, the Tamils and other non-Sinhalese did not belong on the island. This exacerbated friction and contributed to riots as early as 1915 between Muslims and Sinhalese (Ponnambalam 1983). It is this ideology that influences the policies and actions of the Sinhalese government". (*Excerpt - Deirdre McConnell - Cambridge Review of International Affairs, Volume 21, Number 1, March 2008*)

* * * * *

GENUINE TAMIL GRIEVANCES NEED TO BE RESPECTED AND ADDRESSED!

PRESIDENT MAHINDA RAJAPAKSA – 20 SEP. 2007

Inderjit Badwar: *Many Tamils, who may not even like Prabhakaran, believe that you will negotiate only so long as he is around because he is a sort of protection for them. Suppose he is no longer on the scene, what guarantee is there that Tamil political aspirations will be met and that you will not suppress them?*

Mahinda Rajapakse: Until now Prabhakaran has been the main obstacle to peace. Every Tamil leader who dared to differ with him has been killed. He has stifled democracy in the areas of his influence and ruthlessly suppressed the human rights of the Tamil people.

I have already said that with or without Prabhakaran, genuine Tamil grievances, the compulsions of their ethnic honour and linguistic identity, need to be respected and addressed or the problem will not be solved.

How many of you are aware that in my career both as a lawyer and as a politician, I was a human rights activist? As a human rights activist I simply cannot be a Sinhala chauvinist. On the contrary I would like to call myself a Sri Lankan nationalist. I have Tamil relatives and heaps of Tamil friends. My government has several Tamil ministers. In fact 53% percent of all my country's Tamils live outside the North and East, intermingling peacefully with the Sinhala people. And as for the capital city of Colombo, 60% of its population is composed of Tamils and Muslims. They live peacefully with the Sinhala people and a large proportion of them run prosperous businesses as well. **For further information refer to page - 89**
(*Excerpt - 20-09-2007, President Mahinda Rajapaksa's interview with Indian journalist Inderjit Badwar*)
http://www.president.gov.lk/inter_New.php?id=13

* * * * *

KACHCHATIVU WAS RESOLVED MANY DECADES AGO

PRESIDENT MAHINDA RAJAPAKSA – JANUARY 2007

The Tamil community also seems upset over the Government distancing itself from the 'Majority Report' of the Experts Committee late last year, which came closer to their perceived aspirations for the first time after the first 'Chandrika Package' of 1995?

I want to mention that we are on the path of peace and the majority report by the Expert Committee is one aspect of this process. You may also be aware that there are three other reports which take exceptions to certain sections in the majority report. I think it is important, as a responsible government, for us to look into every aspect of all the reports submitted before a final decision is made. The majority report, just as the other reports, is meant to be studied by the All Party Representative Committee, to help it in making its final recommendations to Government.

What about Kachchativu?

This issue was resolved many decades ago and there is nothing new to add to it. (*Excerpts*)

(*The wide ranging interview is published in the Tamilan Express of January 25 and 29 January 2007, issues of the magazine. - <http://www.president.gov.lk/interviwejuuari.php>*)

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**TCHR PARTICIPATION IN UNITED NATIONS
WORLD CONFERENCES AND OTHER MEETINGS**

- * *On 24 June 2009 TCHR was invited to have discussion with the EU Commission's three appointed independent external experts (regarding GSP+ benefits) – on the effectiveness of Sri Lanka's implementation of certain core human rights conventions.*
- * *TCHR was a registered participant in the World Social Forum 2009 in Belem, Brazil Jan 27- Feb 1, 2009.*
- * *TCHR officially participated in the 61st annual DPI/NGO conference in UNESCO, Paris, 3-5 Sept. 2008.*
- * *TCHR was a registered participant in the European Social Forum 2008 in Malmo, Sweden 17-21 Sept 2008.*
- * *TCHR along with ECOSOC NGO Interfaith International contributed information to UPR session on Sri Lanka in May 2008*
- * *TCHR officially participated in the 'United Nations 7th Global Forum, Re-instating good governance', in Vienna, Austria 26-29 June 2007.*
- * *Members of TCHR participated in the World Federation of United Nations Associations (WFUNA) seminar in Geneva, Switzerland, 29-31 July 2007.*
- * *TCHR was officially accredited to participate in the United Nations Conference on Anti-corruption Measures, Good Governance and Human Rights, in Warsaw, Poland 8–9 November 2006.*
- * *A meeting was held on 7 March 2006, in the European Parliament – titled "EU contribution to the peace process in Sri Lanka". This was jointly organised by TCHR and Mr. Robert Evans, a member of European Parliament and of Labour Party in UK.*
- * *TCHR was officially accredited by the United Nations to participate in the World Summit on the Information Society – WSIS in Tunisia, 16 – 18 November 2005.*
- * *TCHR officially participated in the NGO forum of the UN World Conference Against Racism – WCAR in Durban, South Africa, from 28 August to 1 September 2001. TCHR held an information stall including an exhibition at the forum. The TCHR representatives also attended the main WCAR conference held in Durban, 31 August to 7 September 2001. (http://www.tchr.net/reports_wcar_detail.htm)*
- * *A meeting was held on 14 October 1998, in the European Parliament – titled "Press censorship in Sri Lanka". This was jointly organised by the Tamil Centre for Human Rights (TCHR) and Ms. Anita Pollack, a member of European Parliament and of Labour Party in UK.*
- * *In 1993, TCHR held an information stall and a photo exhibition on human rights violations, in the United Nations 2nd World Conference on Human Rights held in Vienna, Austria, from 14-25 June.*
- * *TCHR participates in meetings of Treaty bodies and submits reports to the same.*

FACT FINDING MISSIONS TO THE NORTH EAST OF THE ISLAND OF SRI LANKA

- * *May 2003* (http://www.tchr.net/report_studymission_2003.htm)
- * *December 2003 – addendum report* (http://www.tchr.net/report_studymission_2003add.htm)
- * *July-August 2004* (http://www.tchr.net/reports_visite_2004.htm)

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FULL LIST OF UN REPORTS ON SRI LANKA - CHARTER-BASED BODIES

http://ap.ohchr.org/documents/dpage_e.aspx?c=173&su=172

FULL LIST OF REPORTS ON SRI LANKA - TREATY BODIES

<http://tb.ohchr.org/default.aspx?country=lk>

COUNTRY AND OTHER VISITS BY SPECIAL PROCEDURES MANDAT HOLDERS SINCE 1998

<http://www2.ohchr.org/english/bodies/chr/special/countryvisitsn-z.htm>

FOR FURTHER UN REPORTS ON SRI LANKA – REFER TO THE LINKS GIVEN BELOW

<http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/LKIndex.aspx>

http://ap.ohchr.org/documents/dpage_e.aspx?c=173&su=172

<http://tb.ohchr.org/default.aspx?country=lk>

**The President
Members and Delegates
19th Session – UN Human Rights Council
1211 Geneva 10, Switzerland**

Distinguished Sirs / Mesdames

This report shows how Sri Lanka is systematically violating UN Human Rights covenants and conventions to which it is signatory.

Due to international pressure, Sri Lanka is trying to amalgamate its response to the allegations of **(1)** war crimes, **(2)** violations of human rights and **(3)** its failure to come up with a political solution despite presidential executive powers and over two thirds majority in parliament – with its responsibility **(4)** to report through the UPR system. These are four different affairs.

Since the UNHRC Resolution of the 19th session, Sri Lanka has been trying to deceive the International Community into believing that no violations are taking place and that local remedies for accountability are working. BUT the reality is, local remedies are not implemented and there is no local remedy for allegations of war crimes. Even while we write this appeal; disappearances, extrajudicial killings, rape, violence against women, torture, arbitrary detentions, violence against media personnel, trade unionists, academics and others are taking place.

Now three years have passed since the war ended. The President, who told the International community that the Tamil political problem would be settled as soon as terrorism was wiped out, took no initiative, not a single positive step, to settle the long bloody conflict. On the contrary, today the government is busy colonising, militarising, buddhistising the Tamil hereditary land, the North and East.

The international community is finding it difficult to understand that ***no Sri Lankan government will*** find a viable political solution to the Tamil question in the Island. A thousand years after Lord Buddha lived, the religious text “Mahavamsa”, written in Pali language by a Buddhist monk conveyed the political message that ***Sri Lanka belongs to the Sinhala Buddhists only***. As it is in Pali language, Sri Lankan Buddhists who do not know nor understand Pali, accept everything that Buddhist monks preach.

They are taught to believe that Sri Lanka belongs to only Sinhalese and non-Sinhala Buddhists – Tamils - are invaders of the Island. Therefore the Buddhists who are strong believers in this interpretation of the “Mahavamsa” will never give equal rights to the Tamils in this island. Ancient Sinhala King Dutugemunu and some present politicians have said openly that Tamils should be sent back to South India. Because of these reasons, presently Christians and Moors are becoming victims of this theory. ***“The Sinhalese majority often use Mahavamsa as a proof of their claim that Sri Lanka is a Buddhist nation from historical time”***. <http://en.wikipedia.org/wiki/Mahavamsa>

Of course, the Mahavamsa has been discredited and is considered as fiction by various scholars.

At the same time the Sri Lankan government is encouraging the Tamils to escape from Sri Lanka. Last June, the Sri Lanka President Mahinda Rajapaksa’s son Namal Rajapaksa, was accused of being behind human trafficking rings which operate from the North in Mullaiththevu. It was said that he arranged ships for Tamils to escape from Sri Lanka to seek asylum in Australia. It was alleged that those shippings were supported by the Sri Lanka military governor of the North, several Ministers of the cabinet and the Sri Lanka Navy. **(LankaNewsWeb, 23 June 2012 - “Rajapaksa’s son starts human trafficking from Vanni to Australia”.)** Is this an indirect evacuation of Tamils from Sri Lanka?

On the other hand the Indian fishermen are harassed, arrested, detained, tortured and killed in the sea by the Sri Lanka Navy.

It is imperative that the International Community continue its scrutiny of Sri Lanka’s human rights records and indeed intensify and sharpen its commitments. Time is running out.

Yours sincerely
**S. V. Kirubakaran
General Secretary**

ANNUAL REPORT OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS AND REPORTS OF THE OHCHR AND THE SECRETARY-GENERAL

A/HRC/21/18 13 August 2012

SRI LANKA

38. My previous reports have referred to the climate of fear human rights defenders face in Sri Lanka.⁸ The negotiation and adoption of resolution 19/2 on Sri Lanka at the nineteenth session of the Human Rights Council in March 2012 resulted in significant escalation of hostile and defamatory media reporting in Sri Lanka, which primarily focused on human rights defenders in Geneva.

39. Human rights defenders described an environment of intimidation and hostility at the nineteenth session of the Council. Human rights defenders **Sunila Abeysekera** (affiliated with INFORM Human Rights Documentation Centre, Global Campaign for Women's Human Rights) and **Nimalka Fernando** (President of the International Movement against All Forms of Discrimination and Racism) reported that they were approached in the Palais des Nations by a Sri Lankan embassy staff member who told them that "they should not be in Geneva" and that "they were letting their country down".

40. At a Human Rights Council side event which took place on 19 March 2012, **Sandya Ekneligoda**, a human rights defender and the wife of missing Sri Lankan political cartoonist Prageeth Ekneligoda, was reportedly harassed by members of the Sri Lankan delegation who attempted to prevent the continuation of the event. A day after returning to Colombo, Ms. Ekneligoda appeared in the Homagama Magistrate's Court in relation to her disappeared husband's habeas corpus case and her request for the former Attorney General to be summoned for questioning regarding a statement made by him to the Committee against Torture on 9 November 2011, indicating that the Government had information on the whereabouts of Mr. Ekneligoda. Ms. Ekneligoda was reportedly questioned by the Deputy Solicitor General regarding her participation in the March 2012 session of the Council. In response to the defence counsel's objection to the relevance of this, the Deputy Solicitor General reportedly said: "I am entitled to ask any question to find out whether international organizations and NGOs are provoking something against the State."⁹

41. Between 14 and 17 March 2012, several articles appeared in the Sri Lankan press relating to human rights defenders, accusing them of working with the Liberation Tigers of the Tamil Eelam (LTTE) including: the Daily Mirror, Lanka C News, Dinamina, Lakkima, Silumina and the Nation. Some of these articles were reproduced on official Government web pages.⁹

42. A number of programmes depicting the Human Rights Council session were broadcast on national television in Sri Lanka during the same period, reportedly portraying the human rights defenders in a negative light.¹⁰

43. On 23 March 2012, the Sri Lankan Minister for Public Relations, Mervyn Silva, reportedly addressed a public demonstration in Kiribathgoda outside of Colombo on the Human Rights Council resolution, and named **Dr. Saravanamuttu, Dr. Fernando, Ms. Abeysekera and Mr. Deshapriya** as "traitors" and threatened to break the limbs of any exiled journalists who had gone abroad and made statements against the country, and dared them to set foot in Sri Lanka again. A video of the speech has been disseminated on the Internet through a social networking site. It was reported a few days later that the Minister of External Affairs, G.L. Peiris, had condemned the Minister involved for making public threats of violence and stated that such remarks could neither be condoned nor justified.

44. The High Commissioner for Human Rights specifically addressed these issues in a press briefing by her spokesperson on 23 March 2012 and warned that "there must be no reprisals against Sri Lankan human rights defenders in the aftermath of yesterday's adoption by the Human Rights Council of a resolution on Sri Lanka"¹¹. She also observed that "during this Human Rights Council session, there has been an unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, including by members of the 71-member official Sri Lankan Government delegation."¹¹ In Sri Lanka itself, newspapers, news websites and TV and radio stations have since January been running a continuous campaign of vilification, including naming and in many cases picturing activists, describing them as an "NGO gang" and repeatedly accusing them of treason, mercenary activities and association *with terrorism*. **Some of these reports have contained barely veiled incitement and threats of retaliation.**¹² **The High Commissioner also noted that "some of the attacks on human rights defenders were carried in Sri Lankan state media and**

Government websites or were filed by journalists who had been officially accredited to the Human Rights Council session by the Sri Lankan Permanent Mission;±. She called on the Government ; to ensure the protection of human rights defenders, to publicly disassociate itself from such statements, and to clearly uphold the right of Sri Lankan citizens to freely engage in international debate of this kind;±.11

45. The President of the Human Rights Council, on behalf of the Bureau, met with the Permanent Representative of Sri Lanka in Geneva on 6 March 2012 in order to share information on defamatory media articles and express serious concern at reported incidents and intimidation measures by the Sri Lankan delegation in Geneva targeting Sri Lankan human rights defenders attending the nineteenth Council session. The Permanent Representative committed to investigate all allegations.

46. It is noted that Sri Lanka, in comments made on 23 March 2012 to the Human Rights Council, at its nineteenth session, asked for clarification on allegations that there had been threats to and intimidation of human rights defenders by members of its delegation, indicating that it treated such allegations with the utmost seriousness and did not condone such violations. In its comments, Sri Lanka denied allegations of intimidation or harassment of human rights activities in its reply under agenda item 4 of the twentieth session of the Council. In that statement, Sri Lanka also noted that “any individual expression of opinion as to the conduct of civil society activists in the local media and elsewhere cannot be interpreted as intimidation and the Government cannot be expected to assume responsibility for the free expression of opinion of third parties”. **(Excerpt from the original report)**

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-18_en.pdf

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ADVANCED EDITED VERSION

ANNUAL REPORT OF THE SG ON THE COOPERATION WITH THE UN, ITS REPRESENTATIVES AND MECHANISMS IN THE FIELD OF HUMAN RIGHTS

United Nations A/HRC/14/19 - 7 MAY 2010

**REPORT OF THE SECRETARY-GENERAL ON COOPERATION WITH THE UNITED NATIONS,
ITS REPRESENTATIVES AND MECHANISMS IN THE FIELD OF HUMAN RIGHTS***

SRI LANKA

40. In a letter dated 17 March 2010, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government of Sri Lanka, in connection with the apparent existence of a worrying and increasing trend aimed at delegitimizing the activities of human rights organizations, individual human rights defenders and journalists working in Sri Lanka. Such attacks and threats have tangibly intensified following the eleventh special session of the Human Rights Council: “The human rights situation in Sri Lanka”, held on 26 and 27 May 2009. It is reported that the Human Rights Minister commented in *The Hindu* newspaper (1 April 2009) that “the people who go and sit in cafeterias in the UN and lobby people in a very subjective manner putting forward those kind of sentiments (against Sri Lanka) would be inviting a very stern response from the Government of Sri Lanka”.

41. In their letter, the Special Rapporteurs expressed their concern that the media campaigns, threats and harassment of and intimidation against a number of human rights defenders and journalists, in particular Sunanda Deshapriya, may be related to their legitimate activities in defence of human rights, in particular to their international advocacy and outreach efforts. Mr. Deshapriya, a prominent journalist and human rights defender, has been living in exile in Switzerland since May 2009, due to the threats received and the ongoing denigration campaign in the media following his participation and intervention at the tenth session of the Human Rights Council in March 2009 and the eleventh special session on Sri Lanka in May 2009.

He has been accused of being a “traitor” and a “liar” due to his participation in the special session. Videos containing death threats against him have been posted on a social networking site; he has received numerous threatening text messages and has been vilified in television and radio shows and in a number of editorials.

42. Mr. Deshapriya, along with 30 other human rights defenders and journalists, appeared on a list published on the Sri Lankan news website *Lanka News Web* on 3 March 2010, allegedly compiled by the State Intelligence Service of Sri Lanka. The list contains the names of individuals who have been engaged in “international outreach” on issues related to human rights and grades them according to their perceived importance to the intelligence services. Several human rights defenders and journalists are referred to variously as providing several local and international outlets with information on human rights issues and internally displaced persons, as international platform speakers on media/human rights, and as persons who speak on human rights and media freedom and who are involved in advocacy overseas. While the purpose of the list remains unclear, it gives rise to a serious concern about the physical and psychological integrity of the individuals contained therein.

43. The Special Rapporteurs expressed further serious concern that some of the threats may be related to the fact that the people referred to above had cooperated with the Human Rights Council and special procedure mandate holders. Given the extent of the allegations, there was an overarching concern that the threats, attacks and negative media campaign may form part of a broader attempt to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government. At the thirteenth session of the Human Rights Council, during the interactive dialogue with the High Commissioner for Human Rights, the delegation of Sri Lanka expressed its firm resolve not to countenance or tolerate acts of violence or intimidation against journalists and human rights defenders. This necessarily involved taking adequate measures to investigate and punish perpetrators of any violence against those persons. Sri Lanka also observed that the very amorphous nomenclature of “human rights defenders” was used very loosely to encompass just about every form of activity however distantly associated with the sphere of human rights promotion and protection. The delegation explained that the Government of Sri Lanka had to discourage persons representing themselves as such and making assertions for collateral purposes of political gain and causing embarrassment to the Government in pursuit of extraneous agendas in the name of human rights.

(Excerpt from the original report)

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.19.pdf>

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BRIEFING NOTE ON SRI LANKA / HUMAN RIGHTS DEFENDERS

23 March 2012

Spokesperson for the UN High Commissioner for Human Rights:

Rupert Colville

Location: Geneva

Subject: Sri Lanka / human rights defenders

The High Commissioner for Human Rights is today warning that there must be no reprisals against Sri Lankan human rights defenders in the aftermath of yesterday's adoption by the Human Rights Council of a resolution on Sri Lanka.

During this Human Rights Council session, there has been an unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, **including by members of the 71-member official Sri Lankan government delegation**. Intimidation and harassment of Sri Lankan civil society activists have also been reported in other locations around Geneva.

On the other hand, the Sri Lankan ambassador in Geneva received an anonymous threatening letter which is being followed up by the police and UN security.

At the same time in Sri Lanka itself, newspapers, news websites and TV and radio stations have since January been running a continuous campaign of vilification, including naming and in many cases picturing activists, describing them as an “NGO gang” and repeatedly accusing them of treason, mercenary activities and association with terrorism. Some of these reports have contained barely veiled incitement and threats of retaliation. At least two comments posted by readers of articles of this type have called for burning down of the houses of the civil society activists named in the articles, and at least one such comment called openly for them to be killed.

The High Commissioner has noted that some of the attacks on human rights defenders were carried in Sri Lankan state media and Government websites or were filed by journalists who had been officially accredited to the Human Rights Council session by the Sri Lankan permanent mission. She is calling on

the Government to ensure the protection of human rights defenders, to publicly disassociate itself from such statements, and to clearly uphold the right of Sri Lankan citizens to freely engage in international debate of this kind.

The High Commissioner has also noted that Sri Lanka's own Lessons Learned and Reconciliation Commission, in its report published in December, made extensive and positive references to the role civil society can play in reconciliation and rehabilitation efforts, and stressed this would require greater tolerance towards differing views within Sri Lankan civil society and the protection of Sri Lankan human rights defenders.

For more information or media requests, please contact spokesperson Rupert Colville (+41 22 917 9767 / rcolville@ohchr.org) or press officers Ravina Shamdasani (+ 41 22 917 9310 / rshamdasani@ohchr.org) and Xabier Celaya (+ 41 22 917 9383 / xcelaya@ohchr.org).
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12008&LangID=E>

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ARBITRARY DETENTION IRISH CITIZEN

ARRESTED ON SEPTEMBER 2007 IN COLOMBO

UNITED NATIONS

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the human right to safe drinking water and sanitation; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

UA G/SO 218/2 Health (2002-7) G/SO 214 (3-3-16) Terrorism (2005-4) G/SO 214 (53-24) Water (2008-1) LKA 6/2011

30 August 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the human right to safe drinking water and sanitation; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/2, 17/2, 15/15, 15/22, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the continued detention of **Mr. Gunasundaram Jayasundaram**, 56 years of age, **an Irish citizen arrested on September 2007 in Colombo**, Sri Lanka under suspicion of supporting the Liberation Tigers of Tamil Eelam (LTTE). Mr. Jayasundaram is the subject of two urgent appeals sent on **19 June 2008, by the Special Rapporteur on the independence of judges and lawyers, and Special Rapporteur on the question of torture; and on 14 August 2009, by the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment.**

We regret that to date we have not received any responses from your Excellency's Government to the aforementioned communications. Mr. Jayasundaram is also the subject of Opinion No. 30/2008 (Sri Lanka) by the Working Group on Arbitrary Detention.

On 12 September 2008, the Working Group on Arbitrary Detention in the aforementioned Opinion stated the following: "The deprivation of liberty of Mr. Gunasundaram Jayasundaram is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9, 14, and 26 of the International Covenant on Civil and Political Rights, and falls under categories II and III applicable to the consideration of cases submitted to the Working Group."

The Working Group further drew attention to the following circumstances: **Mr. Jayasundaram was arrested without warrant on orders of the military authorities under the Emergency Regulations No.19/ (2). The accusations against him were based solely on statements of another person, whom reportedly, Mr. Jayasundaram had never met. Mr. Jayasundaram was arrested and held in detention without prompt access to a lawyer. He was detained without charge and was not brought before an independent judicial authority. The Government's response that Mr. Jayasundaram was supporting the LTTE was unsubstantiated and the allegations brought against him did not justify his arrest and prolonged detention.**

According to new information received: Mr. Jayasundaram is reported to be in need of serious medical assistance as he suffers from blood pressure problems and a debilitating mosquito-borne viral disease which has caused pain in his joints. He is asthmatic and has had various respiratory problems which have been worsened by regular bouts of the flu. He also suffers from insomnia, acute distress, anxiety and depression as a result of his detention which included periods in solitary confinement. He does not wish to ask for medical assistance from the prison administration as the last time he did, he was sent to the prison hospital where he said he seriously feared for his life as he was exposed to other seriously ill people, some with contagious diseases. He no longer takes his blood pressure medication as it causes frequent urination and he is reportedly not allowed out of his cell at night to use the toilet facilities.

Mr. Jayasundaram is said to be currently suffering pain from a hernia. It is reported that his family fears for his deteriorating health and he urgently requires an operation within a proper medical facility. His serious state of health required him to undergo his first operation in July 2011 without close family members being present. He was reported to be handcuffed by the feet to the bed by four security guards as soon as he returned to the ward following his operation. He was ordered to lift his leg so that his ankle can be handcuffed and despite pleas from Mr. Jayasundaram that he could not feel anything, the security guards reportedly pushed and pulled his anesthetized legs into place. A doctor is reported to have ordered the security guards outside the room and explained to them that it would take 4-6 hours for Mr. Jayasundaram to regain any feeling. **Additionally, he recently lost a tooth which had required root canal treatment and he has had a toothache for over a fortnight but is unable to see a dentist. Mr. Jayasundaram reportedly requires a second groin hernia operation.** The current medical service provided to Mr. Jayasundaram is inadequate and will not alleviate the various health problems he is experiencing. Mr. Jayasundaram is reported to be severely depressed, believing that he will not survive the sufferings he has had to endure throughout his detention.

To date, Mr. Jayasundaram has been detained for almost four years and still has not been charged with an offence. Efforts to seek judicial remedies, including a habeas corpus application filed on his behalf and a fundamental rights application before the Supreme Court have been met with repeated delays. **He currently remains in prolonged detention in Wellikada remand prison in Colombo and has been deprived of regular contact with his wife and children who reside in Europe.**

Grave concerns are expressed with respect to the physical and psychological integrity of Mr. Jayasundaram. Additional concern is expressed that Mr. Jayasundaram is unable to access medical facilities, goods and services for his urgent medical needs. Further concerns are expressed at the continued prolonged detention of Mr. Jayasundaram in light of Opinion 30/2008 stating that his deprivation of liberty is arbitrary and in contravention of the relevant international human rights standards and principles. We reiterate the request in the aforementioned Opinion for the Government to remedy the situation of Mr. Jayasundaram and to bring it into conformity with its international human rights obligations and to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Without in any way implying any conclusion as to the new information received on the case, we also wish to draw the attention of your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights – which your Excellency's Government acceded to on 11 June 1980

In its General Comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights stated that “the creation of conditions which would assure to all medical service and medical attention in the event of sickness, both physical and mental, includes the provision of equal and timely access to basic preventive, curative, rehabilitative health services.” This is particularly pertinent with respect to persons in detention, who should be given access to curative and rehabilitative health services without discrimination. The Committee also notes that “States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting access for all persons, including prisoners..., to preventive, curative and palliative health services.”

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Gunasundaram Jayasundaram are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Gunasundaram Jayasundaram in compliance with the above international instruments. Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Gunasundaram Jayasundaram to your Excellency's Government in addition to that communicated by the Working Group on Arbitrary Detention?
3. Further to the Working Group on Arbitrary Detention's Opinion 30/2008, please provide information concerning the legal grounds for the arrest and detention of Mr. Gunasundaram Jayasundaram and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the case of Mr. Gunasundaram Jayasundaram. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate whether compensation has been provided to the victim or the family of the victim.
7. Please provide information on the measures taken to ensure the safety of Mr. Gunasundaram Jayasundaram.
8. Please indicate whether Mr. Gunasundaram Jayasundaram has been formally charged with a crime and if so, whether a date for trial has been set.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

El Hadji Malick Sow

Chair-Rapporteur of the Working Group on Arbitrary Detention

Catarina de Albuquerque

Special Rapporteur on the human right to safe drinking water and sanitation

Gabriela Knaul

Special Rapporteur on the independence of judges and lawyers

Ben Emmerson

Special Rapporteur on human rights and fundamental freedoms while countering terrorism

Anand Grover

Special Rapporteur on the right of physical and mental health

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or Punishment

[https://spdb.ohchr.org/hrdb/19th/UA_Sri_Lanka_30.08.2011_\(6.2011\).pdf](https://spdb.ohchr.org/hrdb/19th/UA_Sri_Lanka_30.08.2011_(6.2011).pdf)

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WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

A/HRC/19/58 – 6 FEBRUARY 2012

III. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES IN VARIOUS STATES AND TERRITORIES REVIEWED BY THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

SRI LANKA

Number of outstanding cases at the beginning of the period under review - **5,653**

Cases transmitted to the Government during the period under review - **59**

Cases sent under the standard procedure - **59**

Number of outstanding cases at the end of the year under review - **5,671 (15)**

Government allegation	Yes	Government response	No
Prompt intervention letter	Yes	Government response	No
Working Group request for a visit	Yes	Government response	No

15 41 cases were found to be duplicated cases and were therefore deleted.

Standard procedure

541. The Working Group transmitted 59 newly-reported cases to the Government. The majority of these cases concerned persons who allegedly disappeared in 2009, in Mullaitivu. (16)

16 See annex V for the list of names of the newly-reported cases of disappeared persons.

Prompt intervention

542. On 23 August 2011, the Working Group, together with three other Special Procedures mechanisms, sent a prompt intervention letter to the Government regarding alleged threats against individuals, including relatives, related to the case of Mr. **Pattani Razeek**, a human rights defender who was reportedly disappeared and killed.

General allegations

Summary of the general allegation

543. Information was submitted by sources concerning obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance in Sri Lanka during the last phase of the war against the Liberation Tigers of Tamil Eelam from 2006 until 2009. This information was transmitted to the Government on 4 May 2011, after the Working Group's ninety-third session.

544. The source informed the Working Group about serious allegations of human rights violations in the Northern Province of Sri Lanka, in particular the Mannar district. Allegations were that enforced or involuntary disappearances, as well as other serious human rights violations, including arbitrary detentions, torture, extrajudicial killings, rapes and other forms of sexual violence, discrimination based on religion or belief and ethnic origin, as well as serious limitations to the exercise of other civil and political and economic, social and cultural rights, occurred.

545. According to sources, more than 500 persons disappeared in the Jaffna district between January and August 2007. Similarly, information was received that approximately 100 people disappeared in the Mannar district between 2008 and 2009.

546. Allegations were made about the absence of impartial investigations, prosecution, trial and sentence of alleged perpetrators of human rights violations. According to the sources, existing mechanisms such as police and existing human rights commissions, among others, have proved unable to assist the families of the victims of enforced or involuntary disappearances in their search for their beloved ones. It was alleged that families did not have access to relevant information and that there was no centralised list of detainees in each detention centre to which relatives could refer.

547.Sources also reported that there was a lack of substantial progress on the several reconciliation initiatives that were set, which have allegedly failed to provide the victims with answers on the fate and whereabouts of the disappeared and to provide accountability of alleged perpetrators of human rights violations; among other obligations incumbent upon States where enforced or involuntary disappearances have occurred. In this connection, it was alleged that few had been prosecuted, subjected to trial and sentenced, despite the almost three years that have elapsed between the end of the war against the Liberation Tigers of Tamil Eelam.

548.Sources alleged that there was a lack of transparency in the practice of various commissions of inquiry, the lack of public character of their reports and the denial of their access to the victims, families and civil society.

549.No response was received from the Government regarding this general allegation.

Information from the Government

550.On 7 July and 2 September 2009, the Government submitted two communications in which it provided two lists with a total of 459 possible duplicate cases. During its eighty-ninth session, the Working Group reviewed 171 cases and concluded that they were duplicates and therefore they were deleted from its records. During its ninety-fifth session, the Working Group continued reviewing these cases and concluded that 41 were also duplicates and decided to also delete them from its records. For the remaining cases, the Working Group continues to check the original submissions.

551.No communications concerning outstanding cases were received during the reporting period.

Request for a visit

552.On 16 October 2006, the Working Group requested the Government of Sri Lanka to extend an invitation to undertake a mission to the country. The Government replied that it would not be possible to schedule a visit during the proposed dates, and that the interest of the Working Group would be given due consideration. Reminder letters were sent **on 20 July 2009, 16 August 2010 and 20 July 2011.**

Total cases transmitted, clarified and outstanding

553.Since its establishment, the Working Group has **transmitted 12,460 cases to the Government**; of those, **40 cases have been clarified** on the basis of information provided by the source, **6,535 cases have been clarified on the basis of information provided by the Government**, **214 cases were found to be duplications** and were therefore deleted, and 5,671 remain outstanding.

Observations

554.The Working Group has been able to deal with most of the backlog concerning Sri Lanka; however, a considerable number of cases have been received during the reporting period but have not yet been dealt with because of a lack of resources. The Working Group hopes to deal with these cases as soon as possible.

555.The Working Group reminds the Government of its obligations under the Declaration towards the families of the disappeared.

556.The Working Group regrets that no response has been received to the general allegation transmitted on 4 May 2011. *(Excerpt from the original report)*

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Statistical summary: cases of enforced or involuntary disappearance reported to the Working Group between 1980 and 2011

Cases transmitted to the government – Total	12460
Female	155
Outstanding cases	5671
Female	87
Clarification by:	
Government	6535
Non-governmental sources	40
Status of person at date of clarification	
At Liberty	103
In detention	27
Dead	6445

24 The Working Group determined that 43 cases were duplicated and were subsequently eliminated from its records.

Annex V

Lists of names of newly-reported cases, from countries where there were more than 10 newly-transmitted cases during the reporting period

<u>Last name</u>	<u>First name</u>	<u>Last name</u>	<u>First name</u>
Arulbaskaran	Jagajeesan	Athinarayanapillai	Selvachandran
Chandrasegaram	Rajeevkanth	Coonghe	Saviriyen Milroy
Croos	Soosaiappu Victor	Coonghe	Saviriyen Milroy
Fernando	James Kumar Ronald	Govindarasa Kirupaharan	Govindarasa
Janarthan	Mahalingam	Joseph	Christy Milan
Joseph Thevadas	Thevadas Sureshkumar	K.P. Premaratna	Raveendra
Kalimuththu	Vinoja	Kanagalingam	Kavinthan
Kandasamy	Ramakrishna	Krishnakumar	Sivaranjana
Mahenthiram	Nirusan	Manuel	Balasundaram
Marathan	Dharmaraj	Marathan	Dineshkumar
Markkandu	Suthasuran	Mathiyas	Ruban
Mauran	Tharmakulasingham	Muruga Moorthy Uthayakumar	Uthayakumar
Nagalingam	Nathikkumar	Nagarasa	Umakanthan
Naren	Yogaratnam	Paranthaman	Anthanan
Pathmanathan	Tharshika	Perumal	Sivapalan
Ponnampalam	Gurumoorthy	Ponnampalam	Thangamuttu
Premnath	Sivaratnam	Rajenthiran	Logeswaran
Ramesh Kumar	Manokaran	Ranjithkumar	I.A.
Rasaiyah	Punitharuban	Rasamuththu	Subajini
Sanithirasekeran	Seenithamby	Segar	Rajenthiran
Sellamuthu	Jeyakanthan	Shanmugavel	Dineshkumar
Sinhaharaya	Jeevachandran	Sinhaharaya	Richard Emmanuel
Sinnathamby	Kanagalingam	Sinnaththurai	Sasitharan
Sivanu	Kavithasan	Suntharalingam	Subarajtha
Thanapalasingam	Vijayabaskaran	Thangarasa	Rajakulasingam
Thangarasa-Ragu	Thangarasa-Ragu	Tharmalingam	Jeykumar
Thayasri	Kalaisudar	Thayasri	Santhamary
Thayasri	Swaminathan	Theenu	Anthony Godwin
Veeran	Rajagopal	Veluchchami	Ganeswaran
Yoganatham	Yogarasa	<i>(Excerpt from the original report)</i>	

http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.58_enonly.pdf

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WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

A/HRC/19/58/Rev.1- 2 March 2012

Number of outstanding cases at the beginning of the period under review			5,653
Cases transmitted to the Government during the period under review :			59
Cases sent under the urgent action procedure			0
Cases sent under the standard procedure			59
Cases clarified during the period under review by:			
Government			0
Non-governmental sources			0
Number of outstanding cases at the end of the year under review			5,671
Number of cases on which the Government has replied			0
Multiple replies on some cases			N/A
Number of cases of possible clarification by Government (6-month rule)			0
Urgent appeal	N/A	Government response	N/A
General allegation	Yes	Government response	No
Prompt intervention letter	Yes	Government response	No
Working Group request for a visit	Yes	Government response	No

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WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

A/HRC/16/48- 26 January 2011

Number of outstanding cases at the beginning of the period under review				5,651
Cases transmitted to the Government during the period under review :				4
Cases sent under the urgent action procedure				3
Cases sent under the standard procedure				1
Cases clarified during the period under review by:				
Government				0
Non-governmental sources				0
Number of outstanding cases at the end of the year under review				5,653
Number of cases on which the Government has replied				32
Multiple replies on some cases				Yes
Number of cases of possible clarification by Government (6-month rule)				0
Urgent appeal	N/A	Government response		N/A
General allegation	N/A	Government response		N/A
Prompt intervention letter	N/A	Government response		N/A
Working Group request for a visit	Yes	Government response		None

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WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

A/HRC/13/31 - 21 December 2009

Number of outstanding cases at the beginning of the period under review				5, 727
Cases transmitted to the Government during the period under review :				100
Cases sent under the urgent action procedure				4
Cases sent under the standard procedure				96
Cases clarified during the period under review by:				
Government				5
Non-governmental sources				0
Number of outstanding cases at the end of the year under review				5,822
Number of cases on which the Government has replied				32
Multiple replies on some cases				Yes
Number of cases of possible clarification by Government (6-month rule)				0
General allegation	N/A	Government response		N/A
Prompt intervention letter	N/A	Government response		N/A
Working Group request for a visit	Yes	Government response		No

WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

(Advanced edited version - A/HRC/10/9 - 6 February 2009)

Statistical summary: cases of enforced or involuntary disappearance reported to the Working Group 1980 and 2008

Countries/entities		Sri Lanka
Cases transmitted to the Government		
Total	- Cases	12297
	- Female	155
Outstanding	- Cases	5727
	- Female	87
Clarification by -Government		6530
	Non-governmental sources	40
Status of person at date of clarification		
At liberty		101
In detention		24
Dead		6445

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REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL SUMMARY OR ARBITRARY EXECUTIONS

CHRISTOF HEYNS

A/HRC/20/22/Add.4 – 18 June 2012

Addendum

Observations on communications transmitted to Governments and replies received*

Sri Lanka

(a) UA 26/04/2011 Case No. LKA 3/2011 State reply: 29/04/2011, 03/05/2011, 10/05/2011 and 11/05/2011 Alleged extrajudicial killings by members of the Sri Lankan army during armed conflict. Character of reply: addresses some substantial issues

72. The investigations into the video footage which allegedly documents members of the Sri Lankan Army committing extrajudicial executions and the Government's replies thereto were included in the report on communications presented to the Human Rights Council's 17th session (A/HRC/17/28/Add.1, appendix pp. 423-482). The Special Rapporteur thanks the Government for its responses. The Government stated that it would inform the Special Rapporteur of progress achieved through domestic procedures and mechanisms upon completion of internal processes. While the Lessons Learnt and Reconciliation Commission's report has been released and duly noted, the Special Rapporteur looks forward to receiving detailed information on the steps taken to follow-up on his communication.

(b) JUA 23/08/2011 Case No. LKA 4/2011 **Alleged threats against human rights defenders.**

Character of reply: no response

(c) AL 01/12/2011 Case No. LKA 9/2011 State reply: 07/12/2011 Alleged killings by law enforcement officials.

Character of reply: procedural response

73. The Special Rapporteur thanks the Government of Sri Lanka for its acknowledgement of receipt and looks forward to receiving a substantive response from the Government.

(d) JUA 01/03/2012 Case No. LKA 1/2012 **Alleged repeated incidents of excessive use of force against peaceful protestors.**

Character of reply: no response

General observations:

74. The Special Rapporteur is concerned by the number and varying nature of communications sent to the Government. He regrets that the Government of Sri Lanka has to date not provided a response to the communications dated 23 August 2011 and 1 March 2012, and calls on the Government to provide a response to the latter communications. (*Excerpt from the original report*)

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Advance Version

REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL SUMMARY OR ARBITRARY EXECUTIONS

CHRISTOF HEYNS

A/HRC/17/28/Add.1 - 27 May 2011

SRI LANKA

Summary of information, including individual cases, transmitted to Governments and replies received*

Allegation letter	Allegation letter dated 15 December 2010 -
Subject of communication	Group concern
Character of Reply	Response dated 12 February 2010
Violation alleged	Armed conflict
Allegation letter	Allegation letter dated 13 October 2010
Subject of communication	5 males
Character of Reply	No response
Violation alleged	Death in custody

Death in custody

Violation alleged: Deaths in custody owing to torture, neglect, or the use of force, or fear of death in custody due to life-threatening conditions of detention.

Subject(s) of appeal: 5 males

Character of reply: No response

Observations of the Special Rapporteur

The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

Allegation letter dated 13 October 2010, sent with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the independence of judges and lawyers.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the deaths in custody of Mr. Dhammala Arachchige Lakshman, Mr. Amarasinghe Arachchige David, Mr. Appuhandhi Kotahewage Nayanajith Prasanna, Mr. Jayakody Arachchilage Oman Perera and Mr. Jayasekara Arachchige Roshan Jayasekara.**

We are informed that there is a pattern of police officers killing detained suspects as a means of eliminating organized crime. Such cases are not being investigated or prosecuted before the courts.

According to information received

On 13 August 2010, Mr. Amarasinghe Arachchige David was arrested by officers from the Kirindiwela Police Station. He was placed into a police vehicle and on their way to the police station, the vehicle

stopped along the main road at Papiliyawala to conduct a search on two people. Mr. David got out of the vehicle and watched the police officers conduct the search. The police officers, after noting that Mr. David had stepped out of the vehicle, approached him and beat him on his back and hip areas. He was then dragged towards the vehicle where the officers beat him against the rear door shouting "Are you trying to escape from us". Mr. David was taken to Kirindiwela Police Station and later admitted at the Government hospital of Radawana. He was transferred to the National Hospital of Colombo; however he later died from the injuries sustained. On 15 August 2010, a postmortem examination indicated that he had died as a result of head injuries. It is alleged that the police are reluctant to conduct an investigation into the death.

On 25 August 2010, Mr. Jayasekara, of Ranaviru Niwasa, Morakatiara, Beliattha was arrested by the Ragama Police Station and taken to Kiribathgoda police station. He was arrested on suspicion of having stolen a mobile phone at Ragama Railway Station. On 26 August 2010, a police officer brought the body of Mr. Jayasekara to Ragama Teaching hospital; however he did not wish to be registered as the person who brought in the body. On 27 August 2010, the police constable of the Kiribathgoda Police Station registered as the person who delivered the body. A post mortem that was conducted by the judicial medical officer at the Ragama Teaching Hospital revealed marks of numerous blunt force trauma injuries.

On 31 August 2010, Mr. Jayakody Arachchilage Oman Perera of No. 22, Palle Kalley Janapadaya in Kurunegala was arrested by officers from the Special Task Force. After his arrest Mr. Perera was placed in a police jeep and as he was being driven to Colombo, he was shot. It is alleged that as the vehicle was near the Japalawatta Industrial Zone junction in Minuwangoda, Mr. Perera attempted to escape. He was taken to Minuwangoda Hospital and later transferred to the Intensive Care Unit of the General Hospital, Gampaha. He died the same day from the injuries sustained.

On 20 September 2010, Mr. Dhammala Arachchige Lakshman was arrested by the police and held in custody at the Hanwella police station. On 22 September 2010, he was taken to a location in Diddeniya in Hanwella for an on-sight investigation to uncover weapons. It is alleged that he attempted to escape from police custody by throwing a bomb at the police officers and was shot. He sustained injuries and died at the Avissawella hospital the same day. During his detention the deceased was not brought before a court.

On 22 September 2010, Mr. Prasanna of No. 1B, Balawinnagama, Balawinna, Balapatha was arrested by the police officers from the Moratuwa Police Station. On 25 September 2010, he was found in his cell with severe cuts to his abdomen and was admitted at the Kalubowila Teaching Hospital. On 26 September 2010, he died from the injuries sustained. The police indicated that he had attempted to commit suicide with a shard of glass found inside his cell. During his detention he was not brought before a Magistrate as required by the Code of Criminal Procedure No.15 of 1979.

We are informed that in the recent past, the police have increasingly been arresting people without producing them before a court of law in contravention of the Code of Criminal Procedure No.15 of 1979 which stipulates that police officers should produce a suspect arrested on suspicion of committing a crime before a Magistrate within 24 hours. "Any police officer shall not detain in custody or otherwise confine a person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate."

While we do not wish to prejudge the accuracy of the reports received, we would like to seek from your Excellency's Government information concerning the deaths of Mr. Dhammala Arachchige Lakshman, Mr. Amarasinghe Arachchige David, Mr. Appuhandhi Kotahewage Nayanajith Prasanna, Mr. Jayakody Arachchilage Oman Perera and Mr. Jayasekara Arachchige Roshan Jayasekara, and compliance with pre-trial detention safeguards for suspected criminals.

In this respect, we would like to recall the relevant international human rights obligations that your Excellency's Government has undertaken. The International Covenant on Civil and Political Rights, to which Sri Lanka is a party, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6).

When the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In this respect we would like to recall the conclusion of the Human Rights Committee in a custodial death case (Dermi Barbato v. Uruguay, communication no. 84/1981 (21/10/1982), paragraph 9.2): "While the Committee cannot arrive at a definite conclusion as to whether Hugo Dermi committed suicide, was driven to suicide or was killed by others while in custody; yet, the inescapable conclusion is that in all the circumstances the Uruguayan authorities either by act or by omission were responsible for not taking adequate measures to protect his life, as required by article 6 (1) of the Covenant."

With respect to the use of force by police officers, we would like to bring to the attention of your Excellency's Government the UN Basic Principles on the Use of Firearms by Law Enforcement Officials ("Basic Principles") law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force (Basic Principles, principle 4). Whenever the lawful use of force is unavoidable, law enforcement officials shall exercise restraint and act in proportion to the seriousness of the offence, minimize injury, and respect human life (Basic Principles, principle 5) and intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life (Basic Principles, principle 9). The Special Rapporteur on Summary Executions has presented to the General Assembly at its sixty first sessions that force should not normally be the first resort: so far as the circumstances permit, law enforcement officials should attempt to resolve situations through non-violent means. As a first step, officials should attempt to "restrain or apprehend the suspected offender" without using force that carries a high risk of death — perhaps by physically seizing the suspect. If the use of firearms does prove necessary, law enforcement officials should "give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident" (A/61/311, paras 41- 45).

In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a "thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances" (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This principle was reiterated by the Human Rights Council at its 8th Session in Resolution 8/3 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4), stating that all States have "to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions". The Council added that this obligation includes the obligation "to identify and bring to justice those responsible, ... to grant adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions".

With regard to the allegation that there is a pattern of extra-judicial execution of detained persons, we would like to recall that the obligation of the State is not only to prohibit and prosecute killings by guards or other officials, but also to prevent deaths and to respond effectively to the causes of the deaths (A/61/311 para. 50). The Human Rights Committee has noted in its General Comment No. 6 that "The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities". In its General Comment No. 31 the Committee noted that "As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. These obligations arise notably in respect of those violations recognized as criminal under either domestic or international law, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6)"

With regard to the allegation that detained persons are not brought before the courts within the prescribed period, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights, to which your Excellency's Government is a party, and in particular article 9 (4), which states that "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful." The Human Rights Committee in General Comment No. 8 has stated that "Paragraph 3 of article 9 requires that in criminal cases any person arrested or detained has to be brought "promptly" before a judge or other officer authorized by law to exercise judicial power. More precise time-limits are fixed by law in most States parties and, in the view of the Committee, delays must not exceed a few days." We note that your Excellency's Government, under the Criminal Procedure Code No.15 of 1979, has provided the time limit to be 24 hours, we therefore urge your Excellency's Government to take measure to ensure compliance with this provision. Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the = persons named above. I would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this context, we would like to draw your Excellency's Government's attention to paragraph 1 of Human Rights Council Resolution 8/8 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

In addition, we would like to draw your Excellency's Government's attention to article 12 of the Convention Against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention Against Torture, which requires State parties to prosecute suspected perpetrators of torture. I would also like to draw your Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;"

We urge your Excellency's Government to carry out inquiries into the circumstances surrounding the deaths of Mr. Lakshman, Mr. David, Mr. Prasanna, Mr. Perera and Mr. Jayasekara expeditiously, with a view to taking all appropriate disciplinary and prosecutorial action and ensuring accountability of any person guilty of the alleged violations, as well as to compensate their families. We also urge your Excellency's Government to take measures to prevent further recurrence of the alleged violations and to ensure compliance with pre-trial detention safeguards.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the case summary accurate?
2. Please provide the details, and where available the results, of the investigations, and judicial or other inquiries carried out in relation to these cases. Please provide the details of any compensation payments made to the families or dependants, if any.
3. Please provide the details of any criminal prosecutions and/or disciplinary measures in relation to persons found to be responsible, either as perpetrators or as responsible superiors, for the death in custody of Mr. Lakshman, Mr. David, Mr. Prasanna, Mr. Perera and Mr. Jayasekara.
4. Please provide information on measures taken to ensure compliance with international standards on the use of firearms by law enforcement officials. Further please provide an explanation on how force is used to prevent the escape of detained persons in accordance with the rules and principles pertaining to proportionality and necessity.
5. Please explain the steps taken to prevent further recurrence of deaths in custody and to address the alleged pattern of extra-judicial executions of detained persons.
6. Please explain the steps to ensure compliance with pre-trial safeguards as recognized under international law.

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-28-Add1.pdf>
<http://www2.ohchr.org/english/issues/executions/videos.htm>

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REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL SUMMARY OR ARBITRARY EXECUTIONS

CHRISTOF HEYNS

A/HRC/17/28* - 23 May 2011

B. Visits

5. In 2010, the Special Rapporteur sent requests for country visits to Eritrea, Thailand Turkey, Iran, Sri Lanka and Canada.

¹ Press releases of the Special Rapporteur on extrajudicial, summary or arbitrary executions available at http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Summ_Executions.

E. Sri Lanka video

11. The Special Rapporteur conducted a technical assessment to establish the authenticity of a video allegedly showing the **execution of Tamil prisoners by Sri Lankan troops during the civil war**. The urgent appeal sent to the Government on the case and forensic reports of the assessment are reproduced in (A/HRC/17/28/Add.1). (*Excerpt from the original report*)
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/134/47/PDF/G1113447.pdf?OpenElement>
http://ap.ohchr.org/documents/dpage_e.aspx?m=96

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ADVANCE VERSION

REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL SUMMARY OR ARBITRARY EXECUTIONS

PHILIP ALSTON*

A/HRC/14/24/Add.1 - 1 June 2010

ADDENDUM

COMMUNICATIONS TO AND FROM GOVERNMENTS

SRI LANKA

* Owing to its length, the present report is circulated as received.

Civilian casualties during military offensive by the Sri Lankan armed forces in Mullaitivu district
Violation alleged:

Violations of the right to life during armed conflicts, especially of the civilian population and other non-combatants, contrary to international humanitarian law

Subject(s) of appeal: Group of persons (about 6432 civilians including about 454 children)

Character of reply: No response

Observations of the Special Rapporteur: The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

Urgent appeal dated 30 April 2009

I write to your Excellency's Government with regard to the **number of civilian casualties of the ongoing military offensive by the Sri Lankan armed forces in the so-called No Fire Zone in Mullaitivu district.**

According to information I have received:

From 20 January to 21 April 2009, an estimated 6432 civilians were killed, of whom 5580 were killed in the so-called No Fire Zone in Mullaitivu district, including an estimated 454 children. Approximately 85% of those killed died as a result of shelling of the No Fire Zone. On 24 February 2009, your Excellency's Government announced that it would no longer fire heavy weapons into the No Fire Zone. The average number of civilians in the No Fire Zone killed each day by shelling, however, did not decrease after this announcement.

On 7 April 2009, for instance, at 7:30 a.m. four or five artillery shells reportedly hit the area near Pokkanai primary health center, where hundreds of civilians were waiting in line near a food distribution center, killing at least 13 civilians immediately and wounding over 50 others. The shells were 120mm rounds and were apparently fired from positions of the Sri Lankan Army to the south. The make-shift hospital in Putumattalan received 133 wounded civilians and the dead bodies of 20 persons on that day. On the morning of 8 April 2009, two further shelling attacks hit Pokkanai. The Putumattalan hospital received 296 wounded and 46 dead bodies on 8 April 2009, and 300 wounded and 62 dead bodies on 9 April 2009.

On 27 April 2009, the Presidential Secretariat released a statement declaring that "Our security forces have been instructed to end the use of heavy caliber guns, combat aircraft and aerial weapons which could cause civilian casualties." On the same day, however, gun fire and shells endangered civilians Mullivaikkal and Puthukkudiruppu in the No Fire Zone from 3:30 a.m. to 9:00 a.m. Around 12:40 p.m. and again at 1:10 p.m. the Sri Lankan air force carried out two strikes in the Mullivaikkal South area. Artillery shells were fired into the Mullivaikkal North area at around 5:40 p.m. At 6:50 p.m. heavy shelling of the Mullivaikkal area started. On that day, 27 April 2009, 139 injured civilians were admitted to Mullivaikkal hospital, 19 of whom died after admission.

While I do not wish to prejudge the accuracy of these reports, I would like to refer Your Excellency's Government to the fundamental legal rules applicable to all armed conflicts under international humanitarian law and human rights law. Specifically, your Government is under an obligation to distinguish between combatants and civilians and to direct attacks only against combatants (Rules 1, 6 and 7 of the Customary Rules of International Humanitarian Law identified in the study of the International Committee of the Red Cross ("Customary Rules")). Indiscriminate attacks are prohibited (Rule 11 of the Customary Rules). Further, launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, or damage to civilian objects, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited (Rule 14 of the Customary Rules). All feasible precautions must be taken to avoid and minimize incidental loss of civilian life (Rule 15 of the Customary Rules).

There are credible reports that the Liberation Tigers of Tamil Eelam (LTTE) have been holding civilians as human shields in the No Fire Zone, and that LTTE cadres have shot at civilians trying to leave the area. This conduct by the LTTE would constitute a most serious violation of its obligations under customary humanitarian law. I would, however, draw your Government's attention to the principle whereby a violation of the obligation to take precautionary measures vis-à-vis the civilian population or their use as human shields by one side to a conflict does not change the obligations incumbent on the other party to the conflict to evaluate what constitutes an excessive attack in relation to concrete and direct military advantage (see A/HRC/10/22, para. 17).

I urge your Excellency's Government to immediately take all necessary steps to ensure full respect for the 27 April 2009 announcement by the Presidential Secretariat that "the use of heavy caliber guns, combat aircraft and aerial weapons which could cause civilian casualties" would be ended. In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the civilians in the so-called No Fire Zone in compliance with your Government's international legal obligations.

It is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention. Since I am expected to report on the killings of civilians resulting from the military operations your Excellency's Government is conducting against the so-called No Fire Zone since February 2009, I would be grateful for your cooperation and observations on the following four matters:

1. Are the facts alleged in the above summary accurate? Please refer to the results of any police or military investigation, or judicial or other inquiries carried out in relation to the killings of civilians resulting from the military operations against the so-called No Fire Zone since 20 January 2009.
2. What assessment was made to ensure that the attacks against the so-called No Fire Zone since 20 January 2009 complied with the rules of international humanitarian law and human rights law? Specifically, what safeguards, if any, were employed to verify that only legitimate military targets were attacked? What methods were adopted to distinguish between military and civilian objects? What precautions were taken to minimize loss of civilian life? What means and methods of warfare were adopted to avoid incidental loss of civilian life, and to ensure that incidental loss of life was not excessive in relation to the anticipated military advantage?
3. Please provide the details of any disciplinary measures imposed on, or criminal prosecutions against, members of the armed forces responsible for the alleged the killings of civilians in the so-called No Fire Zone since 20 January 2009.
4. Please state whether any compensation was, or is intended to be, provided to the families of the victims.

SRI LANKA: SUMMARY EXECUTIONS BY THE SRI LANKAN ARMY

Violation alleged: Violations of the right to life during armed conflicts, especially of the civilian population and other non-combatants, contrary to international humanitarian law

Subject(s) of appeal: Group of persons, including 2 unknown men

Character of reply: Cooperative but incomplete response

Observations of the Special Rapporteur: The Special Rapporteur appreciates the willingness of the Government of Sri Lanka to engage in detailed dialogue on the issue of alleged summary executions of a significant number of men by the Sri Lankan Army, as depicted in a video tape aired in August 2009. The Special Rapporteur looks forward to an independent and impartial investigation of the underlying events.

Allegation letter dated 28 August 2009

In this connection, I would like to draw the attention of your Excellency's Government to reports I have received concerning the alleged summary execution of a significant number of men by the Sri Lankan army. While the exact circumstances of the killings remain unclear it is alleged that they took place during military operations in or around Kilinochchi in January 2009. Video footage allegedly documenting the incident shows two naked men, bound and blindfolded being shot at point-blank range by men wearing Sri Lankan army uniforms, as well as the bodies of eight other men all but one naked.

Following the release of this video footage in the media, your Excellency's Government publicly responded by strongly and unequivocally denying the allegations contained in the video footage. In a statement reproduced by several media outlets, the Sri Lankan High Commission in the United Kingdom declared that it categorically denied, "that the Sri Lankan armed forces engaged in atrocities against Sri Lankan Tamil community. They were only engaged in a military offensive against the LTTE."

While I do not wish to prejudge the accuracy of these reports, I would like to refer your Excellency's Government to the relevant principles of international humanitarian law and international human rights law applicable in situations of non-international armed conflicts.

In particular, I would like to refer to Common Article 3 to the 1949 Geneva Conventions which prohibits "violence to life and person, in particular murder of all kinds" of persons taking no active part in the hostilities or who have been placed *hors de combat*, including by detention. I would also like to refer to the obligations arising under human rights law. The International Covenant on Civil and Political Rights ("ICCPR"), to which Sri Lanka is a party, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (Article 6).

While I take note of Your Excellency's Government's denial of these allegations, I wish to recall that international law provides that states have the obligation to conduct a thorough investigation of all alleged violations of the right to life. (E/CN.4/2006/53, paras. 33-43, 60.) When such violations occur in a the context of an armed conflict, States must investigate war crimes allegedly committed by their nationals or armed forces or on their territory and if appropriate prosecute the suspects. I note with interest that Your Excellency's Government denies that its armed forces were engaged in atrocities against the Sri Lankan Tamil community. I am not, however, aware of any more specific statement indicating that the events

depicted in the video either did not take place, were fabricated, or did not involve the Sri Lankan army. In any event it is incumbent upon the Government to respect the obligation to conduct an independent and impartial investigation into alleged war crimes committed on its territory or by its nationals. Under the circumstances, and in order to ensure that any investigation that might clear Your Excellency's Government of any responsibility is considered to be credible, and thus affirms the position expressed by the Government, it would seem indispensable for an independent investigation to be undertaken.

I would also wish to reiterate my previously expressed request to undertake an official visit to Sri Lanka in order to undertake further inquiries into the issues raised in this and previous communications. I would be most grateful if you could indicate dates on which such a visit might be convenient.

It is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. Since I am expected to report on this case to the Human Rights Council, I would be grateful for your cooperation and your observations on the following matters:

1. Are the allegations in the above summary of the events accurate? If so please provide details on the incident.
2. When violations of international humanitarian law or of human rights law are alleged to have been committed by members of the Sri Lankan armed forces, what are the established investigation procedures that are followed? Please explain how these have been followed with regards to the above incident.
3. Please provide details on the rules of engagement provided to the members of the Sri Lankan armed forces before the operations in the Kilinochchi area, in particular instructions concerning the treatment of civilians not taking part in the hostilities and of LTTE cadres who had been detained or otherwise placed *hors de combat*.
4. Please provide details of any investigation or inquiry that has been launched into the above incident.

PRESS RELEASE BY THE SPECIAL RAPPORTEUR DATED 17 SEPTEMBER 2009

Sri Lanka should permit an impartial investigation into the 'Channel 4 videotape', says UN expert

GENEVA -- Professor Philip Alston, the Special Rapporteur on extrajudicial executions, appointed by the United Nations Human Rights Council today issued the following statement:

I have been requested by the Government of Sri Lanka to issue a public statement in response to the latest information provided by the Government in relation to the Channel 4 video which purports to show extrajudicial executions being carried out by the Sri Lankan Army. I have carefully reviewed the various briefings and statements made by the Minister for Disaster Management and Human Rights, which are essentially based upon a detailed "Consolidated Response" issued by the Government to the local and international media on 7 September 2009 and to the diplomatic community the following day. The Government's response was summarized in the Minister's statement on 15 September 2009 to the Human Rights Council in which he stated that "four separate investigations have now scientifically established beyond any doubt that this video is a fake."

I welcome the fact that the Government is now devoting considerable attention to this issue. The legal obligation incumbent upon a Government in a situation such as this is to undertake a "thorough, prompt and impartial investigation."* My role as Special Rapporteur on extrajudicial executions is to evaluate whether the investigations undertaken have met the relevant criteria established under international law, and to advise the Human Rights Council accordingly.

I can attest to the fact that the investigation has been "prompt" since it was completed within two weeks of the information becoming available. I am not, however, in a position to conclude that it was "thorough." I have not seen the original version of three of the four expert investigations. The fourth of the investigations seems to have originated as an Opinion piece in The Island newspaper, and was subsequently elaborated upon. It is not clear whether or not this was at the Government's request. The statement provided by the Minister summarizes "observations" made by the remaining three experts in presentations made at a meeting convened by the Government for this purpose. I would welcome the publication of the full text of the analyses undertaken and reports presented by each of the four experts. The third and most important question is whether the "four separate investigations" meet the criteria of impartiality. I would note that two of the experts are members of the Sri Lankan Army, the body whose actions have been called into question. A third report is by Dr. Chathura De Silva, BSc Eng Hons (Moratuwa), MEng (NTU), PhD (NUS),

Senior Lecturer, Dept of Computer Science and Engineering, University of Moratuwa, who has advised the Government in relation to a number of other similar issues in the past. And the fourth is by Siri Hewawitharana, a broadcast media specialist based in Australia, who is said to be the former head of Cisco's global broadcast and digital video practice. No other information has been provided by the government on Mr Hewawitharana, but it would appear that he is a member of a network of Sri Lankan Professionals. I would welcome more information on how he was identified and selected by the government as an independent expert.

Based on the limited information available to me, it is impossible to conclude that these four individuals, given their relationship to the Government, meet the criteria for impartiality in this context. When the actions of a Government are called into question in a matter of this gravity, what is required is to undertake an investigation by demonstrated experts who can be shown to be fully independent of the Government concerned. Two of these individuals are full-time Government employees, one has previously acted on behalf of the Government, and the basis on which the fourth was identified and selected as an expert remains unclear. I must conclude therefore, on the basis of the information made available by the Government, that the investigations undertaken cannot be characterized as "impartial".

The final question that remains is whether the information provided by the Government raises significant doubts as to the authenticity of the video. On this question, my conclusion is that the views expressed do indeed raise several issues which warrant further investigation before it could reasonably be concluded that the video is authentic. The only way to do this is for an independent and impartial investigation to take place. This is all that I have called for. Such an investigation might well conclude that the position adopted by the Government is fully warranted. I would welcome that outcome very warmly, and I hope that the Government would do likewise.

(*) United Nations Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions, adopted on 24 May 1989, para. 9.

Communication from the Government of Sri Lanka dated 17 September 2009

RESPONSE OF THE SPECIAL RAPPORTEUR DATED 9 NOVEMBER 2009

Dear Professor Wijesinha,

I am following up on our previous correspondence in relation to the so-called Channel 4 videotape to request access to the original reports by the four experts commissioned by the Sri Lankan Government to provide advice as to the apparent authenticity or otherwise of the videotape. I have, of course, read carefully the excerpts from the various reports posted on the relevant official websites, but I would very much appreciate being able to read the complete report submitted by each of the experts.

PRESS RELEASE BY THE SPECIAL RAPPORTEUR DATED 7 JANUARY 2010

UN expert concludes that Sri Lankan video is authentic, calls for an independent war crimes investigation

GENEVA -- Reports by three independent experts strongly point to the authenticity of a videotape released by Channel 4 in Britain which appears to show the summary execution of bound, blindfolded, and naked Tamils by Sri Lankan soldiers. This was announced today by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, on the basis of detailed analyses conducted by recognized experts in forensic pathology, forensic video analysis, and firearm evidence.

Alston commissioned the three reports following the publication of four opinions by Sri Lankan experts, all of which concluded that the video was a fake. The Government of Sri Lanka informed the UN Human Rights Council that it would therefore not be undertaking any investigation of the allegations made. "Senior Government officials called upon me to apologize and to withdraw the allegations," said Alston. "They also criticized me for not having undertaken my own technical analysis. In response to that criticism and to what seemed to me the patent inadequacies of the reports commissioned by the Government (two of which were prepared by officials of the Sri Lankan army), I requested highly qualified and totally independent experts to undertake evaluations."

Alston released the full text of the expert opinions in a "Technical Note" made public in New York today. "Together, the reports by these experts strongly suggest that the video is authentic," Alston stated.

• “Given these conclusions, and in light of the persistent flow of other allegations of extrajudicial executions by both sides during the closing phases of the war against the LTTE, I call for the establishment of an independent inquiry to carry out an impartial investigation into war crimes and other grave violations of international humanitarian and human rights law allegedly committed in Sri Lanka.” Alston summarized the key findings of the experts:

Mr Peter Diaczuk, an expert in firearms evidence, concluded that the recoil, movement of the weapon and the shooter, and the gases expelled from the muzzle in both apparent shootings were consistent with firing live ammunition, and not with shooting blank cartridges.

Dr Daniel Spitz, a prominent forensic pathologist, found that the footage appeared authentic, especially with respect to the two individuals who are shown being shot in the head at close range. He found that the body reaction, movement, and blood evidence was entirely consistent with what would be expected in such shootings.

Mr Jeff Spivack, an expert in forensic video analysis, found no evidence of breaks in continuity in the video, no additional video layers, and no evidence of image manipulation. Alston added that the independent experts’ analyses also systematically rebutted most of the arguments relied upon by Sri Lanka’s experts in support of their contention that the video was faked. He gave the following examples:

- **(a)** A Sri Lankan expert stated that there was no recoil or movement of the weapon discharged. However, Mr Spivack and Mr Diaczuk described the recoil visible on the video, and the way in which the movement was consistent with firing live ammunition.
- **(b)** A Sri Lankan expert stated that the lack of audio synchronization with the video indicated manipulation. However, Mr Spivack stated that the video/audio synchronization in the video was well within acceptable limits, and that audio can be ahead or behind video, subject to various variables.
- **(c)** A Sri Lankan expert stated that the movement of the second victim after being shot was not consistent with the normal expected reaction. However, Mr Spitz stated that the movement was entirely consistent with the manner in which the individual was apparently shot.
- **(d)** A Sri Lankan expert stated that while wind could be heard on the audio, it was not evident in the video. Mr Spivack however described multiple places in the video where there is clear evidence of wind.
- **(e)** Sri Lanka’s experts argued that the footage was likely to have been recorded on a digital camcorder, and not a mobile phone. Mr Spivack concluded that the metadata he retrieved from the video was entirely consistent with multimedia files produced by mobile phones with video recording capability, and that it would have been very difficult to alter the metadata.

There are a small number of characteristics of the video which the experts were unable to explain. These included the movement of certain victims in the video, 17 frames at the end of the video, and the date of 17 July 2009 encoded in the video. Each of these characteristics can, however, be explained in a manner entirely consistent with the conclusion that the videotape appears to be authentic.

In sum, while there are some unexplained elements in the video, there are strong indications of its authenticity. In addition, most of the arguments relied upon by the Government of Sri Lanka to impugn the video have been shown to be flawed.

SRI LANKA: DEATH THREATS AGAINST JOURNALISTS FEDERICA JANSZ AND MUNZA MUSHATAQ

Violation alleged: Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, or groups cooperating with or tolerated by the Government, as well as unidentified persons who may be linked to the categories mentioned above and when the Government is failing to take appropriate protection measures

Subject(s) of appeal: 2 females

Character of reply: No response

Observations of the Special Rapporteur: The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

Allegation letter dated 6 November 2009, sent with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders.

In this connection, we would like to draw the attention of your Excellency’s Government to information we have received regarding the situation of Ms. Frederica Jansz, and Ms. Munza Mushataq and staff members of the Sunday Leader weekly newspaper, an investigative newspaper which often reports on cases of alleged corruption and abuse of authority in Sri Lanka. Ms. Jansz and Ms. Mushataq are respectively Editor in- chief and News Editor of the Sunday Leader.

The Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders sent on 9 January 2009, a letter of allegation on the killing of Mr. Lasantha Wickrematunga, founder and former Editor-in-Chief of the *Sunday Leader*. We acknowledge receipt of the responses of your Excellency's Government dated 11 February 2009 and 9 July 2009.

According to the information received:

On 22 October 2009, Ms. Jansz and Ms. Mushataq reportedly received death threat letters. The letters, handwritten in red ink, stated the following: "if you write anymore, we will kill you, slice you into pieces". Mr. Lasantha Wickrematunga was killed in January 2009 after having received a similar red ink handwritten death threat letter.

These new threats occurred following the publication on 18 October 2009, of an article by the *Sunday Leader* in relation to a video allegedly showing Sri Lankan soldiers executing Tamil prisoners and denounced as a fake by your Excellency's Government.

Ms. Jansz and Ms. Mushataq reported the threats to the Inspector General of Police and to the police in Colombo.

It is further reported that staff members of the *Sunday Leader* have been threatened on many occasions and the premises of the newspaper burnt down and bombed several times.

Grave concern is expressed that these new threats may be directly related to the legitimate work of Ms. Jansz and Ms. Mushataq and the staff members of the *Sunday Leader* in defense of human rights. Given the content of the letters and the killing of Mr. Wickrematunga, further concern is expressed for the physical and psychological integrity of Ms. Jansz and Ms. Mushataq and all staff of the *Sunday Leader*.

Moreover, we would like to reiterate our concern regarding the number of abductions, physical attacks, death threats, killings and acts of intimidation against journalists, and the ensuing lack of prosecutions of alleged perpetrators, which has previously been conveyed to your Excellency's Government, including the most recent urgent appeal sent on 15 October 2009 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the relevant principles of international law. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. With respect to the death threats received by Ms. Jansz and Ms. Mushataq, we would like to recall that your Excellency's Government has an obligation under Art 2(1) of the ICCPR to "ensure to all individuals within its territory" the right to life. As explained by the Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), this positive obligation to ensure the right to life:

- "will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons ... There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities."

These due diligence obligations to take all appropriate measures to deter and prevent extrajudicial executions may be breached where, for example, state authorities do not react promptly to reliable reports, the relevant legal remedies are ineffective or non-existent, authorities do not act to clarify a situation in the face of reliable evidence, or it takes no action to establish individual responsibility (See Velásquez Rodríguez v. Honduras, Annual Report of the Inter-American Court of Human Rights, OAS/Ser. I./V./III.19, doc. 13 (1988), 28 ILM (1989) 291; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/2005/7, paras 71-73).

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the

national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”. Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

We should also like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression of the above mentioned persons, in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights and reiterated in article 19 of the International Covenant on Civil and Political Rights which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

We also deem it appropriate to make reference to paragraph 3 of Human Rights Resolution 12/16, which states that the Council is deeply concerned that:

- (a) violations of the right to freedom of opinion and expression continue to occur, often with impunity, including extrajudicial killings, intimidation, persecution and harassment, threats and acts of violence against persons who exercise, seek to promote or defend these rights, including journalists, writers, and human rights defenders;
- (c) threats and acts of violence, including killings and attacks, particularly directed against journalists, have increased and are not adequately punished, in particular in those circumstances where public authorities are involved in committing those acts.

In the event that your investigations support or suggest the above allegations to be correct, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the abovementioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which have been or will be undertaken. Have penal, disciplinary or administrative sanctions been or will be imposed on the alleged perpetrators?

SRI LANKA: DEATH IN CUSTODY OF WANNI ATHAPATHTHU MUDIYANSELAGE NILANTHA SAMAN KUMARA

Violation alleged: Deaths in custody owing to torture, neglect, or the use of force, or fear of death in custody due to life-threatening conditions of detention

Subject(s) of appeal: 1 male

Character of reply: No response

Observations of the Special Rapporteur: The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

Allegation letter dated 31 December 2009, sent with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

In this connection, we would like to bring to your Excellency’s Government’s attention information we have received concerning Mr. **Wanni Athapaththu Mudiyanseelage Nilantha Saman Kumara**, aged 31.

According to the information received:

On 26 October 2009, Mr. Kumara joined several villagers outside a shop by the Nahettigkulama jam tree in Galgamuwa to search the jungle for some goods which had been stolen. A few hours later, he was stopped by the police and asked to accompany them to the Galgamuwa Police Station. Upon arrival at the station, he was detained without a warrant or formal charges against him. Two hours later, he was taken to a room in what appeared to be the private wing of the police residential barracks behind the Crimes Division. Mr. Kumara was interrogated by Inspector Ataputtu, Police Constable Wijeratne and other officers, all dressed in civilian clothes. The police indicated that he had been detained on suspicion of theft at the shop and of a water pump, charges which Mr. Kumara denied. Subsequently, Mr. Kumara was subjected to the "Palestinian hanging", whereby his shirt was removed, his lower arms were wrapped in cloth, his hands were forced behind his back and tied with a rope which was attached to a nylon rope that hung from a beam in the ceiling. The other end of the nylon rope was secured to a steel bed. Mr. Kumara was then told to stand on a box; the rope was pulled tight and the box was then kicked from under his feet, leaving him hanging. Inspector Ataputtu gave orders to the other officers to leave Mr. Kumara hanging until he confessed to the crimes. He was taken down approximately two hours later, but the procedure was repeated that evening. The second time, he was released after approximately 30 minutes, but was then beaten and kicked for three hours. Although by this time the police had allegedly received information indicating that Mr. Kumara had not been involved in the theft at the shop, he was still accused of stealing a water pump.

The following day, Mr. Kumara was once again hung for approximately two hours. Although he needed medical attention, none was provided. That evening, Inspector Ataputtu told Mr. Kumara that he could be released the following day if he confessed; otherwise, he would be presented before the court. When Mr. Kumara denied his involvement, he was grabbed by the hair and dragged to the same room where he was beaten and stripped, and his hands were tied. He was then subjected to the "Dharma Chakra" or wheel of enlightenment, by which he was forced to squat and wrap his hands over his knees, while a metal pipe was inserted through the space between his knees and elbows, and was balanced on two tables. While in this position, a bottle of petrol was poured in his anus. Water was also poured on him to relax the muscles.

On 28 October, Mr. Kumara's cellmate was ordered to bathe and dress him, since he could not move his arms. They were both taken to the Criminal Division, but a statement was only taken from Mr. Kumara's cellmate. They were then taken to the Out-Patient Department of Galgamuwa Hospital, where a physician, Dr. Roja, completed a Medico-Legal Examination Form without examining Mr. Kumara. Afterwards, Mr. Kumara and his cellmate were taken to the Magistrate's Court in Galgamuwa. They were not allowed to inform their families or contact a lawyer. Mr. Kumara was not questioned or addressed by the magistrate, but was remanded. He was then transferred to Wariyapola Prison, where he informed the guards about his torture and signed a statement indicating his experience.

The following day, Mr. Kumara was taken to Wariyapola Hospital. The accompanying officer informed the doctor of the torture, but the doctor reportedly accused Mr. Kumara of lying and refused to examine him.

On 6 November, Mr. Kumara was presented before the Galgamuwa Magistrate's Court. He was released on bail. Three days after, Mr. Kumara went to the Galgamuwa Hospital, but Dr. Roja once again refused to examine him and indicated that he should go to the Anuradhapura Teaching Hospital. Mr. Kumara went there the following day, where he received adequate treatment and was examined by a Judicial Medical Officer.

On 17 November, one of the alleged perpetrators visited Mr. Kumara at his home to inquire into the possible action he was intending to take. On 19 November, Mr. Kumara submitted a complaint to the Inspector General of Police, the National Police Commission, the Attorney General and the National Human Rights Commission.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances of the arrest, detention at the police station and remand to detention in prison of Mr. Kumara.

We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this context, we would like to draw your Excellency's Government's attention to paragraph 1 of Human Rights Council Resolution 8/8 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would further like to draw your Excellency's Government's attention to Article 13 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), which requires that "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." In this context, we would also like to draw your Excellency's Government's attention to paragraph 6 b and e of Human Rights Council Resolution 8/8 adopted in June 2008 which urges States "to take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold persons, who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed [...] and "to ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress and are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation [...]."

With regard to the alleged denial of adequate medical treatment and proper diagnosis of the injuries suffered by Mr. Kumara, we would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. ...". Furthermore, Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.)

With regard to the alleged denial of assistance by legal counsel during the hearing before the Magistrate's Court in Galgamuwa, we would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular:

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned person are respected and that accountability of those guilty of the alleged torture and denial of medical treatment is ensured. We also request that your Government adopt effective measures to protect Mr. Kumara against intimidation by those involved in his torture.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please provide the details of the measures adopted by your Excellency's Government to protect Mr. Kumara against intimidation by those involved in his torture.
5. Please indicate whether compensation has been provided to Mr. Kumara.

SRI LANKA: DEATH OF THREE SENIOR REPRESENTATIVES OF LIBERATION TIGERS OF TAMIL ELAM

Violation alleged: Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality

Subject(s) of appeal: 3 males

Character of reply: Receipt acknowledged

Observations of the Special Rapporteur: The Special Rapporteur appreciates the Government of Sri Lanka's acknowledgement of his communication and looks forward to a full response to the questions raised in that communication.

Allegation letter dated 18 December 2009

I write to your Excellency's Government with regard to the circumstances of the death of three senior representatives of the Liberation Tigers of Tamil Eelam (LTTE), Mr. **Balasingham Nadeshan**, Mr. **Seevaratnam Pulidevan** and Mr. **Ramesh**, as well as of members of their families, in the night of 17 to 18 May 2009.

According to information I have received:

On 17 May 2009, the day before your Excellency's Government announced that its forces had completely defeated the LTTE, Messrs. Nadeshan, Pulidevan and Ramesh were trapped with other senior cadres of the LTTE in a small area north of Vellamullivaikkal. Through intermediaries they sought to establish contact with your Excellency's Government to inquire how they could surrender to the Sri Lanka Army (SLA). The reply, coming from the Secretary of Defense in your Excellency's Government and from a Member of Parliament who is at the same time a senior adviser to the President, and conveyed through the intermediaries, was that they should walk towards the positions of the SLA in a way that made their intentions clear and holding a white cloth. The Commander of the SLA 58th Brigade, the unit on the front line with the last LTTE position, however, received a telephone call from the Secretary of Defense instructing him to order his forces to shoot those surrendering. When Messrs. Nadeshan, Pulidevan and Ramesh walked towards the SLA positions carrying white cloths in the first hours of 18 May 2009, soldiers opened fire on them and killed them. An unspecified number of family members of the three men were killed as well.

These allegations were made by the Commander of the Sri Lanka Army at the time of the events and subsequent Chief of Defence Staff, (now retired) General Gardihewa Sarath Chandralal Fonseka, in an interview to the newspaper *The Sunday Leader*. The accounts of journalists embedded with the SLA 58th Brigade confirm some of the alleged circumstances of the death of Messrs. Nadeshan, Pulidevan and Ramesh and their families. While I do not wish to prejudge the accuracy of these reports, I would like to refer your Excellency's Government to fundamental legal rules applicable to all armed conflicts under international humanitarian law and human rights law.

Common Article 3 (applicable to armed conflict not of an international character) of the Geneva Conventions of 1949, to which your Excellency's Government is a party, dictates that "[p]ersons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely [...]."

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds". Similarly, an authoritative study of customary international humanitarian law finds that attacking and killing persons who are recognized as *hors de combat* is prohibited. Persons *hors de combat* include anyone who clearly expresses an intention to surrender, provided he or she abstains from any hostile act and does not attempt to escape (Rule 47 of the Customary Rules of International Humanitarian Law identified in the study of the International Committee of the Red Cross).

It is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention. Since I am expected to report on the death of Messrs. Nadeshan, Pulidevan and Ramesh, as well as of the members of their families, I would be grateful for the cooperation and observations of your Excellency's Government, in particular in relation to the following questions:

1. Are the allegations summarized above accurate? If not so, please share the information and documents proving their inaccuracy.
2. What information does your Excellency's Government have on the family members of Messrs. Nadeshan, Pulidevan and Ramesh allegedly killed on 18 May 2009?
3. Please refer to the results of any military, police, judicial or other inquiry or investigation carried out in relation to the allegations summarized above.

(Excerpt from the original report)

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add1.pdf>

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REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL SUMMARY OR ARBITRARY EXECUTIONS

A/HRC/14/24/Add.7 (2 GE.10-13553) – 21 May 2010
Election-related violence and killings

Sri Lanka

68. The lead-up to Sri Lanka's 26 January 2010 presidential elections saw hundreds of incidents of violence. During the campaigning period there were five reported election related killings and five attempted killings.¹⁷⁸ A number of these killings were of supporters of one party, by identified supporters of another. In others, the attackers were unknown. In one incident, on 12 January, gunmen on motorbikes opened fire on a bus of opposition candidate supporters on their way to a rally, killing a 60-year-old woman and injuring four others.¹⁷⁹ On 16 January, a Rajapaksa supporter was shot dead in a clash with Fonseka supporters.¹⁸⁰ On 18 January, a Fonseka supporter was beaten to death while hanging Fonseka posters, and a grenade attack on an office of Rajapaksa's party resulted in one death. An additional two killings were reported in the week after the election.¹⁸¹

(Excerpt from the original report)

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add7.pdf>

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REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL SUMMARY OR ARBITRARY EXECUTIONS

PHILIP ALSTON

A/HRC/14/24 - 20 May 2010

Country fact-finding visits - **Sri Lanka (twice)**

Annexes

I. List of entities to which allegation or urgent action letters were sent

December 2004 – March 2009

States

Afghanistan, Algeria, Argentina, Armenia, Australia, Bahrain, Bangladesh, Barbados, Bolivia (Plurinational State of), Brazil, Burundi, Cameroon, Chad, Chile, China, Colombia, Côte d'Ivoire, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jamaica, Japan, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Pakistan, Papua New Guinea, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Singapore, Somalia, Spain, **Sri Lanka**, Sudan, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe.

Other entities

2. The Palestinian Authority, **the Liberation Tigers of Tamil Eelam (LTTE)**, and the United Nations Stabilization Mission in Haiti (MINUSTAH). *(Excerpt from the original report - A/HRC/14/24)*

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REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL,INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT,

JUAN E. MÉNDEZ

A/HRC/19/61/Add.3 - 1 March 2012

Follow-up to the recommendations made by the Special Rapporteur visits to SRI LANKA

Follow-up to the recommendations made by the Special Rapporteur (Manfred Nowak) in the report of his visit to Sri Lanka from 1 to 8 October 2007 (A/HRC/7/3/Add.6)

127. By letter dated 22 November 2011, the Special Rapporteur sent the table below to the Government of Sri Lanka, requesting information and comments on the follow-up measures taken with regard to the implementation of his predecessor's recommendations. He expresses his gratitude to the Government for providing detailed information on steps taken during the reporting period.

128. The Special Rapporteur takes note of the Government's efforts to expedite criminal proceedings relating to torture cases by establishing various ad hoc commissions of inquiry, including the Presidential Commission of Inquiry to investigate serious cases of human rights violations that occurred since 1 August 2005, as well as the establishment of Lessons Learnt Reconciliation Commission (LLRC) and the Inter-Agency Advisory Committee (IAAC).⁵⁶

129. The Special Rapporteur echoes the concern raised by the Committee against Torture regarding the prevailing climate of impunity for acts of torture and ill-treatment and the failure to investigate promptly and impartially wherever there is reasonable ground to believe that an act of torture has been committed. ⁵⁷

130. He calls upon the Government to take steps to address the outstanding concerns raised by the Committee over the LLRC's limited mandate and its alleged lack of independence, and promptly launch impartial and effective investigations into all allegations of torture, rape, enforced disappearances and other forms of ill-treatment, occurred during the last stages of the conflict and in the post-conflict phase.⁵⁸ He looks forward to receiving information on the investigations undertaken into allegations of torture and ill-treatment and steps taken to hold accountable those responsible.

131. The Special Rapporteur takes note of the steps taken to monitor the implementation of the Presidential directions of 7 July 2006 (reissued in 2007) and the Rules with regard to Persons in Custody of the Police (Code of Departmental Order No. A 20). He expresses concern that, as also noted by the Committee against Torture, the suspects held in custody are not afforded statutory rights to inform a family member and are not given access to legal counsel at the moment of arrest.

132. The Special Rapporteur calls upon the Government to abolish unacknowledged custody and detention facilities allegedly run by the Sri Lankan military intelligence and paramilitary groups,⁵⁹ make police station chiefs, investigating and operative officers criminally accountable for any unacknowledged detention, and make it a serious crime.

133. The Special Rapporteur expresses concern about the 18th Constitutional Amendment of 8 September 2010, which eliminates the Constitutional Council and empowers the President to make direct appointments of members to key Commissions, including the National Police Commissioner and the Chairman and members of the Human Rights Commission (NHRC). He calls upon the Government to ensure that all allegations of torture and ill-treatment are promptly and thoroughly investigated by an independent authority with no connection to the authority investigating or prosecuting the case against the

alleged victim, and that the constitution and activities of the NHRC comply with the Paris Principles. The Special Rapporteur echoes the recommendation of the Committee against Torture about establishing an independent national system to effectively monitor and inspect all places of detention, including, inter alia, facilities holding LTTE suspects. ⁶⁰

134. The Special Rapporteur welcomes the Government's decision to lift the long-standing state of emergency on 31 August 2011, and expresses concern about the new regulations under the Prevention of Terrorism Act No. 48 of 1979 (PTA), which unduly restrict legal safeguards for persons suspected or charged with a terrorist or related crime. This has also been pointed out by the Committee against Torture. ⁶¹

135. The Special Rapporteur expresses concern about the fact that the burden of proof lies on the prosecution to prove beyond a reasonable doubt that a confession or other evidence has not been obtained under any kind of duress, except for cases of confessions falling under the PTA. He calls on the Government to ensure that its anti-terrorism measures are compatible with the provisions of article 2, paragraph 2 of the Convention. The Special Rapporteur recalls that international customary law and treaty law require States to ensure that any statement that is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. 62

136. The Special Rapporteur welcomes the proposed plan of the Minister for Prison Reforms and Rehabilitation to separate convicts from pre-trial detainees and minor offenders from criminals, and looks forward to receiving information on the steps undertaken with respect to implementing a comprehensive structural reform of the prison system, aimed at reducing the number of detainees, increasing prison capacities and reducing the overcrowding, separating juveniles and adult detainees as well as remand and convicted prisoners.

137. Finally, the Special Rapporteur wishes to reiterate the appeal to the Government to abolish capital punishment or, at a minimum, commute death sentences into prison sentences. In his view, the manner of imposition and execution of the death penalty in Sri Lanka inevitably involves the commission of cruel, inhuman or degrading treatment and, in some cases, torture. He regrets that no action was taken to ratify the Optional Protocol to the Convention against Torture (OPCAT) and calls upon the Government to take measures to ratify it and establish a National Preventive Mechanism.

(Report continues from page 457 to 483)

For further pages please refer to the original report of the UN.

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/111/23/PDF/G1211123.pdf?OpenElement>

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REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT,

JUAN E. MÉNDEZ

**A/HRC/16/52/Add.1- 1 March 2011
Addendum**

SRI LANKA

Summary of information, including individual cases, transmitted to Governments and replies received*

190 - Sri Lanka 31/12/09 JAL IJL;SUMX;TOR

Concerning Mr. Wannu Athapaththu Mudiyanseelage Nilantha Saman Kumara, aged 31.

On 26 October 2009, Mr. Kumara joined several villagers outside a shop to search the jungle for some goods which had been stolen. A few hours later, he was stopped by the police and asked to accompany them to the Galgamuwa Police Station. Upon arrival at the station, he was detained without a warrant or formal charges against him.

Two hours later, he was taken to a room in what appeared to be the private wing of the police residential barracks behind the Crimes Division. Mr. Kumara was interrogated by a police Inspector, police constable and other officers, all dressed in civilian clothes. The police indicated that he had been detained on suspicion of theft at the shop and of a water pump, charges which Mr. Kumara denied.

Subsequently, Mr. Kumara was subjected to the "Palestinian hanging", whereby his shirt was removed, his lower arms were wrapped in cloth, his hands were forced behind his back and tied with a rope which was attached to a nylon rope that hung from a beam in the ceiling. The other end of the nylon rope was secured to a steel bed. Mr. Kumara was then told to stand on a box; the rope was pulled tight and the box was then kicked from under his feet, leaving him hanging. The Inspector gave orders to the other officers to leave

Mr. Kumara hanging until he confessed to the crimes. He was taken down approximately two hours later, but the procedure was repeated that evening. The second time, he was released after approximately 30 minutes, but was then beaten and kicked for three hours. Although by this time the police had allegedly received information indicating that Mr. Kumara had not been involved in the theft at the shop, he was still accused of stealing a water pump.

The following day, Mr. Kumara was once again hung for approximately two hours. Though he needed medical attention, none was provided. That evening, the Inspector told Mr. Kumara that he could be released the following day if he confessed; otherwise, he would be presented before the court. When Mr. Kumara denied his involvement, he was grabbed by the hair and dragged to the same room where he was beaten and stripped, and his hands were tied. He was then subjected to the "Dharma Chakra" or wheel of enlightenment, by which he was forced to squat and wrap his hands over his knees, while a metal pipe was inserted through the space between his knees and elbows, and was balanced on two tables. While in this position, a bottle of petrol was poured in his anus. Water was also poured on him to relax the muscles.

On 28 October, Mr. Kumara's cellmate was ordered to bathe and dress him, since he could not move his arms. They were both taken to the criminal division, but a statement was only taken from Mr. Kumara's cellmate. They were then taken to the Out-Patient Department of Galgamuwa Hospital, where a Doctor completed a Medico-Legal Examination Form without examining Mr. Kumara.

Afterwards, they were taken to the Magistrate's Court in Galgamuwa. They were not allowed to inform their families or contact a lawyer. Mr. Kumara was not questioned or addressed by the magistrate, but was remanded. He was then transferred to Wariyapola Prison, where he informed the guards about his torture and signed a statement indicating his experience.

The following day, Mr. Kumara was taken to Wariyapola Hospital. The accompanying officer informed the doctor of the torture, but the doctor reportedly accused Mr. Kumara of lying and refused to examine him.

On 6 November, Mr. Kumara was presented before the Galgamuwa Magistrate's Court. He was released on bail. Three days after, Mr. Kumara went to the Galgamuwa Hospital, but the doctor once again refused to examine him and indicated that he should go to the Anuradhapura Teaching Hospital. Mr. Kumara went there the following day, where he received adequate treatment and was examined by a Judicial Medical Officer.

On 17 November, one of the alleged perpetrators visited Mr. Kumara at his home to inquire into the possible action he was intending to take. On 19 November, Mr. Kumara submitted a complaint to the Inspector General of Police, the National Police Commission, the Attorney General and the National Human Rights Commission.

191. 22/09/10 AL TOR

Concerning Mr. Hewawasam Sarukkalige Rathnasiri Fernando (50) of No: 07 D, Warapitiya, Darga Town, a married father of four children.

On 9 August 2010 around 3.30 p.m., Mr. Rathnasiri was at work in Aandawala, Parapathkotuwa, when two reportedly drunk plain clothed policemen asked to buy some toddy. Following the refusal by Mr. Rathnasiri to sell it to them, a confrontation ensued between the two men and Mr. Rathnasiri. This led to one of the policemen being accidentally cut on his hand when the officers tried to grab a knife being held by Mr. Rathnasiri. It is alleged that the officer who received the cut then ran a knife down Mr. Rathnasiri's back, cutting it deeply. While the wound on Rathnasiri's back was bleeding profusely, the two officers started to assault him by kicking and punching him. They struck him on the body, face, chest and stomach. They reportedly tore off his clothes and used the rags to tie his hands behind his back. He was then forced to walk for about 400 meters in front of a crowd of people who pleaded with the officers to stop the assault.

The crowd raised concerns about the state of sobriety of the officers and objected to the officers forcing Mr. Rathnasiri to walk as they felt his condition would worsen. Mr. Rathnasiri's wound was dressed with some fabric by a nearby passer-by.

Mr. Rathnasiri was then taken to the Welippena Police Station by three other police officers. After about one-and-a-half hours, two officers took Mr. Rathnasiri to the house of a doctor of the Government Hospital of Watthewa. Following the doctor's examination of his injuries, the doctor directed them to take Mr. Rathnasiri to the Watthewa hospital as nine sutures were needed to close the wound. He was then taken to the hospital where he was admitted for further treatment. After being admitted, Mr. Rathnasiri noticed

unusual pain in his ears. He was examined, found to be bleeding in his ears and referred to the General Hospital of Nagoda for further treatment. He was also treated for pain in the face, eyes and chest. The policeman's injury was also examined by the Doctor and he was discharged the same day. At the time of his admission to hospital, Mr. Rathnasiri was reportedly forced to sign a document written by the police from Welippena Police Station. It is claimed that Mr. Rathnasiri was not allowed to see the contents of the statement; but he signed it out of fear. He has subsequently denied the contents of this statement.

After being discharged from the hospital, he was taken to the remand prison at Kaluthara where he remained until 17 August 2010. While in prison, the authorities took measures to treat his injuries. On 17 August 2010, Mr. Rathnasiri learned that the police had filed a fabricated case against him accusing him of causing grievous hurt, causing minor hurt and obstructing the official duties of the police at the Magistrate of Matugama. Further, the police officers filed another fabricated case involving possession of 40 grams of illicit liquor. Mr. Rathnasiri has denied the charges and complained about the ill treatment he suffered at the hand of the police. Following his complaint, the magistrate directed the Judicial Medical Officer (JMO) of Colombo to examine him and send the report to the court. He was examined by the Judicial Medical Officer (JMO) of Colombo on 19 August 2010 and by a medical consultant of The Ear Nose Throat department on 20 August 2010.

Mr. Rathnasiri has also made several complaints to the Inspector General of Police (IGP), the Superintendent of Police (SP) of Kaluthara, the National Police Commission, the Sri Lanka Human Rights Commission and the Secretary of the Judicial Service Commission, asking for a prompt, effective, impartial and independent inquiry into his treatment by the police. He is awaiting response to his complaints.

192. 13/10/10 JAL IJL; SUMX; TOR

Concerning the deaths in custody of Mr. Dhammala Arachchige Lakshman, Mr. Amarasinghe Arachchige David, Mr. Appuhandhi Kotahewage Nayanajith Prasanna, Mr. Jayakody Arachchilage Oman Perera and Mr. Jayasekara Arachchige Roshan Jayasekara.

We are informed that there is a pattern of police officers killing detained suspects as a means of eliminating organized crime. Such cases are not being investigated or prosecuted before the courts.

On 13 August 2010, Mr. Amarasinghe Arachchige David was arrested by officers from the Kirindiwela Police Station. He was placed into a police vehicle and on their way to the police station, the vehicle stopped along the main road at Papiliyawala to conduct a search on two people. Mr. David got out of the vehicle and watched the police officers conduct the search. The police officers, after noting that Mr. David had stepped out of the vehicle, approached him and beat him on his back and hip areas. He was then dragged towards the vehicle where the officers beat him against the rear door shouting "Are you trying to escape from us". Mr. David was taken to Kirindiwela Police Station and later admitted at the Government hospital of Radawana. He was transferred to the National Hospital of Colombo; however he later died from the injuries sustained. On 15 August 2010, a post-mortem examination indicated that he had died as a result of head injuries. It is alleged that the police are reluctant to conduct an investigation into the death.

On 25 August 2010, Mr. Jayasekara, of Ranaviru Niwasa, Morakatiara, Beliatta was arrested by the Ragama Police Station and taken to Kiribathgoda police station. He was arrested on suspicion of having stolen a mobile phone at Ragama Railway Station. On 26 August 2010, a police officer brought the body of Mr. Jayasekara to Ragama Teaching hospital; however he did not wish to be registered as the person who brought in the body. On 27 August 2010, the police constable of the Kiribathgoda Police Station registered as the person who delivered the body. A post mortem that was conducted by the judicial medical officer at the Ragama Teaching Hospital revealed marks of numerous blunt force trauma injuries.

On 31 August 2010, Mr. Jayakody Arachchilage Oman Perera of No. 22, Palle Kalley Janapadaya in Kurunegala was arrested by officers from the Special Task Force. After his arrest Mr. Perera was placed in a police jeep and as he was being driven to Colombo, he was shot. It is alleged that as the vehicle was near the Japalawatta Industrial Zone junction in Minuwangoda, Mr. Perera attempted to escape.

He was taken to Minuwangoda Hospital and later transferred to the Intensive Care Unit of the General Hospital, Gampaha. He died the same day from the injuries sustained. On 20 September 2010, Mr. Dhammala Arachchige Lakshman was arrested by the police and held in custody at the Hanwella police station. On 22 September 2010, he was taken to a location in Diddeniya in Hanwella for an on-sight investigation to uncover weapons. It is alleged that he attempted to escape from police custody by throwing a bomb at the police officers and was shot. He sustained injuries and died at the Avissawella hospital the same day. During his detention the deceased was not brought before a court.

On 22 September 2010, Mr. Prasanna of No. 1B, Balawinnagama, Balawinna, Balapatha was arrested by the police officers from the Moratuwa Police Station. On 25 September 2010, he was found in his cell with severe cuts to his abdomen and was admitted at the Kalubowila Teaching Hospital. On 26 September 2010, he died from the injuries sustained. The police indicated that he had attempted to commit suicide with a shard of glass found inside his cell. During his detention he was not brought before a Magistrate as required by the Code of Criminal Procedure No.15 of 1979.

We are informed that in the recent past, the police have increasingly been arresting people without producing them before a court of law in contravention of the Code of Criminal Procedure No.15 of 1979 which stipulates that police officers should produce a suspect arrested on suspicion of committing a crime before a Magistrate within 24 hours. "Any police officer shall not detain in custody or otherwise confine a person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate."

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UN News & Media

COMMITTEE AGAINST TORTURE HEARS RESPONSE OF SRI LANKA Combined 3rd and 4th Periodic Reports on Sri Lanka

9 November 2011

The Committee against Torture this afternoon heard the response of Sri Lanka to questions raised by Committee Experts on the combined third and fourth periodic reports of that country on how it is implementing the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Responding to a series of questions raised by the Committee members on Wednesday, 7 November, the delegation of Sri Lanka, which was led by Mohan Pieris, President's Counsel and Senior Legal Advisor to the Cabinet on Legal Affairs, spoke at length on the legal provisions of Sri Lanka to prevent torture, particularly relating to police officers, use of confessions in courts, and the Prevention of Terrorism Act. The delegation talked about the monitoring activities of the National Human Rights Commission, particularly in conjunction with civil society, and categorically denied the existence of any secret detention facilities in Sri Lanka. It also gave information on specific cases of human rights violations, alleged torture and harassment that were raised by the Committee, and also in reply to the allegations of serious sexual assault by Sri Lankan soldiers that were made by the UK TV broadcaster Channel 4. The delegation also spoke about plans to protect migrant workers, allegations of disappeared persons, and the issues surrounding the rehabilitation of former combatants in Sri Lanka.

The Committee will submit its conclusions and recommendations on the report of Germany at the end of the session on Friday, 25 November, 2011.

The delegation from Sri Lanka included representatives from the Cabinet of Ministers of Sri Lanka, the Attorney General's Department, the Department of Police of Sri Lanka and the Permanent Mission of Sri Lanka to the United Nations Office at Geneva.

The Committee's next public meeting will be at 10 a.m. on Thursday, 9 November when it will begin consideration of the initial report of Madagascar (CAT/C/MDG/1).

Response from the Delegation

Members of the delegation of Sri Lanka noted that there was a lot of suspicion over the treatment of detainees in police stations. Sri Lankan law provided that any statement or confession made to a police officer was inadmissible in law, unlike in English legal systems. Any statement or confession obtained under duress, threat or promise was also inadmissible.

An Expert had been correct in observing that confessions made under the Prevention of Terrorism Act were admissible, but 75 per cent of those confessions were rejected, one of the reasons that many cases against terrorists did not succeed. When a court received statements or confessions there was a presumption of voluntariness, and it was true that the burden was on the accused to show that the statement was obtained involuntarily or under coercion. However the burden was a low one; it did not require proof beyond reasonable doubt or even on a balance of probability. In one example a suspect told the court he had seen a police officer's shadow while making his statement, so the court rejected it.

Any person arrested should by law be informed of the reason for the arrest. The delegation could not say whether a police officer would or would not abide by the law, but in most cases it was complied with as it was easy for a police officer to do so.

Concerning the right of a detainee to have access to a lawyer: as any statement made to a police officer was inadmissible in court, what was the use of having a lawyer present at that time? There was a low rate of convictions in Sri Lanka exactly because statements made to police officers were inadmissible. The road ahead for Sri Lanka on solving this problem involved putting in place a duty attorney scheme, as seen in England. The proposal was currently being studied by a committee, in recognition of the complaint that persons were subject to coercion in police stations. A delegate said that it was his dream that sooner or later that would be implemented, as Sri Lanka moved out from the shackles of old English law. A related matter was that there was no right for a lawyer to be present in a police station. On 11 June 2009, the Inspector General of the Police issued a circular regarding the conduct of police officers with lawyers, which had made marked improvement in police relations with the Bar.

Regarding the availability of Tamil-speaking interpreters in courts, the delegation confirmed that no trial had ever commenced when an interpreter had not been available, particularly if one of the parties was a foreign national. There was a dearth of interpreters, and capacity building was necessary. The reason was because an older generation of tri-lingual interpreters had passed on, and many younger persons were not tri-lingual. Furthermore, where possible the judge spoke Tamil and even came from the Tamil community, to ensure a fair trial.

The monitoring activities of the National Human Rights Commission could not be elaborated on beyond information given in the report, as it was an independent body. However, the delegation confirmed that, as of today, only 765 persons were under administrative detention orders, and were held at Bossa Detention centre. Facilities available to detainees included a monthly visit by magistrates, medical treatment from in-house doctors, weekly visits from family members who could come on any week day, recreational facilities and periodic visits from the International Committee of the Red Cross and the National Human Rights Commission. The National Human Rights Commission had the power to regularly inspect places of detention, and to make recommendations for improvements. The National Human Rights Commission was the body that gave other organizations permission to visit detention centres.

The delegation noted the Committee's healthy interest in the on goings of Sri Lankan police stations, and the Committee's question about the Mount Laviniya Police Station where detainees had been held and allegedly tortured. A delegate said that he noted criticism, he had not known about it, but would follow-up the issue, which was a police irregularity.

In 2006 there were 60 complaints of ill treatment by police officers, in 2007 there were 48, in 2008 there were 102, in 2009 there were 67, in 2010 there were 103, and in 2011 there were 109. Of those cases, the numbers of cases still pending were 6 from 2006, 14 from 2007, 22 from 2008, 26 from 2009, 46 from 2010, and from 2011 there were 96; there were 50 cases of alleged torture pending from this year.

No police officer was allowed to be present when a suspect was examined by the Judicial Medical Officers. That was a carefully respected practice, guarded jealously by doctors. Judicial Medical Officers kept medical reports securely until they took them to a court to be considered for the trial.

The writ of habeas corpus was a very old legal mechanism, left from the English legal system. Habeas corpus was not very fashionable these days, as for example the human rights law governing the European Union went far beyond habeas corpus. However, habeas corpus was available in Sri Lanka, not only in the Court of Appeal in Colombo but in all High Courts.

The 150 Vavuniya cases were of beneficiaries going through a rehabilitation course whose parents filed writs of habeas corpus. Those persons did have an option not to go and take a rehabilitation course, but would instead have been charged and then jailed. The Government did not think that was an option that would promote reconciliation, especially after the 30 year conflict. Instead the Government opted to follow the route of restorative justice, and those persons all chose, in writing, to be rehabilitated. As a result there were currently only 689 persons in rehabilitation, from an original figure of 11,000.

The Working Group on Disappeared Persons identified Sri Lanka as having the largest number of disappeared persons in the world, but it was using data from the 1980s. That alarming figure of 5,000 disappeared persons, cited by the Working Group, included persons disappeared since the 1980s. The next of kin could request a death certificate after family members had been missing for one year; that was important as families needed to know what had happened to their loved ones, and the issuance of the death certificate would bring the whole episode to an end for them. If it was found the man was alive, there was legal provision for the annulment of the death certificate.

There were many questions about the Prevention of Terrorism Act, and it must be remembered that the Prevention of Terrorism Act could not be applied to just anybody. The Prevention of Terrorism Act offences were subject to two vital limitations, including that to be charged under it a person must have threatened a 'specified person', essentially authority figures and/or State property.

The age of consent in Sri Lanka was 16: any kind of ravishing of a young lady under the age of 16 was considered to be statutory rape. It was true that the minimum mandatory provisions could be restrictive, but in a recent rape case a judge got round that and did issue a longer sentence.

There were no unauthorized or secret detention centres in Sri Lanka. Poonthottam Educational College was one of the principal rehabilitation centres, not a secret detention facility. There were databases of detainees in every detention centre which were freely accessible by family members. However many detainees had said they did not want their information distributed to the media or to busybodies at any cost. The National Human Rights Commission also had a database, and anyone entitled to access it could make a request.

Regarding claims by Amnesty International on secret detention centres: once again, there were no secret detention centres in Sri Lanka. It was fashionable to say that there were, but there was no need for secret detention centres because there was no shortage of detention centres, including police stations.

Police officers had been indicted for over-zealous behaviour; 44 police officers were indicted between 2006 and 2011, and 20 were charged in magistrates courts, with a further three cases still under investigation. Complaints of enforced disappearances were trickling down to very small numbers, and numbers of complaints of torture were also going down; there were no complaints from 152 men and 26 women.

Concerning specific cases raised by the Committee, a delegate said he had been personally involved in the case of J.S. Tissainayagam. Mr. Tissainayagam personally wrote to the President asking for a pardon, saying he was remorseful for what he did. He had been convicted and sentenced, but his complicity in what he did was confirmed by his letter, which was sent through his lawyers. He did receive a pardon. The attorney Amitha Ariyarante, who claimed harassment, had so far not made any complaint, but the entire unit of police officers who dealt with Mr. Ariyarante had been subject to disciplinary procedures and transferred. The attack on the house of Mr. Welliamuna, a colleague of Mr. Kunanayakam, was very sad and the Government denounced it. Unfortunately the investigation was limited as there were no witnesses and no suspects.

The so-called 'Black Cloak Lawyers' were called 'traitors to the country' in an article on the Ministry of Defence website; but it was just linguistics, that over-enthusiastic publication had no real impact on the individuals.

The seven-year-old boy who was allegedly gunned down had nothing to do with the Convention against Torture. A group of persons were fleeing a crime scene, and were pursued by the police into a town, where there was a shoot-out. Unfortunately that little boy was hit by the gun fire. The police did not gun down a seven-year-old boy. It was just an unfortunate accident, and a very sad situation.

Government policy on accession to the Optional Protocol and the Rome Statute was that domestic laws were quite capable of dealing with all situations, and accession was not required.

Follow-Up Questions by Committee Experts

FELICE GAER, the Committee Expert who served as Rapporteur for the report of Sri Lanka, said that the delegation's responses just hit the tip of the iceberg, and she was left with as many questions, if not more, than before. The Human Rights Action Plan was an admirable initiative, especially as it engaged civil society, and the things presented in it were very impressive. It covered issues such as prevention, monitoring, tracking torture, impunity, special protection for women and children, restitution for victims of torture and establishing the Convention. Should it be implemented, members of civil society and victims of

torture would be very pleased. However, Ms. Gaer said she looked closely at the discussion but did not find a single reference to prosecution. The verbs used were 'to train, strengthen, establish, create, assist' etcetera. There were enough studies running to keep every lawyer in Sri Lanka busy. But there was no reference to investigating and prosecuting persons responsible for torture. States parties to the Convention were obliged to maintain prompt and impartial investigations whenever there were reasonable grounds to believe an act of torture had taken place – not just when a complaint had been made. Could the delegation comment on that central issue?

Would the State party publish a list of all persons in Government custody or detained? That included the 5,000 persons still missing, whose families had no idea where they were. The delegation may claim that publishing such a list was a privacy issue, but Ms. Gaer said it would clarify the whereabouts of those 5,000 persons. The delegation said that the secret detention facilities cited by Amnesty International did not exist. Would they undertake an impartial and independent investigation into allegations that secret detention facilities did exist?

There were concerns that allegations of sexual violence against women in Sri Lanka, at the end of the conflict, and done by the soldiers, had not been investigated. Furthermore in 2007, 114 members of a Sri Lankan battalion attached to the United Nations peacekeeping force in Haiti were accused of sexual exploitation of minors. One hundred and eight of those soldiers were repatriated to Sri Lanka on disciplinary grounds. The United Nations found that such acts were frequent, happened at night and those repatriated soldiers should be charged with rape. What charges were brought against those soldiers, where were the persons involved serving today, if at all?

The Committee asked about photo and video footage from the conflict depicting naked female bodies of women who had been members of the Liberation Tigers of Tamil Eelam (LTTE), which contained commentary from Sri Lankan soldiers that strongly inferred sexual violence had occurred before the women's execution. The footage showed some bodies had mutilated sexual organs. That footage was published in a documentary by United Kingdom broadcaster Channel 4. Had any of those soldiers been prosecuted, suspended or even transferred? The Government may claim that the footage should not have been filmed in the first place, or published, but there should be an investigation.

The Black Cloak Lawyers group included the individual lawyer Srinath Perera, who was tortured at a police station and murdered by a police officer. The Supreme Court paid out the highest compensation ever given to Mr. Perera's family. However nobody was prosecuted for those crimes and the police officer responsible was now reportedly working again as a police officer. Could the delegation please comment?

Had there been any investigation into the so-called 'grease devils' cases, when in one instance over 100 young men were forcibly taken from their homes in the town of Puttalam and beaten, denied medical treatment and detained.

Yesterday the delegation said they were "with the Committee against Torture 110 per cent", but were they 110 per cent behind their civil society when it exposed human rights violations and acts of torture?

ALESSIO BRUNI, Committee Expert who served as Co-Rapporteur for the report of Sri Lanka, said a large amount of information received concerned legal provisions, and only a small amount was about what happened in practice in the country. There was no doubt that legal and administrative measures existed to combat torture, but the reality seemed to be very different. The amount of allegations, coming from the most reliable sources, including United Nations sources, was impossible to ignore and meant that one could not say there was a real 'zero tolerance policy' in Sri Lanka.

Mr. Bruni said he had visited quite a few police stations and prisons in Sri Lanka, in a different capacity, so he had a visual picture of what they were. He corrected a detail about the Mount Laviniya Police Station, and said that he wanted to know what had been done.

He asked for clarification on whether statements made to the police were inadmissible in court, as if true that would be very frustrating to police who sometimes detained a person for 18 months of interrogation.

Mr. Bruni said it sounded like the rehabilitation camps were actually detention camps, and that saying former combatants were at 'rehabilitation camps' on a voluntary basis – as an option to standing trial – was mis-representing the term 'voluntary'.

An Expert asked whether there was specific legislation for the treatment of stateless persons, and also what protection was given to migrant workers, particularly women working as domestic servants in the Gulf States. Those persons were often highly vulnerable and worked as indentured servants.

A Committee Expert observed that the delegation argued passionately that there was no need for a lawyer at a police station; however, a person should be able to access a lawyer from the outset to protect him or her from other forms of torture or ill-treatment.

Response by the Delegation

Responding to these questions and comments, a delegate said he would not be able to respond to the issue of Haiti, as there had been no pre-warning of it, or mention of it in yesterday's questions.

Persons undergoing rehabilitation could file complaints about their treatment, and there was a huge window of opportunity for them to claim damages through the civil courts.

Sexual violence by the army complaints were being pursued within military law. There was still opportunity for new matters to be investigated and tried. However it was not fair to base the entire discussion on uncorroborated and unverified reports. Referring specifically to the Channel 4 report, a delegate said he had been associated with it from its very inception but due to time constraints he was not going to critique it now. He asked the Committee to bear in mind that it was convenient for an ex-combatant seeking greener pastures to exploit, and tell foreign jurisdictions stories of torture, in order to gain asylum. The Government had pursued a scheme of rehabilitation for even the worst terrorists, or ex-combatants, with a true aim of reconciliation.

The rights of migrant workers were being very seriously addressed, as there had been terrible situations in some foreign countries where Sri Lankan migrant workers were working. The Government was considering whether it was time to stop sending Sri Lankan female workers out to work in other countries at all, simply because of the conditions they often lived in. One thematic area in the national action plan was migrant workers, as while those poor men and women brought a lot of money into Sri Lanka they were a valuable asset to the country and needed to be looked after.

The explanation of legal provisions was to put things into context, but short of having a policeman here with the delegation, it was difficult to show the Committee all of the good and practical things that were done every day in Sri Lanka.

Around 600,000 persons were arrested every year, and there were around 400 allegations of torture annually. The Government was trying to make the Convention against Torture effective, but conceded that as it was dealing with human beings, and torture was something that was done clandestinely, behind closed doors, the reality may be different.

Until 1983 Sri Lanka never knew what terrorism was, until then the laws of the land worked perfectly. It was right to criticise the inadmissibility of statements to police officers. The Prevention of Terrorism Act was brought in because national law could not cope with terrorism. Now Sri Lanka has moved into a post-conflict phase, and was dealing with ex-combatants.

[http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear en\)/1F966E56167CB176C1257943004E8147?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear en)/1F966E56167CB176C1257943004E8147?OpenDocument)

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REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS

MARGARET SEKAGGYA

A/HRC/19/55/Add.2 - 23 February 2012
Addendum

Sri Lanka

Observations on communications transmitted to Governments and replies received*

330. JUA 11/08/11 Case no.: LKA 3/2011 State Reply: 16/08/11 **Alleged ongoing smear campaign against a human rights defender.**

331. JUA 23/08/11 Case no.: LKA 4/2011 State Reply: None to date **Alleged threats against those campaigning for justice following the killing of a human rights defender.**

332. JUA 04/11/11 Case no.: LKA 8/2011 State Reply: None to date **Alleged threats against and stigmatization of the work of a journalist and human rights defender.**

Observations

333. The Special Rapporteur wishes to thank the Government for the response provided to her communication dated 11 August 2011, but notes with regret that information on the issues raised has yet to be provided. Furthermore, the Special Rapporteur wishes to express her regret that the Government of Sri Lanka has not responded to the other communications sent during the reporting period.

334. The Special Rapporteur reiterates her concern about the reported climate of fear, including stigmatization of, threats and intimidation against human rights defenders. She is especially concerned at alleged smear campaigns that may have been related to the cooperation of human rights defenders with the UN Human Rights Council. In this connection, the Special Rapporteur wishes to refer the Government of Sri Lanka to the provisions outlined in the Declaration on Human Rights Defenders, specifically to article 9, para. 4 and article 12, paras. 2 and 3.

335. She reiterates her hope that the Government will respond favourably to her repeated requests since 2008 to visit the country.

ALLEGED ONGOING SMEAR CAMPAIGN AGAINST A HUMAN RIGHTS DEFENDER.

UNITED NATIONS
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9)

LKA 3/2011

11 August 2011

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the situation of **Mr. Visuvalingam Kirupaharan**. Throughout his career as a human rights defender, Mr. Kirupaharan has engaged with various UN mechanisms. On 13 March 2008, Mr. Kirupaharan addressed the UN Human Rights Council, on behalf of Interfaith International, a non-Governmental association of individuals, which promotes the rights of persons of all different religions and ethnic groups.

Mr. Kirupaharan brought to the attention of the Human Rights Council the situation on human rights in Sri Lanka. He exposed the alleged lack of adequate investigations into human rights violations, which contributes to a climate of impunity. He also told the Human Rights Council that in Sri Lanka, "human rights defenders, lawyers, parliamentarians, academics, social workers, and others are killed by so-called unidentified gunmen".

On 17 March 2010, the Special Rapporteur on the situation of human rights defenders, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a communication to your Excellency's Government addressing the existence of a worrying and increasing trend aimed at delegitimizing the activities of human rights organisations, individual human rights defenders and journalists in Sri Lanka. We regret that to date no response has been transmitted to the communication dated 17 March 2010. In this respect, we wish to bring the following new information to your Government's attention.

According to the information received:

Mr. Kirupaharan has reportedly been subjected to harassment and intimidation as a result of an ongoing smear campaign against him, by various newspapers and websites in Sri Lanka. It is alleged that the articles are published in pro-Government newspapers, in English, Sinhalese, and Tamil. As a result of this smear campaign, Mr Kirupaharan has received numerous threatening phone calls.

On 30 January 2011, a Sri Lankan newspaper called Divaina published an article claiming that Mr. Kirupaharan, along with 20 others, were wanted by Interpol for his alleged contact with people from the Liberation Tigers of Tamil Eelam (LTTE). **However, Interpol reportedly holds no information concerning Mr. Kirupaharan in its files.** The articles reportedly branded Mr. Kirupaharan as a "traitor" stating that he is an agent of the LTTE and suggested that "these people should be kept out of the UN". The publication of this article reportedly forms part of an ongoing smear campaign against Mr. Kirupaharan.

It is alleged that a similar article was previously published by Divaina on 21 March 2010, labelling Mr. Kirupaharan a non-patriot and a terrorist, who had betrayed Sri Lanka and should therefore not be

permitted access to the UN. The article was printed alongside a photograph of Mr. Kirupaharan which was taken as he attended the UN Human Rights Council in Geneva on 12 March 2010. The photograph was reportedly taken by a driver for the Sri Lankan Permanent Mission whose name is known by the Special Rapporteur, while Mr. Kirupaharan was speaking to another Sri Lankan human rights defenders at gate 40 of the UN Palais des Nations. Approximately 15 minutes after the photograph was taken, Mr. Kirupaharan was approached by the same man who had photographed him, who asked him to confirm his name. The man then allegedly asked Mr. Kirupaharan to accompany him to a quieter location within the Palais des Nations, where they spoke briefly. It is alleged that the objective of this conversation was to threaten Mr. Kirupaharan.

Concern is expressed for the physical and psychological integrity of Mr. Kirupaharan considering the ongoing smear campaign against him by various newspapers and websites. Further concern is expressed that the situation of Mr. Kirupaharan may be linked to his work in the defence of human rights, in particular, his engagement with UN mechanisms. In her Communications Report (A/HRC/16/44/Add.1, para. 2125-2127) presented to the Human Rights Council on 10 March 2011, the Special Rapporteur on the situation of human rights defenders expressed her concern in this regard.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of Mr. Kirupaharan. We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "[e]very one shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- **article 6, points b) and c)** which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- **article 12, paras 2 and 3 of the Declaration** which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, "condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights" (OP 2) and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)" (OP 3).

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Kirupaharan are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Kirupaharan in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Kirupaharan?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration. Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Margaret Sekagya

Special Rapporteur on the situation of human rights defenders

State Reply: 16/08/11

Alleged ongoing smear campaign against a human rights defender.

"The Permanent Mission of Sri Lanka to the United Nations Office at Geneva"

consulate@lankamission.org

15/08/2011 17:23 Please respond to

"The Permanent Mission of Sri Lanka to the United Nations Office at Geneva"

consulate@lankamission.org

To

urgent-action@ohchr.org

cc

Subject

communication No.UA G/SO 214(67-17) G/SO 214 (107-9) LKA 3/2011

Dear Sir/Madam,

This has reference to communication No.UA G/SO 214(67-17) G/SO 214 (107-9) LKA 3/2011 dated 11 August 2011 from the Special Procedures.

There seems to have been a communication dated 17th March 2010 referred to therein. Unfortunately, our records do not indicate receipt of same.

Hence, it would be appreciated if copy of said document along with transmission details, if any could be sent to us.

Yours sincerely

The Permanent Mission of Sri Lanka to the United Nations Office at Geneva

56, rue de Moillebeau,

P.O. Box 436, 1211 Geneva 19.Switzerland

Tel : 022-9191250 Fax : 022-7349084

Email: consulate@lankamission.org

Visit our Web : www.lankamission.org

also refer to

COMMUNICATIONS REPORT OF SPECIAL PROCEDURES*

A/HRC/19/44 – 23 February 2012

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A_HRC_19_44_EFOnly.pdf

JUA 23/08/11 Case no.: LKA 4/2011

Alleged threats against those campaigning for justice following the killing of a human rights defender.

UNITED NATIONS OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders.

**REFERENCE: UA G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27)
LKA 4/2011**

23 August 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/16, 17/5, 16/4, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the threats against those campaigning for justice and, in particular, those working on **Mr. Pattani Razeek's case**. Mr. Razeek was a human rights defender and a founding member and managing trustee of the Community Trust Fund (CTF) in Puttalam, where he conducted several projects to assist and support displaced Tamils and Muslims. He was also a member of the Executive Committee of the Asian Forum for Human Rights and Development (FORUM-ASIA) and had served as a village government official in the Puttalam district.

According to the information received, it is alleged that:

On 11 February 2010, Mr. Pattani Razeek was travelling with CTF field staff when their vehicle was intercepted by a white van in Polonnaruwa. Mr. Razeek allegedly approached the individuals in the van and then informed his colleagues that he would continue the journey with the men in the van, since they were going in the direction of Valaichchenai. Reportedly, Mr. Razeek was not seen again. CTF and the family of Mr. Razeek lodged complaints with the police in Mundalama, Polonnaruwa and Puttalam as well as with the Human Rights Commission in Sri Lanka on the days following his disappearance. Police investigations showed evidence of a former CTF employee having made calls to Mr. Razeek's family from Mr. Razeek's mobile on the days after he went missing. The suspect later confirmed that he was in the van when he met Mr. Razeek in Polonnaruwa.

In June 2010, the suspect stated in front of the Puttalam Magistrates' Court that his arrest would cause irreparable consequences to a Minister's political career. The main suspect relating to Mr. Razeek's disappearance was arrested in Kilinochchi only on 8 July 2011. On 13 July 2011, another suspect was also arrested. For over a year, the police had made no attempt to apprehend and question the main suspect relating to Mr. Razeek's disappearance despite having evidence to do so. The failure to take action against him was reportedly connected with his close association with an influential Government minister from the area. The arrest of the main suspect occurred on the last day of a signatory campaign organised by Mr. Razeek's family, the Mosque Committee and local civil society groups.

Following information received from a suspect indicating that Mr. Razeek had been killed and buried in the area of Oddamavadi, on 25 July 2011, police began searching the area of Oddamavadi and, on 28 July 2011, the body of Mr. Razeek was reportedly exhumed and identified by his family. Following Mr. Razeek's disappearance, individuals campaigning for justice in the case, including his family members, have been subjected to harassment and threatened on numerous occasions. Mr. Razeek's family together with the Mosque Committee conducted a signature campaign and distributed flyers from 24 June 2011, to mark 500 days since Mr. Razeek's disappearance. On 25 June 2011, an event which an official authority was due to attend was cancelled due to a protest by the Mosque Committee. On 27 June 2011, a member of the Mosque Committee was summoned by the aforementioned official authority. The Mosque Committee has

been actively involved in the campaign for justice in Mr. Razeek's case, holding discussions with lawyers and governmental officials and submitting appeals to the Attorney General regarding the lack of progress in investigating the case.

The Mosque Committee also received letters from authorities as well as from the organisers of the event, which had been cancelled on 25 July 2011, accusing the Mosque Committee of defamation and using mosque resources inappropriately to fund the campaign for justice for Mr. Razeek. On 3 July 2011, a member of the Mosque Committee received threats on his mobile phone should he continue to intervene in Mr. Razeek's case. Reportedly, in October 2010, another member of the Mosque Committee had been threatened by the lawyer of the principal suspect, who stated that he would be reported to the Ministry and would be killed if he continued to campaign in Mr. Razeek's case. In May 2010, members of Mr. Razeek's family received death threats on the phone and, in the same month, a CTF Trustee was threatened with being shot dead if he persisted in campaigning for justice in the case.

In February 2010, a civil society member and former CTF employee was threatened calling upon her to provide information relating to CTF assets and Mr. Razeek. In July 2010, the person received further threats stating that a family member would be harmed if she did not comply with the demands.

Concern is expressed that the reported disappearance and killing of Mr. Pattani Razeek was directly related to his peaceful and legitimate work in defence of human rights. Further concern is expressed for the physical and psychological security and integrity of those campaigning in relation to Mr. Razeek's case. We would like to bring to the attention of your Excellency's Government that the allegations concerning the enforced disappearance of Mr. Razeek have been considered by the Working Group on Enforced or Involuntary Disappearances at its 94th session, held from 4 to 8 July 2011, according to its methods of work. Your Excellency's Government will be informed by separate correspondence in this regard. While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the right to physical and mental integrity of those campaigning in relation to Mr. Razeek's case.

In connection to the killing of Mr. Razeek, we urge your Excellency's Government in accordance with principle 9 of the Basic Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65,) which provides that "[t]here shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions." Such investigations should clarify the circumstances of each death and shed light on the extent to which lethal force was used, and the extent the principles of proportionality and necessity were or were not complied with.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of those campaigning in relation to the case of Mr. Razeek's disappearance and killing are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of those campaigning in relation to the case of Mr. Razeek's disappearance and killing in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances
Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions
Frank La Rue
Special Rapporteur on freedom of opinion and Expression
Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders
(Excerpts from the original report)

State Reply: None to date

JUA 04/11/11 Case no.: LKA 8/2011

Alleged threats against and stigmatization of the work of a journalist and human rights defender.

UNITED NATIONS
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders

4 November 2011

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4 and 16/5. In this connection, we would like to bring to your Excellency's Government's attention to information we have received concerning an alleged media smear campaign against, and the stigmatisation of, the work of Mr. Sunanda Deshapriya following his participation in a side event in the context of the 18th session of the United Nations Human Rights Council, which took place in Geneva, Switzerland, from 12 to 30 September 2011.

Mr. Sunanda Deshapriya is a journalist, former member of the Free Media Movement and a human rights defender, who has been living in exile in Switzerland since May 2009 due to threats received and a denigration campaign in the media following his participation in the 10th session of the Human Rights Council in March 2009 and in the 11th Special Session of the Council on the human rights situation in Sri Lanka in May 2009. He has also worked closely with other United Nations human rights mechanisms as well as international human rights and press freedom organizations.

Mr. Deshapriya writes a weekly column for Ravaya, a weekend Sinhalese newspaper based in Sri Lanka, in which he often addresses human rights issues. He edits Sri Lanka Brief, a regular on-line publication about human rights in Sri Lanka. He also manages an on-line blog which focuses on gathering information on human rights violations, with a particular focus on freedom of expression.

On 23 May 2005, Mr. Deshapriya was the subject of a previous communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. We regret that to date no response has been transmitted concerning this communication by your Excellency's Government. Mr. Deshapriya was the subject of a further communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 7 June 2006. We acknowledge receipt of the response transmitted to this communication by your Excellency's Government on 27 June 2006.

On 17 March 2010, Mr. Deshapriya was also the subject of a joint communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. We regret that to date no response has been transmitted to this communication by your Excellency's Government.

According to the information received: Mr. Sunanda Deshapriya has been the subject of a media smear campaign and stigmatisation following his participation in the 18th session of the UN Human Rights

Council and related side events. A number of radio, television, newspapers and website reports have allegedly misrepresented Mr. Deshapriya's involvement in the 18th session of the UN Human Rights Council and related side event and have referred to comments allegedly made by the President of the Maldives about such participation. It is reported that these media are owned and/or controlled by the State or by supporters of the Government.

According to information received, these media reports started to appear in the media in Sri Lanka following a side-event in the context of the 18th session of the Human Rights Council, organised by the Sri Lankan Government on 12 September 2011, in Geneva. The event was attended by the President of the Maldives, representatives of diplomatic missions in Geneva, representatives of international human rights groups, Sri Lankan human rights defenders and Sri Lankan Ministers and senior Government officials. It is reported that the only "former leader of the Free Media Movement" present at the side event was Mr. Deshapriya. According to the information received, Mr. Deshapriya never asked the President of the Maldives a question during the side event nor did the President make the comments attributed to him in the media reports.

On 13 September 2011, the Sinhalese daily paper Dinamina and the Ceylon Daily News, a English daily paper published articles reportedly stating that a former leader of the Free Media Movement had participated in the United Nations Human Rights Council with the aim of organising pro-Liberation Tigers of Tamil Eelam (LTTE) groups and mobilising Tiger support against the Government. On the same day, an article appeared in the Sri Lanka Mirror along with a photo of Mr. Deshapriya, stating that the person referred to in the Dinamina article was Mr. Deshapriya.

On 15 September 2011, it is reported that two articles appeared in the Sinhalese daily newspaper Divaina making allegations against and stigmatising the work of Mr. Deshapriya. These articles reportedly claimed that the President of the Maldives criticised the presence of the former head of the Free Media Movement accusing him of acting against the country instead of defending it in response to a question raised by him. These allegations and remarks were reportedly reiterated the same day in an article on the Lanka C news website, in a radio broadcast by the Sri Lankan Broadcasting Corporation, and a television broadcast by the Independent Television Network. On 18 September 2011, an article reportedly appeared in Sunday Divaina referring to the remarks made by the President of the Maldives accompanied by a photograph of Mr. Deshapriya at the aforementioned side event. According to information received, the only video photographer at the event was the official photographer.

On the same day, articles appeared in Silumnia, a Sinhalese Sunday paper, and another Sunday paper Rivira, referring to the events in Geneva and branding Mr. Deshapriya as a betrayer of his country. Furthermore, information received indicates that since this campaign against started Mr. Deshapriya has received death threats through phone calls to his mobile and though comments made in on-line media. Concern is expressed that the alleged media campaign against Mr. Sunanda Deshapriya may be related to his legitimate activities in defence of human rights, in particular his international advocacy and outreach efforts. Concern is also expressed that the comments made in the aforementioned media reports may be related to his engagement with various UN human rights mechanisms, in particular the UN Human Rights Council. Further concern is expressed for the safety of Mr. Deshapriya and his family following the aforementioned threats, particularly death threats, which he has received.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of Mr. Deshapriya. This right is set forth in, inter alia, in the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please kindly provide information on any measures taken to ensure that human rights defenders can carry out their legitimate work, including through engagement and cooperation with the UN in the field of human rights, without fearing acts of intimidation or reprisals of any sort.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please note that a copy of this communication will be transmitted to the Government of the Maldives.

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

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders

(Excerpt from the original report)

State Reply: None to date

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/107/45/PDF/G1210745.pdf?OpenElement>

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REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS,

MARGARET SEKAGGYA

**A/HRC/16/44/Add.1 - 28 February 2011
Addendum**

Summary of cases transmitted to Governments and replies received*

Sri Lanka

Urgent appeal

2117. On 17 March 2010, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **the existence of a worrying and increasing trend aimed at delegitimizing the activities of human rights organizations, individual human rights defenders and journalists working in Sri Lanka**. Such information includes reports regarding physical attacks, threats, intimidation and public smear campaigns.

2118. Such attacks and threats, while experienced since 2006, have tangibly intensified following the Special Session of the Human Rights Council on Sri Lanka, which was held on 26-27 May 2009. It is reported that the Human Rights Minister, Mr. Mahinda Samarasinghe commented in The Hindu newspaper that "The people who go and sit in the cafeterias in the UN and lobby people in a very subjective manner putting forward those kind of sentiments (against Sri Lanka) would be inviting a very stern response from the government of Sri Lanka".

2119. In another article published in the online edition of the newspaper Divayina on 25 May 2009, it was alleged that "an NGO team goes to Geneva to defend the LTTE leadership. A team of people from NGOs in this country, including a representative of the Free Media Movement, has reached Geneva airport (...) with the aim of going before the Human Rights Council with inaccurate and false statements against the government of Sri Lanka and the security forces". It is further reported that the Inspector General of the

Police claimed in an interview on ITN TV station on 28 May 2009, that several journalists were on LTTE payroll. The Inspector General of the Police further alleged that these journalists have committed treason and distorted and misreported against Sri Lanka.

2120. On 3 March 2010, the Sri Lankan news website Lanka News Web published an article and a list containing the name of 31 human rights defenders and journalists allegedly compiled by the Sri Lankan State Intelligence Services. The list includes human rights defenders and journalists categorized according to their work, and a brief description of the activities of each individual. The list contains the names of individuals who have been engaged in “international outreach” on human rights related issues and grades them according to their perceived importance to the intelligence services. Several human rights defenders and journalists are referred to as “providing information on human rights issues and IDPs to several local and international outlets”, as “international platform speaker on media/human rights” and as a person who “speaks on human rights and media freedom and involved in advocacy overseas”. While the purpose of the list remains unclear, it gives rise to a serious concern about the physical and psychological integrity of the individuals contained therein.

2121. The head of Transparency International’s Sri Lanka office, **Mr. J. C. Weliamuna** is at the top of the list. It was reported on 8 March 2010 that the Government of Sri Lanka is planning to arrest Mr. Weliamuna in connection with the alleged misuse of funds. This information comes amidst a media campaign targeted against the Sri Lankan branch of Transparency International. It is feared that the allegations may be related to reports that Transparency International issued in December 2009 and January 2010, which included allegations about violation of election laws and misuse of public resources by the ruling party, and would be aimed at discrediting organizations engaged in monitoring elections. Mr. Weliamuna was the subject of a communication sent on 6 October 2008 by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Chairman of the Working Group on Enforced or Involuntary Disappearances. We have not yet received a response to this communication from your Excellency’s Government. The communication related to a grenade attack on the house of Mr. Weliamuna, causing damages to his property. It is reported that no credible inquiry has been carried out into this attack.

2122. **Mr. Paikiasothy Saravanamuttu**, Executive Director of the Centre for Policy Alternatives, has been listed number three in the list. Mr. Saravanamuttu has been receiving death threats mainly in connection with the extension of GPS Plus (Generalized System of Preferences) status by the European Union to Sri Lanka in case it should have been rejected. Mr. Saravanamuttu was the subject of an urgent appeal sent on 24 August 2009 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. A response from your Excellency’s Government to this communication was received on 25 August 2009.

2123. **Mr. Sunanda Deshapriya**, a prominent journalist and human rights defender, who is number six on the list, has been living in exile in Switzerland since May 2009, due to the threats received and the ongoing denigration campaign in the media following his participation and intervention at the March 2009 session of the Human Rights Council and the 11th Special Session on Sri Lanka. He has been accused of being a “traitor” and a “liar” due to his participation at the Special Session. Videos containing death threats against him have been posted on the social networking site Face book; he has received numerous threatening text messages and has been vilified in television and radio shows and a number of editorials. The Prime Minister of Sri Lanka, Mr. Mahinda Rajapaksa allegedly stated in an interview on 7 June 2009 in The Nation that it was a betrayal by Mr. Deshapriya to talk against his own country and to say that Sri Lanka violates human rights, while countries like India, China and Russia were firmly standing by the Government. In an interview with ITN TV on 4 June 2009, Mr. Mahinda Samarasinghe, the Minister of Disaster Management and Human Rights allegedly did not object to the talk show host’s suggestion that Mr. Deshapriya should be expelled from the country for his intervention at the HRC Special Session. Mr. Deshapriya was the subject of urgent appeals sent on 7 June 2006 and 23 May 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A response from the Government to this communication was received on 27 June 2006.

2124. Concern was expressed that threats and harassment of, and intimidation against human rights defenders and journalists, including media smear campaigns, may be related to their legitimate activities in defence of human rights, in particular to their international advocacy and outreach efforts. Further serious concern was expressed that some of the threats may be related to their having cooperated with the UN Human Rights Council and Special Procedure mandate holders. Given the extent of the allegations, an overarching concern was expressed that the threats, attacks and media smear campaigns may form part of a broader attempt to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government.

Observations

2125. The Special Rapporteur wishes to express her regret that, at the time of the finalization of this report, the Government had not responded to any of her communications sent during the reporting period. She also regrets that at the time of the finalization of the report, the Government had not transmitted any replies to her communications dated 27 August 2009, 9 and 15 October 2009 and 6 November 2009. She considers response to her communications an important part of cooperation by Governments. She urges the Government to respond to concerns raised by her and provide detailed information regarding investigations undertaken, prosecutions as well as protective measures taken.

2126. The Special Rapporteur expresses her concern about the reported climate of fear, including criminalization of, threats and intimidation against human rights defenders, particularly journalists and lawyers working on human rights issues. She is especially concerned at threats that may have been related to their cooperation with the UN Human Rights Council and Special Procedure mandate holders, which explains the lower number of complaints received during the reporting period.

2127. She reiterates her hope that the Government will respond favorably to her follow-up request of 21 January 2010 to visit the country. (NB: previous request is dated 5 November 2008)

* * * * *

REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

FRANK LA RUE

A/HRC/20/17 – 4 June 2012

Sri Lanka

3. Pending visit requests

12. As of March 2012, the following visit requests from the Special Rapporteur were pending: Ecuador (requested most recently in February 2012), Iran (Islamic Republic of) (requested in February 2010), Italy (requested in 2009), **Sri Lanka (requested in June 2009)**, Thailand (requested in 2012), Tunisia (requested in 2009), Uganda (requested in May 2011) and Venezuela (Bolivarian Republic of) (requested in 2003 and 2009).

III Challenges to the protection of journalists and media freedom outside of armed conflict situations

49. Since 1 January 2011, the Special Rapporteur has addressed communications relating to instances of restrictions or violence against journalists to the governments of Angola, Azerbaijan, Belarus, China, Colombia, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Georgia, Honduras, Iran (Islamic Republic of), Iraq, Kazakhstan, Libya, Madagascar, Malawi, Malaysia, Maldives, Mexico, Morocco, Pakistan, Panama, Paraguay, Russian Federation, Spain, **Sri Lanka**, Sudan, Syrian Arab Republic, Thailand, Tunisia, Turkey, Uganda, United Arab Emirates, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.³

50. A notable trend in 2011 was the increase in the number of attacks against journalists during coverage of street protests and demonstrations, such as arbitrary arrests and detention, verbal and physical attacks, confiscation or destruction of equipment, as well as killings in countries such as Angola, Belarus, Egypt, Georgia, Iraq, Kazakhstan, Libya, Malawi, Maldives, Russian Federation, Spain, **Sri Lanka**, Sudan, Syrian Arab Republic, Tunisia and Yemen.⁴

(Excerpt from the original report)

REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

FRANK LA RUE

A/HRC/17/27/Add.1 - 27 May 2011

Addendum

Sri Lanka

Urgent appeal

2019. On 17 March 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning **the existence of a worrying and increasing trend aimed at delegitimizing the activities of human rights organizations, individual human rights defenders and journalists working in Sri Lanka**. Such information includes reports regarding physical attacks, threats, intimidation and public smear campaigns.

2020. Such attacks and threats, while experienced since 2006, have tangibly intensified following the Special Session of the Human Rights Council on Sri Lanka, which was held on 26-27 May 2009. It is reported that the Human Rights Minister, Mr. Mahinda Samarasinghe commented in The Hindu newspaper that “The people who go and sit in the cafeterias in the UN and lobby people in a very subjective manner putting forward those kind of sentiments (against Sri Lanka) would be inviting a very stern response from the government of Sri Lanka”.

2021. In another article published in the online edition of the newspaper Divayina on 25 May 2009, it was alleged that “an NGO team goes to Geneva to defend the LTTE leadership. A team of people from NGOs in this country, including a representative of the Free Media Movement, has reached Geneva airport (...) with the aim of going before the Human Rights Council with inaccurate and false statements against the government of Sri Lanka and the security forces”. It is further reported that the Inspector General of the Police claimed in an interview on ITN TV station on 28 May 2009, that several journalists were on LTTE payroll. The Inspector General of the Police further alleged that these journalists have committed treason and distorted and misrepresented against Sri Lanka.

2022. On 3 March 2010, the Sri Lankan news website Lanka News Web published an article and a list containing the name of 31 human rights defenders and journalists allegedly compiled by the Sri Lankan State Intelligence Services. The list includes human rights defenders and journalists categorized according to their work, and a brief description of the activities of each individual. The list contains the names of individuals who have been engaged in “international outreach” on human rights related issues and grades them according to their perceived importance to the intelligence services. Several human rights defenders and journalists are referred to as “providing information on human rights issues and IDPs to several local and international outlets”, as “international platform speaker on media/human rights” and as a person who “speaks on human rights and media freedom and involved in advocacy overseas”. While the purpose of the list remains unclear, it gives rise to a serious concern about the physical and psychological integrity of the individuals contained therein.

2023. The head of Transparency International’s Sri Lanka office, Mr. J. C. Weliamuna is at the top of the list. It was reported on 8 March 2010 that the Government of Sri Lanka is planning to arrest Mr. Weliamuna in connection with the alleged misuse of funds. This information comes amidst a media campaign targeted against the Sri Lankan branch of Transparency International. It is feared that the allegations may be related to reports that Transparency International issued in December 2009 and January 2010, which included allegations about violation of election laws and misuse of public resources by the ruling party, and would be aimed at discrediting organizations engaged in monitoring elections.

Mr. Weliamuna was the subject of a communication sent on 6 October 2008 by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Chairman of the Working Group on Enforced or Involuntary Disappearances. We have not yet received a response to this communication from your Excellency’s Government. The communication related to a grenade attack on the house of Mr. Weliamuna, causing damages to his property. It is reported that no credible inquiry has been carried out into this attack.

2024. Mr. Paikiasothy Saravanamuttu, Executive Director of the Centre for Policy Alternatives, has been listed number three in the list. Mr. Saravanamuttu has been receiving death threats mainly in connection with the extension of GPS Plus (Generalized System of Preferences) status by the European Union to Sri Lanka in case it should have been rejected. Mr. Saravanamuttu was the subject of an urgent appeal sent on 24 August 2009 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. A response from your Excellency's Government to this communication was received on 25 August 2009.

2025. Mr. Sunanda Deshapriya, a prominent journalist and human rights defender, who is number six on the list, has been living in exile in Switzerland since May 2009, due to the threats received and the ongoing denigration campaign in the media following his participation and intervention at the March 2009 session of the Human Rights Council and the 11th Special Session on Sri Lanka. He has been accused of being a "traitor" and a "liar" due to his participation at the Special Session. Videos containing death threats against him have been posted on the social networking site Face book; he has received numerous threatening text messages and has been vilified in television and radio shows and a number of editorials. The Prime Minister of Sri Lanka, Mr. Mahinda Rajapaksa allegedly stated in an interview on 7 June 2009 in The Nation that it was a betrayal by Mr. Deshapriya to talk against his own country and to say that Sri Lanka violates human rights, while countries like India, China and Russia were firmly standing by the Government. In an interview with ITN TV on 4 June 2009, Mr. Mahinda Samarasinghe, the Minister of Disaster Management and Human Rights allegedly did not object to the talk show host's suggestion that Mr. Deshapriya should be expelled from the country for his intervention at the HRC Special Session. Mr. Deshapriya was the subject of urgent appeals sent on 7 June 2006 and 23 May 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A response from the Government to this communication was received on 27 June 2006.

2026. Concern was expressed that threats and harassment of, and intimidation against human rights defenders and journalists, including media smear campaigns, may be related to their legitimate activities in defense of human rights, in particular to their international advocacy and outreach efforts. Further serious concern was expressed that some of the threats may be related to their having cooperated with the UN Human Rights Council and Special Procedure mandate holders. Given the extent of the allegations, an overarching concern was expressed that the threats, attacks and media smear campaigns may form part of a broader attempt to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government.

Observations

2027. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a response to his communication of 17 March 2010, and to earlier communications sent on 9 February 2010, 6 November 2010, 15 October 2010, 9 October 2010, and 8 October 2010. He urges the Government to respond to the concerns raised by him, and to provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

2028. The Special Rapporteur remains seriously concerned about the situation of journalists and human rights defenders in Sri Lanka, and restrictions to the right to freedom of opinion and expression, as well as the rights to freedom of assembly and association. In particular, he expresses his grave concern regarding physical assaults, abduction, intimidation and harassment of journalists, and lack of effective investigation into such acts and prosecution of perpetrators.

2029. In this regard, the Special Rapporteur expresses his continued concern regarding the disappearance of Mr. Prageeth Eknaligoda since 24 January 2010, who had been reporting on the 26 January 2010 presidential elections and had completed an analysis that favoured the opposition candidate, Mr. Sareth Fonseka. He urges the Government to undertake independent and effective investigation into his whereabouts and the circumstances of his disappearance, and to bring responsible persons to account.

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/135/41/PDF/G1113541.pdf?OpenElement>

http://ap.ohchr.org/documents/dpage_e.aspx?m=85

REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

FRANK LA RUE

A/HRC/14/23/Add.1 - 26 May 2010

SRI LANKA

ADDENDUM - SUMMARY OF CASES TRANSMITTED TO GOVERNMENTS AND REPLIES RECEIVED*

Letter of allegations

2160. On 9 January 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning the killing of Mr. **Lasantha Wickrematunga**, chief editor of the English language weekly newspaper the Sunday Leader, an investigative newspaper which often reports on cases of alleged corruption and abuse of authority in Sri Lanka, and an attack on the premises of the independent television station, Sirasa TV (formerly known as Pannipitiya MTV/MBC) in Colombo.

2161. According to information received, on 8 January 2009, Mr. Wickrematunga was driving to work in Colombo. Two unidentified gunmen, who were travelling by motorcycle, smashed the window of Mr. Wickrematunga's car with a steel bar before shooting him at close range in the head, chest and stomach. The attack occurred in rush-hour traffic about 100 metres from an air force checkpoint. Mr. Wickrematunga was rushed to Colombo National Hospital where he died a few hours later from his injuries. A police investigation has been opened into the case.

2162. Prior to his death, Mr. Wickrematunga had been the target of numerous intimidation attempts and libel suits for his outspoken criticism of your Excellency's Government. The most recent libel case had been brought against him by the Defence Secretary, Mr. Gotabaya Rajapaksa, over stories published in the Sunday Leader alleging corruption in defence procurement. Following the Court proceedings a ban was placed on the newspaper mentioning the Defence Secretary for several weeks.

Previously, in November 2007, the printing press of the Sunday Leader media group (Leader Publications), located in a high security area near Colombo, was destroyed in an arson attack by a group of unidentified gunmen. No arrests were made in relation to the attack and reports claim that a full investigation was not carried out. It is further reported that in October 2008 the President of Sri Lanka referred to Mr. Wickrematunga as a "terrorist journalist" during an interview with the nongovernmental organization Reporters Without Borders.

2163. Furthermore, in the early hours of the morning of 6 January 2009, approximately 20 unidentified individuals wielding assault rifles, pistols and armed bars raided the premises of Sirasa TV in Pannipitiya, Colombo. The assailants, who reportedly arrived at the premises in a white unmarked van, overpowered security personnel at the entrance before entering the main studio complex where they proceeded to assault staff who were working at the time. A few staff members, who were held at gunpoint, were forced to guide their attackers to the main control room. The assailants then destroyed the room with explosives, causing considerable damage to broadcasting equipment. An unexploded grenade was later recovered from the premises.

Response from the Government

2164. In letters dated 11 February 2009 and 9 July 2009, the Government responded to the communication sent on 9 January 2009 as follows.

2165. On 8 January 2009, at about 10:05 hrs, Mr. Wickramatunga left in his car to go to his office in Attidiya in Templers Road, Mt. Lavinia. At 10:20 hrs. when he was passing Attidiya on his way to Templers

Road opposite Attidiya Girls School, four motorcyclists who came after the car blocked the road and Mr. Wickramatunga's car came to a halt seeing the motorcyclists who were blocking the road. The four motorcyclists had been wearing helmets covering their faces, black jackets and all of them came on black coloured motorcycles. The cyclists surrounded the car and left on their bike after a few minutes.

2166. After the motorcycles had left, the onlookers had approached the car and found Mr. Wickramatunga lying on the seat with bleeding injuries on his head and the windscreen damaged. Both side-glasses of the car had also been damaged. One Dinesh Kumara, who was in the printing press opposite the place of the incident, rushed Mr. Wickramatunga to Kalubowila Hospital in a passing vehicle. The onlookers also informed the Police regarding the incident.

2167. Upon receipt of this information, Officer-in-Charge/Crimes, Mt. Lavinia, Inspector of Police (IP) Sugathapala, along with a team of officers visited the scene and conducted inquiries. Thereafter, on the instructions of the Inspector-General of the Police, Senior Superintendent of Police (SSP) for Mt. Lavinia directed inquiries along with the Assistant Superintendent of Police (ASP) for Mt. Lavinia, (I) Mr. C. Gunawardena in this connection.

2168. Mr. Wickramatunga succumbed to injuries in the hospital and a postmortem inquiry was conducted. The Judicial Medical Officer carrying out the inquiry reported that the death was due to shock and hemorrhage following gunshot injuries in the head.

2169. Mr. Harsha Sethunga, Magistrate for Mt. Lavinia, who held the inquest in connection with the death, returned a verdict of murder.

2170. The Government Analyst was summoned to examine the scene as well as the victim's car and his report is being awaited. No empty cartridges or used slugs have been traced from the scene or the dead body.

2171. Statements have been recorded from four eye-witnesses, but none of them are in a position to identify the suspects or to disclose the registration number of the motorcycles. One of them also had heard report of a gun from the scene of the incident.

2172. The deceased had died of gunshot injuries on his head. The assailants had committed this murder at a lonely stretch of Attidiya Road when the victim was on his way to office. Further investigations continue.

2173. None of the four witnesses, who have come forward to make statements, have made references to any of the assailants wielding firearms. There is no specific mention of a steel bar. The witness speaks of Mr. Wickramatunga being attacked with an object covered with a newspaper which, in all probability, had been a hard object.

2174. The attack had taken place sometime after 10 am in the morning at a time the early morning vehicular traffic had eased. It is incorrect to state that there had been a check point manned by the air force personnel a hundred meters away from the place where Mr. Wickramatunga was attacked. The nearest check point had been no less than half a kilometer away. It must also be noted that the victim was rushed to the closest hospital that had all the facilities to attend to a victim who had suffered serious injuries of this nature, that is, the Colombo South Hospital. Every attempt had been made by a team of leading doctors that included two neurosurgeons, to save Mr. Wickramatunga's life. In the autopsy performed thereafter the Judicial Medical Officer had concluded that the cause of death was due to cranio cerebral injury due to the discharge of a firearm. It is incorrect to state that in addition to the gun shot injury on the head, the victim had been shot in the chest and stomach as his cadaver bore no such injuries. This is confirmed by the autopsy report.

2175. In addition, the assailants left neither the empty casing of the spent bullet nor the slug leaving very little evidence for the investigators to work with in relation to establishing the identity of the weapon used. The doctors who operated on Mr. Wickramatunga had cleaned the area and also removed certain parts of the skull bone around the entry wound. This has nevertheless caused some difficulty to the investigators in ascertaining the distance from which the purported shot was fired. No witness had heard a gunshot or shots being fired during the attack. The investigators had been further handicapped by the fact that no witness at the scene noted the registration plates of the motorcycles used by the assailants. The investigations are continuing with the singular aim of identifying the perpetrators, arresting and bringing them to justice without delay. The facts have been reported to Court and further investigations are being carried out under judicial supervision.

2176. Regarding the attack on the Sirasa TV station, the Government reported that the material facts contained in the communication were confirmed to a great extent by the police investigations. However, according to eye-witness account there is no mention of the use of pistols by the assailants. It is to be further noted that the number of assailants have been approximately 15 and not 20. Two of the employees who were working that night at the TV station complain of being assaulted whereas the others do not allege any assault. It is correct to state that an unexploded hand grenade was recovered from the premises.

2177. The investigators further report that 8 spent casings were found at the scene of the crime and in addition, police have also obtained the fingerprint of the employees of the TV station and are in the process of ascertaining the finger prints of the assailants, if any, by a process of elimination. A blood stain found on a floor tile had been retrieved by the investigators and sent for analysis with the aim of carrying out a DNA profiling in the course of further investigations. The other items so recovered too have been forwarded to the Government Analyst Department for analysis.

2178. Statements have been recorded from all employees. However, none of the employees who were present during the night of the attack are in a position to identify or provide any useful description that would enable the investigators to establish the identity of the assailants. This is primarily due to the fact that all intruders had their faces covered to avoid identification and recognition.

2179. The police are also in the process of carrying out a mobile phone call analysis to ascertain whether any of the assailants used mobile phones from the location at the material time, which was well past midnight. Police have thus sought the assistance of the relevant mobile phone companies to ascertain whether any phone calls were transmitted via any of the telephone towers in the vicinity,

2180. The police had also in the course of their investigations followed a few leads provided by anonymous callers. These had not yielded any positive results. The police have reported the matter to the Magistrate Court. The investigations are continuing under judicial supervision with periodic progress reports being file in Court.

Urgent appeal

2181. On 27 January 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, have sent an urgent appeal to the Government regarding Mr. **Upali Tennakoon**, chief editor of the Rivira weekly newspaper, and the ongoing attacks on media professionals in Sri Lanka.

2182. On 9 January 2008, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders issued an urgent appeal letter in relation to the killing of Mr. Lasantha Wickrematunga, chief editor of the English language weekly newspaper the Sunday Leader, and an attack on the premises of the independent television station, Sirasa TV in Colombo. A reply was received from the Government on 12 January 2009.

2183. According to information received, on 23 January 2009, Mr. Upali Tennakoon was driving with his wife in Imbulgoda, on the outskirts of Colombo, when two unidentified individuals on a motorbike intercepted his car and ordered him to get out of the vehicle. When Mr. Tennakoon failed to comply with their demands the assailants then smashed the car window and began to attack him and his wife with wooden clubs and a knife. The attackers then immediately fled on their motorbikes and Mr. Tennakoon and his wife were taken to hospital, where they are in a stable condition. An investigation has reportedly been opened into the case.

2184. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Sri Lanka, thus stifling freedom of expression in the country. Further concern was expressed for the physical and psychological integrity of Mr. Upali Tennakoon and his family, as well as media professionals in general in Sri Lanka, particularly in light of reports that following recent events, including the killing of Mr. Wickrematunga and the attack on staff at Sirasa TV, at least five journalists have gone into hiding as they fear for their safety and the news website Lanka dissent has reportedly ceased operations due to threats.

Response from the Government

2185. In a letter dated 14 May 2009, the Government responded to the communication sent on 27 January 2009 as follows. A complaint has been made by Kudugala Thennakoon Mudalige Upali Thennakoon, editor of Rivira Newspaper, at the Police Station Wellweriya regarding the above mentioned incident.

2186. On 23 January 2009, Upali Thennakoon and his wife left to go to the office and came to a narrow road and when entering into the main road an unknown four persons using clubs halted the vehicle and also Mr. Upali Tennakoon was assaulted. Vehicle had been damaged and Mr. Upali Tennakoon had suffered injuries. While trying to rescue Upali, his wife too has suffered injuries. Thereafter as the victims started to shout four unknown people had moved away in two motorbikes. Injured persons were sent to the National Hospital Colombo with the Police Security. The OIC of the police station of Wellweriya has started investigations. However, none of the suspects have been taken into custody up to date.

2187. Statements have been recorded after inquiring alleged victims and of another 50 people regarding the above incident. Upali Thennakoon and his wife have been directed to JMO. The car which was damaged and a club two and a half ft. long had been produced to the Government Analyst who had examined them. The car had been handed over to the owner by the order of the Magistrate. And finger marks had been taken at the place. Further investigation to the two motorbikes are being carried out and cases have been filed at the Magistrate's Court of Gampaha bearing No. B 294/09 Security and service of the officers of State Intelligence Services have been provided to the residence of Mr. Upali Thennakoon by the OIC of the Willweriya Police Station. The OIC of the Kadavath Police Station has been directed to provide for the security of Mr. Upali Thennakoon.

Urgent appeal

2188. On 26 May 2009, the Special Rapporteur, together with the Chairperson- Rapporteur of the Working Group on Arbitrary Detention, the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding **Dr. Thangamutha Sathiyamoorthy**, the regional director of health services in Kilinochchi, **Dr. Thurairaja Varatharajah**, the regional director of health services in Mullaitivu, and **Dr. V. Shanmugarajah**, medical superintendent at Mullivaaykkaal field hospital.

2189. According to the information received, Dr. Sathiyamoorthy, Dr. Varatharajah and Dr. Shanmugarajah are Government employed and had been treating the sick and wounded in the conflict zone in North-eastern Sri Lanka until they left the "No Fire Zone" with approximately 5,000 other civilians on 15 May 2009. The Sri Lankan Army (SLA) detained the three doctors on 16 May 2009, under the broad arrest and detention powers of security forces pursuant to the Prevention of Terrorism Act. The physicians were last seen on the morning of 15 May 2009 at a holding area at Omanthai check point. An official of the Ministry of Health stated on 18 May Government forces handed over the physicians to the police.

2190. Dr. Shanmugarajah and Dr. Sathiyamoorthy are apparently currently held at a detention centre of the Terrorist Investigation Division (T.I.D) in Colombo. However, their relatives are not aware of their exact whereabouts and neither has had access to a lawyer. Dr. Varatharajah was seriously injured and is reported to have been airlifted by the Sri Lankan Air Forces (SLAF) from the Omanthai check point to an unknown destination.

2191. While working in the conflict zone, the doctors provided detailed eyewitness reports to the media and the international community from hospitals and makeshift medical centres. Their reports detailed the suffering of ordinary civilians, many of whom died from war-related injuries. Their reports also highlighted continuous shelling of areas with large concentrations of non-combatants.

2192. Concerns were expressed that the three doctors may be held in reprisal for providing information about the situation of civilians in the conflict zone. In view of their reported incommunicado detention at unknown places of detention, which could put them at risk of enforced disappearance, and in view of the reported serious injuries of Dr. Varatharajah, grave concerns were expressed as regards their physical and mental integrity.

Response from the Government

2193. In letters dated 28 May 2009, 15 July 2009 and 3 August 2009, the Government responded to the communication sent on 26 May 2009, which are summarized as follows. Dr. Thangamuththu Sathiyamoorthy, Dr. Veerakethipillai Shanmugarajah and Dr. Thurairajah Varatharajah surrendered to the

Army when they have arrived at Omanthai check point on 15 May 2009. Dr. Thurairajah Varatharajah who was injured at the time of surrender was admitted to the General Hospital Colombo on the same day. Later he was discharged (6 June 2009).

2194. All the doctors were detained under section 19 (1) of the Emergency Regulation on charges of their alleged links with the proscribed LTTE organization, disseminating false information to the international media and supplying medicine including medical equipment to the LTTE from Government hospitals. All the doctors are presently in the protective custody of the Criminal Investigation Department (CID) headquarter Colombo, pending completion of investigation.

2195. Dr. Thurairajah Varatharajah had been visited by ICRC representatives on 28 May 2009 and on 6 June 2009. The spouse and sister of Dr. Thurairajah Varatharajah visited him on 30 May 2009, 13 June 2009, 20 June 2009, 27 June 2009 and 4 July 2009. Dr. Thurairajah Varatharajah was taken to ward No. 32 of the General Hospital Colombo on 24 June 2009 for a medical check-up and brought back to the CID on 26 June 2009.

2196. Dr. Thangamuththu Sathiyamoorthy had been visited by ICRC representatives on 21 May 2009 and on 6 June 2009. The father, mother and brother of Dr. Sathiyamoorthy visited him on 23 May 2009, 30 May 2009, 6 June 2009, 30 June 2009 and 4 July 2009. His spouse and children visited him on 20 June 2009.

2197. Dr. Veerakethipillai Shanmugarajah had been visited by ICRC representatives on 21 May 2009 and 6 June 2009. Family members visited him on 4 July 2009 at the CID.

2198. All three doctors were given healthcare facilities. At a media briefing held on 8 July 2009 at the Media Center for National Security all three doctors have stated that they were forced by the LTTE to speak to foreign media and provided exaggerated information on civilian casualties. They have also said that they were not under duress to attend the media briefing arranged by the MCNS.

Urgent appeal

2199. On 24 August 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Dr. **Paikiasothy Saravanamuttu**. Dr. Saravanamuttu is the Executive Director of the Centre for Policy Alternatives (CPA) in Colombo.

2200. According to the information received, on the morning of 20 August 2009, Dr. Saravanamuttu received an anonymous death threat letter posted to his private address. The letter, written in English and posted on CPA's website, states that Dr. Saravanamuttu will be killed if Sri Lanka is denied the European Union GSP Plus (Generalised System of Preferences) in October 2009. The author of the letter alleges that Dr. Saravanamuttu had transmitted to Ms. Benita Ferrero-Waldner, the EU's Commissioner for External Relations, information which could affect the renewal of GPS Plus to Sri Lanka.

2201. The letter reads as follows: "this serves to warn you that come October and Sri Lanka is denied GSP plus you WILL be killed, we swear on all that we hold sacred you WILL be killed, for we now know that you have been the principal person who has been feeding the European woman Ferraro with information to deny this country of this and put us out of our livelihoods".

2202. Dr. Saravanamuttu and the CPA have reported they will be lodging complaints with the relevant authorities to investigate and take all necessary measures to remedy this matter.

2203. Concern was expressed that the death threat against Dr. Saravanamuttu may be linked to his legitimate work in defence of human rights. In view of the content of the letter, further concern was expressed for the physical and psychological integrity of Dr. Saravanamuttu and other members of CPA.

Response from the Government

2204. In a letter dated 25 August 2009, the Government responded to the communication sent on 24 August 2009 as follows. The Secretary of the Ministry of Disaster Management and Human Rights, Professor Rajiva Wijesinha, was personally informed of the death threats at a reception by the victim on 24 August 2009. The Ministry was contacted by the issue on 21 August 2009 by a junior member of the British High Commission, who was told that the Ministry was awaiting a formal communication. Such a formal communication has not been received, but the Secretary instructed the DIG in charge to furnish a full report. The Ministry is not aware of the reasons for the delay in lodging a formal complaint by the alleged victim. The Secretary contended that due to the fact that the matter has been well publicized, an inquiry may be more difficult. The Secretary had nonetheless the DIG to treat this case as a matter of urgency.

Urgent appeal

2205. On 8 October 2009, the Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. **Mahanuwara Rajawasala Ratnayaka, Mahanilamelage Isiwara Senaka Ekanayake**.

2206. According to the information received, Mr. Mahanuwarajawasala Ratnayaka Mahanilamelage Isiwara Senaka Ekanayake, a journalist, was arrested in 2008 while trying to investigate a case implicating a senior police officer. He was severely beaten, tortured and robbed by the Kalpitiya police. Since his release on bail, Mr. Senaka Ekanayake had been constantly harassed by the police. In late 2008, he was once again arrested on alleged false charges by the Galkiriyagama Police. He was kept in remand in Anurandhapura Prison and released in September 2009.

2207. As a result of his torture in custody, which left him with numerous injuries, Mr. Senaka Ekanayake had been seeking redress from the authorities. He submitted complaints to the National Human Rights Commission (complaint HRD341/08, and a second letter 18/09/09), the National Police Commission (24/01/08 and 29/05/09) and the President of Sri Lanka (29/04/09). Since lodging such complaints, he had been receiving death threats on the phone. Men in a white van have allegedly gone to his house a number of times, late at night, to ask for him. He had thus gone into hiding.

2208. Concern was expressed that the threats against Mr. Senaka Ekanayake are related to his work as a journalist and constitute a direct attempt to stifle his right to freedom of opinion and expression.

Letter of allegations

2209. On 9 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, sent a letter of allegations to the Government concerning Mr. J.S. Tissainayagam, editor in chief of the *North Eastern Monthly* magazine. Information regarding Mr. Tissainayagam was previously sent to your Excellency's Government on 14 March 2008 following his arrest and detention by the Terrorist Investigation Division (TID) along with five other journalists. The joint urgent appeal was sent by the Chairperson- Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the promotion and protection of human rights while countering terrorism. A response from your Excellency's Government was received on 16 July 2009, indicating that the courts found Mr. Tissainayagam's confession to the police to be voluntary and that his detention at the TID was not illegal. The Working Group on Arbitrary Detention also adopted an opinion on the case of Mr. Tissainayagam on 12 September 2008, which declared his detention to be arbitrary (opinion no.30/2008).

2210. According to new information received, on 25 August 2009, Mr. Tissainayagam was charged with three counts under the Prevention and Terrorism Act (PTA) and the Emergency Regulations of 2006 in relation to his criticism of the Sri Lankan Army's treatment of civilians in two articles published in the *North Eastern Monthly* magazine in June 2006.

2211. On 31 August 2009, Mr. Tissainayagam was found guilty by Colombo High Court judge Ms. Deepali Wijesundera and sentenced to 20 years of "rigorous imprisonment" under the PTA. Mr. Tissainayagam was found guilty on two counts of intending to "cause communal disharmony" (PTA, section 2), with mandatory minimum sentence of five years each, and one count of receipt of monies "in the furtherance of any act of terrorism" (Emergency Regulations, regulation 6), with mandatory minimum sentence of 10 years.

2212. Judge Wijesundara is allegedly the sister of the officer who signed the indictment against Mr. Tissainayagam. One of the main pieces of evidence used against Mr. Tissainayagam was a handwritten confession, which had been submitted to court by the prosecution. The defence counsel challenged the veracity of Tissainayagam's confession on the basis of three accounts: first, Mr. Tissainayagam was threatened and mentally tortured for the police to obtain that statement; second, the confession was not given to an Assistant Superintendent of Police as required by law, and third, the statement reportedly mirrored word for word a statement written on 7 March 2009 by the officer who had been present at the time of Mr. Tissainayagam's detention and who has allegedly been involved in the torture of and threats against Mr. Tissainayagam. Judge Wijesundara denied Mr. Tissainayagam's right to appeal against the admissibility of this forced confession into evidence.

2213. Concern was expressed that the sentencing of Mr. Tissainayagam might be directly related to his work in defense of human rights and is an attempt to silence peaceful and legitimate criticisms of the government, thus stifling the right to freedom of opinion and expression in Sri Lanka. Concern was also expressed regarding the broad scope of the PTA and the Emergency Regulations, which do not appear to fall under the ambit of permissible restrictions to the right to freedom of opinion and expression under international human rights law. Further concern was expressed regarding fair trial standards in this case.

Urgent appeal

2214. On 15 October 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding threats against Ms. **Dileesha Abeysundera**, journalist for the Sinhalese-language weekly *Irudina*, Deputy Secretary of the Free Media Movement, and Secretary of the National Forum for Journalists in Sri Lanka.

2215. According to information received, on 28 September 2009, Ms. Abeysundera organised and attended a meeting calling for the abolition of what she has publicly stated as the “draconian provisions” in the Press Council Act of 1973. On the same day at around 11:45 p.m., several men who were unidentified and were travelling in white vans attempted to forcibly enter Ms. Abeysundera’s compound in the Borella district of Colombo. It has been reported that the men repeatedly called out her name while hitting her gate. After she informed them that they had the wrong house, they remained in the area and subsequently left due to poor weather.

2216. White vans have allegedly been used in many cases of abductions and enforced disappearances in Sri Lanka since 2006, when State agents and paramilitary groups that are allied to the Government allegedly increased attacks against those critical of the Government.

2217. Concern was expressed that Ms. Abeysundera has been threatened because of her work in support of a free media in Sri Lanka and her work as a journalist with *Irudina*, which is allegedly known for its critical coverage of the Government. Further concern was expressed regarding Ms. Abeysundera’s physical and psychological integrity, particularly given the number of abductions, physical attacks, death threats, killings and acts of intimidation against journalists, and the ensuing lack of prosecutions of alleged perpetrators. Moreover, concern was expressed regarding restrictions on independent reporting in Sri Lanka, including the Press Council Act of 1973, which allows journalists to be prosecuted for contempt and sentenced to extended periods in prison, and prohibits the publication of materials related to Government documents, the armed services, national security and economic policy.

Urgent appeal

2218. On 6 November 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding the situation of **Ms. Frederica Jansz**, and **Ms. Munza Mushataq** and **staff members of the *Sunday Leader* weekly newspaper**, an investigative newspaper which often reports on cases of alleged corruption and abuse of authority in Sri Lanka. Ms. Jansz and Ms. Mushataq are respectively Editor-in chief and News Editor of the *Sunday Leader*.

2219. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders sent on 9 January 2009, a letter of allegation on the killing of Mr. Lasantha Wickrematunga, founder and former Editor-in-Chief of the *Sunday Leader*. We acknowledge receipt of the responses of your Excellency’s Government dated 11 February 2009 and 9 July 2009.

2220. According to the information received, on 22 October 2009, Ms. Jansz and Ms. Mushataq reportedly received death threat letters. The letters, handwritten in red ink, stated the following: “if you write anymore, we will kill you, slice you into pieces”. Mr. Lasantha Wickrematunga was killed in January 2009 after having received a similar red ink handwritten death threat letter.

2221. These new threats occurred following the publication on 18 October 2009, of an article by the *Sunday Leader* in relation to a video allegedly showing Sri Lankan soldiers executing Tamil prisoners and denounced as a fake by your Excellency’s Government.

2222. Ms. Jansz and Ms. Mushataq reported the threats to the Inspector General of Police and to the police in Colombo.

2223. It is further reported that staff members of the *Sunday Leader* have been threatened on many occasions and the premises of the newspaper burnt down and bombed several times.

2224. Grave concern was expressed that these new threats may be directly related to the legitimate work of Ms. Jansz and Ms. Mushataq and the staff members of the *Sunday Leader* in defense of human rights. Given the content of the letters and the killing of Mr. Wickrematunga, further concern was expressed for the physical and psychological integrity of Ms. Jansz and Ms. Mushataq and all staff of the *Sunday Leader*.

Urgent appeal

2225. On 9 February 2010, the Special Rapporteur, together with the Chair- Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **acts of harassment and intimidation against journalists and media outlets prior to and following the Presidential election on 26 January 2010**.

2226. According to additional information received, on 25 January 2010, in addition to *LankaeNews* website (www.lankanewsweb.com), the following independent news websites were reportedly blocked by the main Internet Service Provider, Sri Lanka Telecom: *Sri Lanka Guardian* (www.srilankaguardian.org), *InfoLanka* (www.infolanka.com), and *Nidahasa* (www.nidahasa.com).

2227. On 28 January 2010, Mr. **Ravi Abeywickrama**, an employee at the Government-owned television broadcaster Sri Lanka Rupavahini Corporation, was allegedly attacked by one of the station's officials for signing a joint statement, along with 60 other State media employees, which condemned the misuse of State media to promote President Rajapaksa's election campaign. At least seven other employees who also signed the letter have allegedly been suspended or dismissed.

2228. On 29 January 2010, Mr. **Sandaruvan Senadeera**, editor of *LankaeNews*, a news website that supported the opposition candidate, allegedly received 40 threatening phone calls within a period of 45 minutes.

2229. On 29 January 2010, the office of *Irida Lanka* newspaper, which played a crucial role in supporting the opposition candidate in the run-up to the Presidential election, was allegedly sealed off by the Criminal Investigations Department (CID) of the Sri Lanka police. On the same day, the editor of *Irida Lanka*, Mr. **Chandana Sirimalwatha**, was allegedly arrested by the CID. No reason was given for his arrest and he remains in detention to date. He has reportedly been summoned to the CID at least three times during the past six months.

2230. Concern was expressed that the acts mentioned above might constitute an attempt to suppress critical and independent reporting in Sri Lanka. Further concern was expressed regarding the physical and psychological integrity of journalists and media personnel who supported the opposition candidate in the lead up to the Presidential elections.

Urgent appeal

2231. On 17 March 2010, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding information received that, when considered together, appears to suggest the existence of **a worrying and increasing trend aimed at delegitimizing the activities of human rights organizations, individual human rights defenders and journalists working in Sri Lanka**. Such information includes reports regarding physical attacks, threats, intimidation and public smear campaigns.

2232. Such attacks and threats, while experienced since 2006, have tangibly intensified following the Special Session of the Human Rights Council on Sri Lanka, which was held on 26-27 May 2009. It is reported that the Human Rights Minister, Mr. Mahinda Samarasinghe commented in *The Hindu* newspaper that "The people who go and sit in the cafeterias in the UN and lobby people in a very subjective manner putting forward those kind of sentiments (against Sri Lanka) would be inviting a very stern response from the government of Sri Lanka".

2233. In another article published in the online edition of the newspaper *Divayina* on 25 May 2009, it was alleged that "an NGO team goes to Geneva to defend the LTTE leadership. A team of people from NGOs in this country, including a representative of the Free Media Movement, has reached Geneva airport (...) with the aim of going before the Human Rights Council with inaccurate and false statements against the government of Sri Lanka and the security forces". It is further reported that the Inspector General of the Police claimed in an interview on *ITN TV* station on 28 May 2009, that several journalists were on LTTE payroll. The Inspector General of the Police further alleged that these journalists have committed treason and distorted and misreported against Sri Lanka.

2234. On 3 March 2010, the Sri Lankan news website *Lanka News Web* published an article and a list containing the name of 31 human rights defenders and journalists allegedly compiled by the Sri Lankan State Intelligence Services. The list includes human rights defenders and journalists categorized according to their work, and a brief description of the activities of each individual. The list contains the names of individuals who have been engaged in “international outreach” on human rights related issues and grades them according to their perceived importance to the intelligence services. Several human rights defenders and journalists are referred to as “providing information on human rights issues and IDPs to several local and international outlets”, as “international platform speaker on media/human rights” and as a person who “speaks on human rights and media freedom and involved in advocacy overseas”. While the purpose of the list remains unclear, it gives rise to a serious concern about the physical and psychological integrity of the individuals contained therein.

2235. The head of Transparency International’s Sri Lanka office, **Mr. J. C. Weliamuna** is at the top of the list. It was reported on 8 March 2010 that the Government of Sri Lanka is planning to arrest Mr. Weliamuna in connection with the alleged misuse of funds. This information comes amidst a media campaign targeted against the Sri Lankan branch of Transparency International. It is feared that the allegations may be related to reports that Transparency International issued in December 2009 and January 2010, which included allegations about violation of election laws and misuse of public resources by the ruling party, and would be aimed at discrediting organizations engaged in monitoring elections. Mr. Weliamuna was the subject of a communication sent on 6 October 2008 by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Chairman of the Working Group on Enforced or Involuntary Disappearances. We have not yet received a response to this communication from your Excellency’s Government. The communication related to a grenade attack on the house of Mr. Weliamuna, causing damages to his property. It is reported that no credible inquiry has been carried out into this attack.

2236. **Mr. Paikiasothy Saravanamuttu**, Executive Director of the Centre for Policy Alternatives, has been listed number three in the list. Mr. Saravanamuttu has been receiving death threats mainly in connection with the extension of GPS Plus (Generalized System of Preferences) status by the European Union to Sri Lanka in case it should have been rejected. Mr. Saravanamuttu was the subject of an urgent appeal sent on 24 August 2009 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. A response from your Excellency’s Government to this communication was received on 25 August 2009.

2237. **Mr. Sunanda Deshapriya**, a prominent journalist and human rights defender, who is number six on the list, has been living in exile in Switzerland since May 2009, due to the threats received and the ongoing denigration campaign in the media following his participation and intervention at the March 2009 session of the Human Rights Council and the 11th Special Session on Sri Lanka. He has been accused of being a “traitor” and a “liar” due to his participation at the Special Session. Videos containing death threats against him have been posted on the social networking site *Face book*; he has received numerous threatening text messages and has been vilified in television and radio shows and a number of editorials. The Prime Minister of Sri Lanka, Mr. Mahinda Rajapaksa allegedly stated in an interview on 7 June 2009 in *The Nation* that it was a betrayal by Mr. Deshapriya to talk against his own country and to say that Sri Lanka violates human rights, while countries like India, China and Russia were firmly standing by the Government. In an interview with *ITN TV* on 4 June 2009, Mr. Mahinda Samarasinghe, the Minister of Disaster Management and Human Rights allegedly did not object to the talk show host’s suggestion that Mr. Deshapriya should be expelled from the country for his intervention at the HRC Special Session. Mr. Deshapriya was the subject of urgent appeals sent on 7 June 2006 and 23 May 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A response from your Excellency’s Government to this communication was received on 27 June 2006.

2238. Concern was expressed that threats and harassment of, and intimidation against human rights defenders and journalists, including media smear campaigns, might be related to their legitimate activities in defense of human rights, in particular to their international advocacy and outreach efforts. Further serious concern was expressed that some of the threats might be related to their having cooperated with the UN Human Rights Council and Special Procedure mandate holders. Given the extent of the allegations, there is an overarching concern that the threats, attacks and media smear campaigns may form part of a broader attempt to delegitimize the activities of human rights defenders who are critical of actions and policies of the Government.

Observations

2239. The Special Rapporteur thanks the Government of Sri Lanka for its replies, but regrets that at the time of the finalization of the report, the Government had not transmitted any replies to a number of communications sent in 2010, 2009, 2008, 2007, 2006, 2005, and 2004. He considers response to his communications as an important part of the cooperation of Governments with his mandate. He urges the Government to respond to the concerns raised by him, and provide detailed information regarding investigations undertaken, subsequent prosecutions as well as protective measures taken.

(Excerpt from the original report)

http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.23.Add.1_AV.pdf

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REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

FRANK LA RUE

A/HRC/10/7/Add.1 - 17 February 2009

Addendum

Sri Lanka

Communications sent

75. On 5 August 2008 the Special Rapporteur sent an urgent appeal to the Government of Sri Lanka, concerning reports of mass forced evictions and demolitions of houses in Kompannaweediya, Colombo on 18 July 2008 and the threat of further forced evictions and demolitions in Kompannaweediya as well as in the Mahawatha area in Colombo. Concerning the situation in Kompannaweediya area, according to the information received, on 18 July 2008, armed police carried out forced evictions, affecting around 1770 residents of the Kompannaweediya area, including many children. These people were reportedly legal and long-standing residents in the area and had paid rates and taxes to the relevant authorities. The information received indicates that 47 houses were demolished and that the police engaged in disproportionate force including violence and the use of tear gas, against residents who were resisting the evictions. It is also alleged that during these events, one man was arrested. In response to a notice received on 11 July to vacate the area, community representatives petitioned the Supreme Court to halt the planned evictions. The notice cited security concerns in advance of the upcoming South Asian Association for Regional Cooperation (SAARC) summit. Although the Supreme Court issued an order on 18 July to maintain the status quo until 22 July, the police still carried out the evictions on 18 July. Later, the police asserted that they were unaware of the order, and ceased the evictions once they were informed of the order. 900 houses remain intact pending the outcome of the court case. Many people did not have time to recover possessions before the evictions took place. The affected residents have been assigned temporary alternative housing which is inadequate, as it reportedly lacks water, sanitation and electricity, and some of the housing was not even finished before the evictions were carried out. The information received alleges that there was no meaningful consultation about alternatives. The residents, who are reported to live in a situation of extreme poverty, are now in a heightened state of vulnerability and insecurity and many continue to live under the threat of eviction. Concerning the situation in the Mahawatha area, Colombo according to the information received: 400 families living along the railway line in the Mahawatha area of Colombo was ordered to vacate their houses by 28 July or 4 August (depending on when they received the letter of notice). In total, around 2,000 people would be affected by such evictions, including about 1,200 children. It is reported that the authorities did not consult the residents prior to delivering the eviction notices, and no alternative accommodation or compensation was offered. The residents have lived in the area for several decades and there is concern that these residents, who already live in a situation of extreme poverty, will be rendered homeless if these evictions take place.

Furthermore, it is alleged that a community leader who was organizing the community to oppose the evictions was abducted on 21 July. He was subsequently released but reportedly coerced to drop charges he had planned to bring before the court. Additionally, a court case has been lodged with the Supreme Court on 31 July concerning these evictions. Although 14 petitioners originally joined in this case, they

reportedly received threats, which led the majority of them to withdraw their names. Serious concern is expressed for the safety of persons attempting to claim their rights. It has since been reported that the Supreme Court found no violation of international law and it considered that the residents had been given enough notice according to national law.

On humanitarian grounds, it ordered the Attorney General to inform the railway authority to give the residents more time before imposing the evictions, but it is unclear how much time will be allowed. Additionally, alternative accommodation has still not been organized, and no compensation has been offered, according to the information received. In the context of the allegations, the Special Rapporteur emphasized that forced evictions without adequate resettlement and without compensation make it impossible for impoverished citizens to have access to the basic necessities of life such as the right to food, the right to housing, the right to education and the right to an adequate standard of living. In the case of the forced evictions in Kompannaweediya, it has been alleged that the resettlement of affected residents in the Mutwalarea is inadequate, lacking basic facilities such as water and sanitation. In the case of the proposed forced evictions in Mahawatha, it has been alleged that the affected families will be rendered homeless, as no resettlement plan has been prepared. It has also been alleged that neither group of residents have received adequate compensation, nor are plans in place to compensate them. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the grounds on which such forced evictions and demolitions were conducted, on the legal framework governing decisions in this regard; if there was any impact assessment carried out prior to the evictions; if the affected individuals and communities were consulted before the evictions were planned; if the communities and affected persons, in the view of the Government, were given adequate and reasonable prior notice before the eviction; if the communities and affected persons were given adequate and reasonable time to withdraw their belongings before the destruction of their residences; on the measures that have been foreseen by the authorities to ensure that the evictions do not result in homelessness of the affected persons and to relocate of the affected people. The Special Rapporteur also requested clarification on whether force was used during the evictions that took place on 18 July in Kompannaweediya, including details about any arrests of individuals, and charges against them; if there has been any investigation, medical examination, judicial or other inquiry into the allegations mentioned above; details about the case before the Supreme Court concerning the evictions in Kompannaweediya, including any subsequent decision about the 900 remaining houses and about the court case concerning the evictions at Mahawatha, and to what extent the verdict has been implemented; on the steps taken to ensure that persons attempting to claim their rights are not threatened or harassed in any way, and that their rights are protected; and in the event that any alleged perpetrator(s) were identified, the full details of any prosecutions which have been undertaken; any sanctions that have been imposed on the alleged perpetrator.

76. On 13 November 2008 the Special Rapporteur sent an allegation letter to the government of Sri Lanka concerning information received regarding the planned eviction of families from at least 11 tsunami transitional shelter sites in Moratuwa and Ratmalana Divisions: "The affected tsunami transitional shelter sites are Sunandopananda Vidyalaya, Roman Catholic School, Lunawa Rest House, Korlawella Playground, Sugatha Dharmadara Vidyalaya, Salu Sala, Molpe Sobitha School, Jagapura in the Moratuwa DS Division (Common Building) and Karmantha Pura and Kotalawala (Common Building) in the Ratmalana DS Division. Reports received indicate that the transitional shelter scheme under the Tsunami Housing Policy has been an effective and widely used means of temporarily providing shelter and other basic services to families affected by the devastating effects of the Tsunami in Sri Lanka in December 2004. It is reported that, since early 2008, many families have been able gain access to adequate housing through grants from the Government of Sri Lanka. The information received indicates that the Tsunami Housing Policy allegedly entitles everyone who lost a house in the disaster to receive a ready built house or a cash grant to build a house, regardless of the shelter they had in the past. It is alleged that the Tsunami Housing Policy awards a single grant to a household without considering the number of people constituting the household. Therefore, according to the information provided, the assistance given to large households has been insufficient and extended families were allegedly forced to remain in the transitional shelters. Additionally, the Tsunami Housing Policy allegedly states that tenants are not eligible to receive housing assistance. The Tsunami (Special Provisions) Act (2005) allegedly states that rent agreements between landlord and tenant remain valid even if that house was completely destroyed during the Tsunami. The information provided indicates that tenants are disqualified from housing assistance because of their old agreements yet are often unaware of their rights or unable to enforce them in respect of their agreements with their old landlord. Reports received also indicate that no adequate consultation was conducted with the affected families at any stage.

Additionally, these groups of people were reportedly not provided with any arrangements for relocation or assistance and are consequently facing loss of shelter and destitution. Reportedly, extended families and tenants form the majority of the residents who have been served notice of eviction for 10 October 2008

from the above listed transitional shelters. Additionally, some groups of people were subject to a de facto eviction when basic services such as the electricity supply and sanitation facilities in some of the shelters were discontinued on 10 September 2008.

According to the information provided, the planned evictions will impact upon around 499 families in 10 of these shelter sites (excluding the Kotalawala (Common Building)). It is reported that a directive stating that members of extended families and former tenants are eligible for assistance that was issued by your Excellency's Government to all Divisional Secretaries has not been followed in this respect. It is reported that the Salu Sala Shelter is one of the transitional shelters in Moratuwa which is affected by the eviction notice awarded by the Divisional Secretary of Moratuwa. Allegedly, around 90 families of those remaining in Salu Sala Transitional Shelter were tenants or members of extended families and have not received any assistance or offer of relocation from the government. It is alleged that the only group in the Salu Sala transitional shelter site who had received an offer of relocation were another 11 families also occupying the shelter because the alternative housing already provided to them was inadequate and lacked basic facilities such as water and sanitation; however, it is alleged that there have been long delays with these grants. As referred to above, the Government Agent of Colombo has allegedly issued a directive to all Divisional Secretaries under his authority, stating that all renters and extended families affected by the Tsunami are eligible to receive grants from the Government of Sri Lanka in order to buy land and build houses. However, it seems that the directive has not been followed by the Divisional Secretary of Moratuwa. Additionally, some community representatives who allegedly met with the Divisional Secretary were arrested and now allegedly face court proceedings and possible criminal charges because of their attempt to advocate on behalf of their community on these issues. While the action of the authorities to address the plight of victims of the Tsunami is commendable, the alleged facts of the "de facto" eviction of families through the discontinuing of basic services in some transitional shelters in the Moratuwa and Ratmalana divisions and the proposed eviction of the others remaining in these transitional shelters may be a matter of concern regarding the obligations of Sri Lanka to the right to adequate housing. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information if any complaint has been lodged; on details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case; in the event that the alleged perpetrators were identified, full details of any prosecutions that have been undertaken and sanctions that have been imposed on the alleged perpetrators; and whether compensation has been provided to the victim or the family of the victim."

Response received

77. On 4 September 2008 the Government of Sri Lanka sent a response to the communication dated 5 August 2008. The Government provided information on the alleged mass forced evictions and demolitions of houses in Kompannaweediya (Slave Island) as well as in the Mahawatha area in Colombo. According to this information: "Some families have been living in unauthorized structures built on government owned reservation lands in Glenic Street and houses in Kompannaweediya (Slave Island) as well as in the Mahawatha area in Colombo. The Urban Development Authority, the Government body authorized to deal with such issues, issued advance notice on them to vacate the areas. The areas under reference are situated within the High Security Zone in Colombo and the Government has already initiated a project to construct 1,000 houses in Dematagoda, a suburb in Colombo at a cost of Rs 1 million for each dweller of Slave Island and the work is due to be completed by the end of March next year. When these dwellers did not comply with the notice, the Urban Development Authority using the powers vested on it by statute, started to demolish the unauthorized structures, the Urban Development Authority had informed the dwellers of the demolition of their unauthorized constructions well in advance. According to the Urban Development Authority, these people had given their consent in writing to move to a new place provided by the Government. However, a tense situation occurred when the demolitions began and the Police were compelled to use minimum force to manage the unruly crowds in order to maintain law and order. The dwellers had also petitioned the Supreme Court in a fundamental rights case against their eviction from unauthorized lands.

The Supreme Court dismissed the petition on 19 August 2008. By this time, all but 21 families had moved into the new place provided by the Government. Following the dismissal of the Fundamental Rights case, the balance occupants in Glennic Street agreed either to accept temporary houses in Totalanga area in Colombo, or receive one year rental fees until the Dematagoda housing complex is ready for occupation. The Urban Development Authority gave more time to the occupants to vacate in view of the forthcoming Ramazan festival. Already 154 families had moved to the temporary shelters at Thotalanga, while 155 families obtained a sum of Rs. 101,000 each including one year's rental of Rs 96,000 plus an allowance of Rs 5,000 provided to transport their belongings."

Observations

78. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication dated 13 November 2008.

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/109/71/PDF/G0910971.pdf?OpenElement>

<http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx>

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JOINT STUDY ON GLOBAL PRACTICES IN RELATION TO SECRET DETENTION IN THE CONTEXT OF COUNTERING TERRORISM

**SPECIAL RAPPORTEUR ON THE HUMAN RIGHT AND FUNDAMENTAL FREEDOMS WHILE
COUNTERING TERRORISM - MARTIN SCHEININ**

**SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT - MANFRED NOWAK**

WORKING GROUP ON ARBITRARY DETENTION - VICE-CHAIR SHAHEEN SARDAR ALI

WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES - CHAIR JEREMY SARKIN

A/HRC/13/42* - 20 May 2010

Summary

The present joint study on global practices in relation to secret detention in the context of countering terrorism was prepared, in the context of their respective mandates, by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention (represented by its Vice-Chair), and the Working Group on Enforced and Involuntary Disappearances (represented by its Chair). Given that the violation of rights associated with secret detention fell within their respective mandates, and in order to avoid duplication of efforts and ensure their complementary nature, the four mandate holders decided to undertake the study jointly.

In conducting the present study, the experts worked in an open, transparent manner. They sought inputs from all relevant stakeholders, including by sending a questionnaire to all States Members of the United Nations. Several consultations were held with States, and the experts shared their findings with all States concerned before the study was finalized. Relevant excerpts of the report were shared with the concerned States on 23 and 24 December 2009.

In addition to United Nations sources and the responses to the questionnaire from 44 States, primary sources included interviews conducted with persons who had been held in secret detention, family members of those held captive, and legal representatives of detainees. Flight data were also used to corroborate information. In addition to the analysis of the policy and legal decisions taken by States, the aim of the study was also to illustrate, in concrete terms, what it means to be secretly detained, how secret detention can facilitate the practice of torture or inhuman and degrading treatment, and how the practice of secret detention has left an indelible mark on the victims, and on their families as well.

4. Secret detention in Asia

82. In Sri Lanka, the protracted conflict between the Government and the Liberation Tigers of Tamil Eelam (LTTE) has perpetuated the use of secret detention.¹³⁰ In general, Sri Lankan army officials, dressed either in military uniform or civilian clothes, would arrest ethnic Tamils and hold them in secret places of detention for a week or longer. One such location mentioned in the report of the Special Rapporteur on torture was an army camp located off Galle Road, Kollupitiya, Colombo. The detainees were often interrogated under torture, the purpose of which was to make them confess their involvement with the LTTE.¹³¹ In 1992, the Government adopted a law giving more power to the armed forces and authorizing

the use of secret detention camps.¹³² Although the emergency regulations subsequently issued in June 1993 outlawed secret detention, there were reliable reports indicating that people continued to be held in undisclosed places where torture was practised, and no action was taken against the perpetrators.¹³³

83. In the Philippines, the practice of secret detention or “safe houses” was not formally banned until the establishment of the Presidential Committee in 1986.¹³⁴ These practices were not uncommon in the preceding years during the presidency of Ferdinand Marcos, especially when martial law was in force.

V. THE NATURE AND SCOPE OF SECRET DETENTION PRACTICES IN RELATION TO CONTEMPORARY REGIONAL OR DOMESTIC COUNTER-TERRORIST EFFORTS

A. Asia

167. With regard to Asia, the experts gathered information about secret detention in China, India, the Islamic Republic of Iran, Nepal, Pakistan, the Philippines and **Sri Lanka**, where anti-terrorist rhetoric is invoked to justify detention.

7. Sri Lanka

197. United Nations human rights mechanisms and non-governmental organizations have expressed serious concerns with regard to abductions by police and military personnel, detention at undisclosed locations, and enforced disappearances. Concerning the latter phenomenon, the Special Rapporteur on extrajudicial, summary or arbitrary executions stated in the report on his visit in December 2005 to Sri Lanka that he was very disturbed to receive reports that appeared to indicate a re-emergence of the pattern of enforced and involuntary disappearances that had so wracked Sri Lanka in the past.³⁸⁸ He specifically referred to complaints of Tamil youths being picked up by white vans, allegedly with the involvement of security forces. In its 2008 report, the Working Group on Enforced and Involuntary Disappearances remarked that it remained gravely concerned at the increase in reported cases of enforced disappearances in the country.³⁸⁹ Specific cases of Tamil men, possibly suspected of links to the Liberation Tigers of Tamil Eelam (LTTE), reportedly taken to undisclosed places of detention by security forces in a white van without a number plate and since then disappeared have been brought to the attention of the Government by special procedures and non-governmental organizations, without receiving a response.³⁹⁰ The Tamileela Makkal Viduthalai Pulikal-Karuna group, a break-away faction of the LTTE ³⁸⁶ Testimony reflected (and found credible) in the decision on the Supreme Court of 8 October 2008. In a communication to five special procedures mandate holders of 16 July 2009, however, the Government stated that the “non-cooperation of the victims’ families with the Philippines National Police impedes the process of uncovering the truth on said case”. ³⁸⁷ In the communication to five special procedures mandate holders of 16 July 2009, the Government argued that “the Philippine National Police cannot identify nor apprehend the perpetrators basing only on nebulous allegations without any substantial or corroborating evidence from witnesses. At this point, allegations pointing to the military behind the abduction, and the reported torture, sexual assaults ... and burning to death ... are without any basis.” supported by the Government, was also reported to be responsible for abductions of LTTE representatives and civilians in the area around Trincomalee.³⁹¹

198. In its concluding observations on Sri Lanka, the Human Rights Committee expressed its regret regarding impunity for abductions and secret detentions. The Committee stated that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, had been inconclusive owing to a lack of satisfactory evidence and the unavailability of witnesses, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture, and only very few police or army officers had been found guilty and punished.³⁹² The Committee also noted with concern reports that victims of human rights violations felt intimidated about bringing complaints or had been subjected to intimidation and/or threats, which discouraged them from pursuing appropriate avenues to obtain an effective remedy.

199. While the conduct of the security forces in “white van” abduction cases is most likely unlawful and criminal also under the law of Sri Lanka, the Special Rapporteur on torture³⁹³ and the International Commission of Jurists have drawn attention to the far-reaching powers of arrest and detention that anti-terrorism laws and ordinances bestow upon the Sri Lankan security forces.³⁹⁴ Under Emergency (Miscellaneous Provisions and Powers) Regulation No. 1 of 2005, persons “acting in any manner prejudicial to the national security or the maintenance of public order” may be arrested and held in detention for up to one year, without access to judicial review by an independent body. Persons may be similarly detained for up to 18 months under the Prevention of Terrorism (Temporary Provisions) Act of 1979 or indefinitely, pending trial. Persons can be held in irregular and unpublicized places of detention,

outside of a regular police station, recognized detention centre, penal institution or prison. Detainees may be moved from place to place during interrogation and denied prompt access to a lawyer, family members or authority competent to challenge the legitimacy of detention.³⁹⁵ Section 15(A)(1) of the act, for instance, enables the Secretary to the Minister for Defence to order that persons held on remand should be "kept in the custody of any authority, in such place and subject to such conditions as may be determined by him".³⁹⁵ As a result of his visit to Sri Lanka in November 2007, the Special Rapporteur on torture concluded that torture had become a routine practice in the context of counter-terrorism operations, both by the police and the armed forces.³⁹⁶

200. Responding to questions raised during the universal periodic review process in May 2008, the Attorney General of Sri Lanka stated that, notwithstanding the serious nature of the security situation prevailing in Sri Lanka resulting from a reign of terror unleashed by the most ruthless terrorist organization in the world, the LTTE, it was not the policy of the State to adopt and enforce extraordinary measures outside the framework of the law. He stressed that the Government steadfastly insisted that all agents of the State should necessarily carry out arrests, detentions and investigations, including interrogations, in accordance with the due process of the law. With regard to allegations of a pattern of disappearances, the Government was studying credible reports to identify the magnitude of the problem and the possible identities of perpetrators. The Attorney General assured the Human Rights Council that it was not the policy of the State to illegally and surreptitiously arrest persons and detain them in undisclosed locations.³⁹⁷

201. Since the Government announced its victory over the LTTE in May 2009, reports have drawn attention to the detention of more than 10,000 persons suspected of having been involved with the LTTE. Human Rights Watch reported that it documented several cases in which individuals had been taken into custody without regard for the protection provided under Sri Lankan law. In many cases, the authorities had not informed family members about the whereabouts of the detained, leaving them in secret, incommunicado detention or possible enforced disappearance.³⁹⁸ ICRC was reportedly barred from the main detention camps for displaced persons.³⁹⁸ Amnesty International expressed the same concern about an estimated 10,000 to 12,000 individuals suspected of ties to the LTTE, who are or have been detained incommunicado in irregular detention facilities operated by the Sri Lankan security forces and affiliated paramilitary groups since May 2009.³⁹⁹ page 101 supported by the Government, was also reported to be responsible for abductions of LTTE representatives and civilians in the area around Trincomalee.³⁹¹

(Excerpt from the original report)

http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.13.42_re-iss.pdf

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COMMUNICATIONS REPORT OF SPECIAL PROCEDURES*

A/HRC/20/30 – 15 June 2012

Communications sent, 1 December 2011 to 15 March 2012;
Replies received, 1 February 2012 to 15 May 2012

II. Communications sent and replies received

A. Communications sent between 1 December 2011 and 15 March 2012 and replies received by 15 May 2012

Date : 01/12/2011 AL
Case No LKA 9/2011
Mandate(s) Summary executions;
Summary of the allegation transmitted :

Alleged extra judicial killings committed by law enforcement officials. The following cases were brought to the attention of the Government (a) The case of Mr. Nuwarapakshage Madushanka, who died on 9 September 2011. On 6 September 2011, several police officers attached to the Koswatte Police Station went to the house of Mr. Madushanka's mother and informed her that her son had died. When she went to collect her son's body Army officials informed her that her son had committed suicide. A post mortem conducted revealed that he had suffered a fracture to his spinal code. It was determined that the cause of

death was a continuous haemorrhage, it was estimated he had bled for five hours; (b) the case of Mr. Asaka Botheju of Panagoda who was arrested at Koswatte, Athurugiriya on 11 August 2011. His body was found in the Kelani River. Police officials explained that Mr. Botheju died after he jumped into the Kelani River in the Nawagamuwa area. The incident occurred when Mr. Botheju was taking the police to a place where he had hidden a T-56 firearm (c) the case of Mr. Perumal Sivakumara, aged 32, of Kalpitiya Road, Norochhole, Puttalam District who was allegedly assaulted by the police on 22 August 2011. He died on 23 August 2011 from injuries sustained; (d) the case of Mr. Pichchei Jesudasan aged 36, of Magastora, Nuwara Eliya District who died in custody on 15 October 2011. On 13 October 2011, Mr. Jesudasan was found lying on the ground with a discharge of mucus and saliva. He later died, prison officials indicated from a heart attack.

Date : 14/12/2011 JAL
Case No LKA 10/2011
Mandate(s) Torture; Violence against women;

Summary of the allegation transmitted :

Alleged rape of Internally Displaced woman. According to information received, Ms. TKP is a 28 year old Internally Displaced woman of Tamil origin from Vishvamadhu (Mullaitheevu district) Sri Lanka. She was allegedly beaten and raped by two military men on 6 June 2010. The case was allegedly reported to the commander of the 12th mile post army camp on 7 June 2010 who reportedly offered Ms. TKP money in order to dissuade her from pursuing her case any further. It is also reported that on 7 June 2010, Ms. TKP lodged another complaint with the police. It is further alleged that the case was taken up by the Kilinochichi district court on 14 June 2010 where the victim gave her testimony reportedly in the presence of more than 100 military men inside the court. Medical results by the Vavuniya hospital which reportedly confirmed that she was raped were also presented to the court. On 16 July 2010, the case was committed to the Jaffna High Court.

Date : 29/12/2011 JAL
Case No LKA 11/2011
Mandate(s) Disappearances; Freedom of expression; Freedom of peaceful assembly and of association; Human rights defenders; Violence against women;

Summary of the allegation transmitted :

Allegations of detention and acts of intimidation against a group of human rights and political activists who were planning to attend a peaceful protest in Jaffna on the occasion of Human Rights Day. According to the information received, on 10 December 2011, 42 human rights and political activists from the south of the country were prevented by security forces from joining a peaceful protest in Jaffna to mark Human Rights Day. They were detained for a couple of hours, and their materials confiscated and never returned. A number of activists also faced acts of intimidation from police officers.

Date : 01/03/2012 JUA
Case No LKA 1/2012
Mandate(s) Disappearances; Freedom of expression; Freedom of peaceful assembly and of association; Human rights defenders; Summary executions;

Summary of the allegation transmitted :

Allegations of excessive use of force against peaceful protestors and undue restrictions on the rights to freedom of peaceful assembly and expression. According to the information received, law enforcement authorities have repeatedly used excessive force against peaceful demonstrators protesting against the increase of fuel prices, the Employees' Pension Benefits Fund Bill, and alleged attacks against women belonging to minorities by the military. Human rights and political activists were also prevented by law enforcement authorities from participating in a peaceful protest organized by a platform of civil society organizations working on cases of disappearances and abduction. Media organizations staging a peaceful protest which called for the authorities to investigate into attacks over the past years on media personnel and institutions, were forced to change the venue of their protest, whereas counter-protestors (pro-government groups), some armed with clubs, could demonstrate at the initial venue. Reportedly, the military unduly requires advance notification prior to any meetings, and attends meetings to which it was not invited with a view to intimidating the participants.

Date Type 01/12/2011 JUA
Case No / Country LKA 9/2011 Sri Lanka
Mandate(s) Summary executions;
Summary of the allegation transmitted

Date Type 01/12/2011 AL
Case No / Country LKA 9/2011 **Sri Lanka**
Mandate(s) Summary executions;
Summary of the allegation transmitted

Date Type 01/12/2011 AL
Case No / Country LKA 9/2011 **Sri Lanka**
Mandate(s) Summary executions;
Summary of the allegation transmitted

Date Type 01/12/2011 AL
Case No / Country LKA 9/2011 **Sri Lanka**
Mandate(s) Summary executions;
Summary of the allegation transmitted

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GENERAL ASSEMBLY SECURITY COUNCIL
REPORT OF THE SECRETARY-GENERAL

Sri Lanka

Sixty-sixth session - Agenda item 34 - Prevention of armed conflict

United Nations A/66/657*-S/2012/33* - 13 January 2012

Conflict-related sexual violence

65. Following the end of conflict in Sri Lanka, concerns have been expressed about the vulnerability of women and girls to sexual violence in the former conflict affected areas. In addition to the large-scale movement of displaced persons out of the camps in Menik Farm, the high level of militarization of the areas of return requires careful attention, given that thousands of women now head households on their own. Related concerns have been consistently raised, including with the Government of Sri Lanka. According to the Government, there is a considerable number of war widows in the north and east.

66. As highlighted in the joint plan of assistance for 2012, the Government has recognized the importance of addressing sexual violence as part of its response to humanitarian needs in the areas of return, in partnership with relevant stakeholders. The Government's commitment to addressing concerns relating to sexual violence in post-conflict Sri Lanka is an essential measure whose full implementation could contribute positively to reconciliation in the country.

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REPORT OF THE SECRETARY-GENERAL
CHILDREN AND ARMED CONFLICT

United Nations A/65/820-S/2011/250

General Assembly Sixty-fifth session- Security Council Sixty-sixth year

23 April 2011

II Information on progress made by parties to conflict on dialogue and action plans to halt the recruitment and use of children, patterns of killing and maiming of children or rape and other forms of sexual violence against children in armed conflict

Sri Lanka

25. In 2010, sustained efforts were made by the United Nations throughout the year to encourage the full implementation and completion of the action plan signed by the Tamil Makkal Viduthalai Puligal (TMVP), the Government of Sri Lanka and UNICEF in December 2008. The working group established in Batticaloa in January 2009, comprised of representatives from the local administration, the police, the Sri Lankan army, the Department of Probation and the United Nations, met on a monthly basis to follow up on their commitments in accordance with the action plan. Between June and July 2010, meetings were also held between the Police Department, Iniya Barrathi (former element of the Karuna faction) and the United Nations, to advocate and advance progress on the release of children who remain associated with the group. This resulted in an investigation being carried out on 30 August 2010 by the National Child Protection Authority and its police section, upon request of the Ministry of Foreign Affairs, to establish the whereabouts of these children. Although a request for a full investigation into allegations of recruitment and use of children by Iniya Barrathi was lodged with the Government after the visit of Special Envoy Patrick Cammaert, limited progress has been made to date.

III Information on progress made in the release of children from armed forces and armed groups

48. Since 1 December 2008, 122 children have been reported as released by TMVP, including 32 boys released in 2010.

IV Information on grave violations committed against children in armed conflict

B Information on grave violations against children in situations not on the agenda of the Security Council or in other situations of concern

Developments in Sri Lanka

184. Child recruitment has come to an end in Sri Lanka, with the last case reported in October 2009. This is owing both to the defeat and disbanding of LTTE, responsible for most of the child recruitment cases reported in Sri Lanka, and the commitments of the Government of Sri Lanka and TMVP to release children recruited previously by TMVP. Nevertheless, the whereabouts of some children recruited by armed groups remain unknown, including some who are now adults. With regard to LTTE, as at the end of December 2010, the number of persons unaccounted for was 1,373, including 15 who are still children. With regard to TMVP, the total number of pending cases is 13 boys, including 5 who were under the age of 18 years at the time of the signature of the TMVP action plan. On 30 August 2010, upon the request of the Ministry of Foreign Affairs, the National Child Protection Authority and its police section, an investigation was initiated to establish the whereabouts of the five boys who remain associated with TMVP (former elements of Karuna faction, under the command of Iniya Barrathi). The National Child Protection Authority investigation, completed on 14 January 2011, could not ascertain the whereabouts of these missing persons. This is the case despite the fact that, according to the report of the Special Envoy of my Special Representative for Children and Armed Conflict on his mission to Sri Lanka in February 2008, the abductions by the then Karuna faction took place exclusively in government-controlled areas. The report pointed to the fact that these children spent time in one of several camps of the then Karuna faction near the town of Welikanda (Polonnaruwa district), located in a government-controlled area. The Authority concluded with a recommendation to further investigate on the basis of information provided by families of the missing boys, as well as by a former LTTE member who was reportedly responsible for child abduction and recruitment in the past. The report of the National Child Protection Authority also recommended death certificates be issued for these persons, which, in accordance with Sri Lankan law, can be done once a person has been missing for over seven years. However, these 13 boys were abducted and last seen between 2006 and 2009, which is at most five years ago. It is hoped that Parliamentary Bill No. 52, which allows registration of death after one year owing to terrorist or subversive activities, would not prevent further investigations into these cases. In addition, the National Child Protection Authority investigation did not make any reference to Iniya Barrathi or his involvement in the recruitment or abduction of the missing persons. At the time of writing, no prosecution against persons allegedly responsible for child recruitment has been initiated, and repeated appeals to open a case against Iniya Barrathi for child recruitment by the United Nations country team and the Office of my Special Representative for Children and Armed Conflict have not been actioned.

185. In 2010, 28 incidents related to mine and explosive remnants of war were recorded, killing 5 children and injuring 16, including 5 girls (compared to 12 child casualties in 2009). Nevertheless, the casualty rate remains relatively low, especially in the light of the high level of contamination in returnee areas. The presence of approximately 585 suspicious items were reported by communities, which were subsequently removed by demining agencies during the reporting period.

186. There were allegations of sexual violence across the four districts in the north (Killinochchi, Mullativu, Vavuniya and Mannar) among the displaced communities. Women and girls have reported lack of safety owing to the presence of members of the Sri Lankan Army or local officials, some of whom have been reported to have returned to the communities at night wearing civilian clothes and requesting sexual favours. However, protection monitoring and participatory assessments suggest that incidents of sexual violence remain underreported for fear of retribution by perpetrators.

187. The situation of schools that were occupied and used by the Sri Lanka security forces improved in 2010, although a number of schools remain affected. The schools are used for a variety of purposes, such as barracks for the Sri Lanka security forces, as transit sites for displaced persons who have left the IDP camps but cannot yet return to their places of origin (mostly owing to the presence of mines and explosive remnants of war), or to detain adult “separates” (persons identified by the Sri Lanka security forces as formerly associated with LTTE but not formally charged). Sustained advocacy was undertaken with the relevant local and national military and civilian authorities to resolve this issue, and the Government has made repeated commitments to resolve the situation.

188. Access for humanitarian partners is progressively improving, although difficulties continued to be experienced on several occasions. In particular, the strict implementation of Ministry of Defence orders requiring clearances to access conflict-affected areas across the Northern Province for all United Nations agencies, international organizations and international and national NGOs that was implemented in June 2010 delayed implementation of some projects in the region. Following engagement, including with the Presidential Task Force for Resettlement, Development and Security in the Northern Province, the United Nations is now in possession of clearance for six months at a time, and NGOs have obtained permissions for varying durations. However, this process has resulted in delays and disruption in the implementation of some activities at a critical time of the return process of displaced persons, and has had a direct impact on child protection projects. The approval of most child protection projects, including support to communities to prevent, identify and respond to vulnerabilities and issues affecting children, continues to be problematic. On a positive note, following discussions on the Government-led Joint Plan for Assistance for the Northern Province for 2011, child protection activities were included as a priority.

189. The Government established a family tracing and reunification unit for unaccompanied and separated children in Vavuniya (Northern Province) on 22 December 2009. As at the end of December 2010, 662 requests for tracing missing children (including 293 girls) had been filed by parents and families, 21 of which have been reunified and 32 are in the process of reunification. The verification of an additional number of cases is in progress. In 2010, the unit also developed a plan to undertake tracing activities in hospitals, children homes and police posts across Sri Lanka. *(Excerpt)*
<http://www.un.org/children/conflict/documents/S2011250.pdf>

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ANNUAL REPORT SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR CHILDREN AND ARMED CONFLICT

RADHIKA COOMARASWAMY

A/HRC/15/58 - 3 September 2010

Sri Lanka

51. On behalf of the Special Representative, Special Envoy Cammaert visited Sri Lanka between 6 and 11 December 2009. The Special Envoy was particularly concerned about the confinement of displaced children in closed camps and the reintegration of children formerly associated with armed groups. He also expressed concern about cases of recruitment and re-recruitment of children by Iniya Barathi (who was part of the Tamil Makkal Viduthalai Puligal (TMVP) breakaway faction, under Karuna’s leadership) in the Eastern province.

52. The Sri Lankan Government agreed to increase freedom of movement for the internally displaced population and reaffirmed its zero tolerance policy with regard to child soldiering. With regard to children recruited by the TMVP, the Special Envoy received the assurance of Chief Minister Santhirakanthan (a.k.a. Pillayan) as well as Minister Muralidharan (a.k.a. Karuna) that they will expedite the remaining cases, in accordance with the action plan signed between the Government of Sri Lanka and the United Nations in December 2008 to halt child recruitment.

53. In light of the Special Envoy's concern that hundreds of children are still missing or separated from their parents and should be reunited as soon as possible, the Sri Lankan Government established a family tracing and reunification unit in Vavuniya in December 2009. With regard to former child soldiers, by May 2010 most of the children had returned home to their families. (*Excerpt from the original report - United Nations A/HRC/15/58*)

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UN REPORT WARNS OF DISTURBING TREND OF ATTACKS AGAINST SCHOOLS DURING ARMED CONFLICTS

UN News Centre, 11 May 2011 – An increasing number of parties to armed conflicts around the world are deliberately attacking schools or forcing them to close in a disturbing and growing trend, according to a United Nations report released today.

The annual report of the Secretary-General's Special Representative for Children and Armed Conflict finds that out of 22 conflicts that were monitored, attacks against schools and hospitals were reported in at least 15.

The physical damage or destruction of schools is the most re-occurring violation, but there are also reports of schools being closed because of military occupation or direct threats. "The infrastructure of schools have been physically destroyed by armed actors, and students and educational personnel have been attacked, threatened or intimidated," the report states.

"In some situations, girls and girls' schools have been specifically targeted. The use of schools by armed elements has, in certain circumstances, compromised the civilian nature of schools and put students at risk."

The report recommends that the Security Council agrees to add the armies, rebel militia and other insurgent groups that target schools to its "list of shame" that already includes groups that recruit or use child soldiers, kill or maim children or commit acts of sexual violence against them.

Issuing the report today, Radhika Coomaraswamy, the Secretary-General's Special Representative, **stressed** that schools must always be safe places of learning for children.

"They should be zones of peace. Those who attack schools and hospitals should know that they will be held accountable," she said.

No parties were taken off the shame list in the report, which covers 2010, but four more were added – two in Yemen and two in Iraq. The Yemeni groups named were pro-Government tribal militia and al-Houthi rebels, both for recruiting and using child soldiers. The Iraqi groups cited were the insurgent group known as the Islamic State of Iraq, and Al-Qaida in Iraq, including its armed youth wing known as the Birds of Paradise.

Ms. Coomaraswamy told journalists that naming and shaming parties was important because it acted as a catalyst for them to change their practices, and in some cases has led to the framing of action plans for ending the recruitment and use of child soldiers.

In Afghanistan, the UN and the Government recently reached an agreement to release children from the Afghan national security forces and to put in place age verification measures to prevent under-age recruitment.

Progress has also been made in the Philippines, Sudan and Somalia, and Ms. Coomaraswamy said she was encouraged that more and more parties on the shame list are approaching the UN to enter into an action plan. Overall, the Special Representative stressed, 2010 was “another tragic year” for the world’s youngsters.

The report stressed that all parties to conflict, including international forces mandated to intervene, must meet their obligations under international humanitarian and human rights law.

The report examined armed conflicts last year in Afghanistan, Burundi, the Central African Republic (CAR), Chad, Colombia, Côte d’Ivoire, the Democratic Republic of the Congo (DRC), Haiti, India, Iraq, Lebanon, Myanmar, Nepal, the occupied Palestinian territories and Israel, Pakistan, Philippines, Somalia, **Sri Lanka**, Sudan, southern Thailand, Uganda and Yemen.

Parties in Sri Lanka

1. Tamil Makkal Viduthalai Pulikal (TMVP) (Iniya Barrathi faction)*

Pro-government tribal militia*

<http://www.un.org/apps/news/story.asp?NewsID=38343&Cr=children&Cr1=armed+conflict>

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SPECIAL RAPPORTEUR ON INDEPENDENCE OF JUDGES AND LAWYERS GABRIELA CARINA KNAUL DE ALBUQUERQUE E SILVA

A/HRC/14/26/Add.1. – 20 May 2010

Country Communication	Subject Sent	Nature of violation of Communication	Reply alleged
38 Sri Lanka	JUA (2), JAL (1) Individuals (5) Access to lawyer (3)		Reply received (1) No response (2)

SRI LANKA

Communication sent

987. On 7 April 2009, the Special Rapporteur sent an allegation letter jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concerning Mr. Sunil Shantha. According to the information received:

988. At 2:30 p.m. on 1 March 2009, three police officers went to Mr. Sunil Shantha’s home. When he identified himself, one of the police officers grabbed him by his stomach, while the other two officers grabbed him and forced his hands to the back. He was then assaulted on the face, back and stomach, and dragged along the road to a police jeep, where they made him sit on the floor with his legs shackled.

989. Once they arrived at the Meegahatenna Police Station, the police officers assaulted Mr. Shantha with a pole because he was unable to get out of the jeep. Once inside, Mr. Shantha’s hands were tied with a rope, and a pole was put through his arms and legs, and lodged between two tables. This method of hanging is locally known as the Dharma Chakra, or wheel of enlightenment. Mr. Shantha was continuously asked to return stolen goods, allegations which he denied.

990. For the next two days, Mr. Shantha was left in the same room with his left leg shackled to one of the table legs, and his right hand to another. During this time, he was given neither food nor water, nor was he allowed to go to the bathroom. He also gave a statement to the Sub-Inspector and signed a piece of paper without knowing what was written on it.

991. On 3 March, he was taken to the Meegahatenna Hospital, where he was examined. The doctor who saw him recommended that he be admitted, but he was taken back to the Meegahatenna Police Station. At about 5:30 p.m., he was presented before the Mathugama Magistrate, and threatened by the Sub-Inspector if he mentioned the assault. The Magistrate informed Mr. Shantha that there were two charges of theft and one of assault against him.

992.Mr. Shantha's lawyer informed the Magistrate that he had been assaulted by the police, and he referred him to the Prison Hospital in Kalutara, where he received medical treatment until 11 March. When Mr. Shantha appeared again in court, his legal representative did not appear. She later informed Mr. Shantha's family that she had been threatened by the police. On 13 March, Mr. Shantha was sent home.

993.On 16 March, a complaint was sent to the chairperson of the National Human Rights Commission, the National Police Commission, the Inspector General of Police, the Attorney General and the Senior Superintendent of the Kalutara Police.

Communication received

994.At the time this report was finalized, no response to this communication has been received.

Communication sent

995.On 26 May 2009, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment regarding Dr. Thangamutha Sathiyamoorthy, the regional director of health services in Kilinochchi, Dr. Thuraijaya Varatharajah, the regional director of health services in Mullaitivu, and Dr. V. Shanmugarajah, medical superintendent at Mullivaaykkaal field hospital. According to the information received:

996.Dr. Sathiyamoorthy, Dr. Varatharajah and Dr. Shanmugarajah are Government employed and had been treating the sick and wounded in the conflict zone in North-eastern Sri Lanka until they left the "No Fire Zone" with approximately 5,000 other civilians on 15 May 2009. The Sri Lankan Army (SLA) detained the three doctors on 16 May 2009, under the broad arrest and detention powers of security forces pursuant to the Prevention of Terrorism Act. The physicians were last seen on the morning of 15 May 2009 at a holding area at Omanthai check point. An official of the Ministry of Health stated on 18 May Government forces handed over the physicians to the police.

997.Dr. Shanmugarajah and Dr. Sathiyamoorthy are apparently currently held at a detention centre of the Terrorist Investigation Division (T.I.D) in Colombo. However, their relatives are not aware of their exact whereabouts and neither has had access to a lawyer. Dr. Varatharajah was seriously injured and is reported to have been airlifted by the Sri Lankan Air Forces (SLAF) from the Omanthai check point to an unknown destination.

998.While working in the conflict zone, the doctors provided detailed eyewitness reports to the media and the international community from hospitals and makeshift medical centres. Their reports detailed the suffering of ordinary civilians, many of whom died from war-related injuries. Their reports also highlighted continuous shelling of areas with large concentrations of non-combatants.

999.Concerns are expressed that the three doctors may be held in reprisal for providing information about the situation of civilians in the conflict zone. In view of their reported incommunicado detention at unknown places of detention, which could put them at risk of enforced disappearance, and in view of the reported serious injuries of Dr. Varatharajah, grave concerns are expressed as regards their physical and mental integrity.

1000. Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

1001. In letters dated 28 May 2009, 15 July 2009 and 3 August 2009, the Government responded to the communication sent on 26 May 2009, which are summarized as follows:

1002. Dr.Thangamuththu Sathiyamoorthy, Dr. Veerakethipillai Shanmugarajah and Dr. Thurairajah Varatharajah surrendered to the Army when they have arrived at Omanthai check point on 15 May 2009. Dr. Thurairajah Varatharajah who was injured at the time of surrender was admitted to the General Hospital Colombo on the same day. Later he was discharged (6 June 2009). All the doctors were detained under section 19 (1) of the Emergency Regulation on charges of their alleged links with the proscribed LTTE organization, disseminating false information to the international media and supplying medicine including medical equipment to the LTTE from Government hospitals. All the doctors are presently in the protective custody of the Criminal Investigation Department (CID) headquarter Colombo, pending completion of investigation.

1003. Dr. Thurairajah Varatharajah had been visited by ICRC representatives on 28 May 2009 and on 6 June 2009. The spouse and sister of Dr. Thurairajah Varatharajah visited him on 30 May 2009, 13 June 2009, 20 June 2009, 27 June 2009 and 4 July 2009. Dr. Thurairajah Varatharajah was taken to ward No. 32 of the General Hospital Colombo on 24 June 2009 for a medical check-up and brought back to the CID on 26 June 2009.

1004. Dr. Thangamuththu Sathiyamoorthy had been visited by ICRC representatives on 21 May 2009 and on 6 June 2009. The father, mother and brother of Dr. Sathiyamoorthy visited him on 23 May 2009, 30 May 2009, 6 June 2009, 30 June 2009 and 4 July 2009. His spouse and children visited him on 20 June 2009.

1005. Dr. Veerakethipillai Shanmugarajah had been visited by ICRC representatives on 21 May 2009 and 6 June 2009. Family members visited him on 4 July 2009 at the CID.

1006. All three doctors were given healthcare facilities. At a media briefing held on 8 July 2009 at the Media Center for National Security all three doctors have stated that they were forced by the LTTE to speak to foreign media and provided exaggerated information on civilian casualties.

1007. They have also said that they were not under duress to attend the media briefing arranged by the MCNS.

Comments and observations of the Special Rapporteur:

1008. The Special Rapporteur thanks the Government of Sri Lanka for its response elaborating on the circumstance surrounding the arrest and detention of Dr. Thangamuththu Sathiyamoorthy, Dr. Thurairajah Varatharajah, and Dr. V. Shanmugarajah. The Special Rapporteur however regrets that the Government did not provide information whether the doctors had access to counsel during their detention and if they were guaranteed fair proceedings before an independent and impartial tribunal. The Special Rapporteur would also like to receive information on the current status of the judicial proceedings concerning them.

Communication sent

1009. On 31 December 2009, the Special Rapporteur sent an allegation letter jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concerning Mr. Wannu Athapaththu Mudiyansele Nilantha Saman Kumara, aged 31. According to the information received:

1010. On 26 October 2009, Mr. Kumara joined several villagers outside a shop by the Nahettigkulama jam tree in Galgamuwa to search the jungle for some goods which had been stolen. A few hours later, he was stopped by the police and asked to accompany them to the Galgamuwa Police Station. Upon arrival at the station, he was detained without a warrant or formal charges against him.

1011. Two hours later, he was taken to a room in what appeared to be the private wing of the police residential barracks behind the Crimes Division. Mr. Kumara was interrogated by Inspector Ataputtu, Police Constable Wijeratne and other officers, all dressed in civilian clothes. The police indicated that he had been detained on suspicion of theft at the shop and of a water pump, charges which Mr. Kumara denied.

1012. Subsequently, Mr. Kumara was subjected to the "Palestinian hanging", whereby his shirt was removed, his lower arms were wrapped in cloth, his hands were forced behind his back and tied with a rope which was attached to a nylon rope that hung from a beam in the ceiling. The other end of the nylon rope was secured to a steel bed. Mr. Kumara was then told to stand on a box; the rope was pulled tight and the box was then kicked from under his feet, leaving him hanging. Inspector Ataputtu gave orders to the other officers to leave Mr. Kumara hanging until he confessed to the crimes. He was taken down

approximately two hours later, but the procedure was repeated that evening. The second time, he was released after approximately 30 minutes, but was then beaten and kicked for three hours. Although by this time the police had allegedly received information indicating that Mr. Kumara had not been involved in the theft at the shop, he was still accused of stealing a water pump.

1013. The following day, Mr. Kumara was once again hung for approximately two hours. Although he needed medical attention, none was provided. That evening, Inspector Atapattu told Mr. Kumara that he could be released the following day if he confessed; otherwise, he would be presented before the court. When Mr. Kumara denied his involvement, he was grabbed by the hair and dragged to the same room where he was beaten and stripped, and his hands were tied.

He was then subjected to the “Dharma Chakra” or wheel of enlightenment, by which he was forced to squat and wrap his hands over his knees, while a metal pipe was inserted through the space between his knees and elbows, and was balanced on two tables. While in this position, a bottle of petrol was poured in his anus. Water was also poured on him to relax the muscles.

1014. On 28 October, Mr. Kumara’s cellmate was ordered to bathe and dress him, since he could not move his arms. They were both taken to the Criminal Division, but a statement was only taken from Mr. Kumara’s cellmate. They were then taken to the Out-Patient Department of Galgamuwa Hospital, where a physician, Dr. Roja, completed a Medico-Legal Examination Form without examining Mr. Kumara.

1015. Afterwards, Mr. Kumara and his cellmate were taken to the Magistrate’s Court in Galgamuwa. They were not allowed to inform their families or contact a lawyer. Mr. Kumara was not questioned or addressed by the magistrate, but was remanded. He was then transferred to Wariyapola Prison, where he informed the guards about his torture and signed a statement indicating his experience.

1016. The following day, Mr. Kumara was taken to Wariyapola Hospital. The accompanying officer informed the doctor of the torture, but the doctor reportedly accused Mr. Kumara of lying and refused to examine him.

1017. On 6 November, Mr. Kumara was presented before the Galgamuwa Magistrate’s Court. He was released on bail. Three days after, Mr. Kumara went to the Galgamuwa Hospital, but Dr. Roja once again refused to examine him and indicated that he should go to the Anuradhapura Teaching Hospital. Mr. Kumara went there the following day, where he received adequate treatment and was examined by a Judicial Medical Officer.

1018. On 17 November, one of the alleged perpetrators visited Mr. Kumara at his home to inquire into the possible action he was intending to take. On 19 November, Mr. Kumara submitted a complaint to the Inspector General of Police, the National Police Commission, the Attorney General and the National Human Rights Commission.

1019. Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency’s Government to seek clarification of the circumstances of the arrest, detention at the police station and remand to detention in prison of Mr. Kumara. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Communications received

1020. At the time this report was finalized, no response to this communication has been received.

Comments and observations of the Special Rapporteur:

1021. While the Special Rapporteur thanks the Government of Sri Lanka for the reply sent to her communication of 26 May 2009, she regrets that no replies have been received to the communications sent on 7 April and 31 December 2009 and calls upon the Government of Sri Lanka to provide a substantive answer to those allegations as soon as possible.

(Excerpt from the original report - A/HRC/14/26/Add.1.

SPECIAL RAPPORTEUR ON PHYSICAL AND MENTAL HEALTH

ANAND GROVER

A/HRC/14/20/Add.1 - 19 May 2010

ADDENDUM

Summary of communications sent and replies received from governments and other actors

SRI LANKA

Communication sent

255. On **16 April 2009**, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health sent an urgent appeal to the Government of Sri Lanka to call attention to information received concerning the health situation of persons treated within the Vanni region, as well as of internally displaced persons (IDPs) treated in hospitals and other health facilities in areas outside the Vanni.

256. Reportedly, with regard to the availability of adequate supplies of essential medicines, thousands of persons in the “no-fire zone” allegedly would be at risk because of a critical lack of access to medicines. Health services then would be concentrated at makeshift medical points inside the “no-fire zone.”

257. According to the information received, approximately 5,000 individuals were reporting daily to each medical point. However, due to the limited medical supplies, treatment was limited to first aid and triage. There were increasing reports of minor injuries resulting in amputations due to an inability to treat them. Five shipments of medical supplies were made between 19 February and 21 March 2009, but allegedly none of the shipments received was sufficient to meet the needs of the affected population.

258. Furthermore, it was alleged that in February 2009 the Ministry of Health in Colombo ordered eight doctors and 1,000 medical and health workers to leave the Vanni region. Defence Ministry officials allegedly threatened medical workers with dire consequences for “helping supporters of terrorists.” It also was reported that the Ministry of Defence held back urgently needed medical supplies in Vanuniya from being dispatched and that hundreds of deaths could have been prevented if basic facilities and medicines were made available.

259. With regard to a new health facility in Pulmuddai, it was alleged that the makeshift health facility established in Pulmuddai with the assistance of the Indian authorities could only provide immediate care, and was not suited to provide emergency health care to the large number of patients coming from the Vanni region. Allegedly, there were only three doctors, six nurses and 30 attendants at this health facility, which had received 493 patients as of 23 March 2009. According to information received, patients were transported by boat to the beach in Pulmuddai, where the Sri Lanka Navy (SLN) would check them before being provided medical attention in the health facility. After receiving medical assistance, patients allegedly were registered by the Sri Lanka Army (SLA) and subsequently transferred to hospitals in Vanuniya, Padaviya, Mannar, Colombo and Anuradhapura, or welfare camps in Vanuniya.

260. Allegedly, out of the 493 patients brought to Pulmuddai as of 23 March, only 100 were treated in this facility, whereas a large number of patients requiring immediate surgery and other complicated health conditions were transferred to the Padaviya hospital (125 patients) and the Vanuniya IDP camps. It was alleged that patients with serious injuries and those who underwent surgical operations faced serious health risks in the IDP camps in Vanuniya due to the outbreaks of chicken pox and scabies that have been reported to occur there. It was alleged further that the Trincomalee hospital, which was better equipped to treat patients from the Vanni region, especially those requiring immediate surgery, no longer would be used since the establishment of the new health facility at Pulmuddai. The decision to transfer patients to the hospital in Padaviya rather than to the one in Trincomalee alleged was based on political, rather than medical, reasons.

261. It also was alleged that due to security restrictions, only persons and organizations authorized by the Ministry of Defence would have access to the Pulmuddai health facility, and that ICRC, UNHCR, UNICEF and other organizations providing assistance to IDPs so far have not been granted access to this facility. Furthermore, patient lists – which are necessary, amongst other things, to identify ailments and provide special care – allegedly were not made available to service providers.

Observation

262. The Special Rapporteur regrets that at the time of the finalization of the report, the Government has not transmitted any reply to his communication.

Communication sent

263. On **29 April 2009**, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health together with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, and the Special Rapporteur on the right to food sent a joint urgent appeal to the Government of Sri Lanka. The Special Procedures brought to the attention of the Government information that they had continued to receive concerning the persisting serious humanitarian situation, including access to food, water and health care of internally displaced persons (IDPs) in the Vanni region.

264. According to the information received, IDPs in Vanuniya had been unable to have regular access to sufficient and adequate food as the food distribution system had been subject to delays and unclear procedures. It had been reported that IDPs may receive food ration cards but only after having registered. The registration process reportedly had been very long. In some places it appeared that there were no registration mechanisms in place yet.

265. Reportedly, there had been instances of people fighting over access to food which, in one case, had resulted in the death of a 7 year old. It also had been reported that paramilitary and other groups had been providing for unorganized and ad-hoc distributions of small amounts of food, which, since they could not satisfy needs, had contributed to fuelling a tense and frustrating situation within IDP camps and sites. Reports indicated that at some of the sites, including the screening site of Omanthai, IDPs had not received any food for three consecutive days. It appeared that due to the critical situation in the food sector, the Government had committed to providing cooked food for the first three days of new arrivals at the camps. At the time of the communication it remained to be seen whether the Government had the capacity to implement this measure.

266. It also was reported that the health situation in the Vanni region had further deteriorated. Due to malnutrition and dehydration, the population was becoming weaker and more vulnerable to infectious diseases. Chicken pox and watery diarrhoea epidemics already had been reported as well as a case of typhoid fever. Treatments for diabetes, hypertension, cancer, different psychiatric conditions and other chronic diseases were still unavailable.

267. It also has been alleged that even though some transit sites received daily ambulance visits, the majority was without a full-time doctor and some reported no doctors' visit for a few days. It also was reported that there was no data concerning the number of deaths, but it appeared that the majority was that of infants under two years old and the elderly. In addition, referrals to hospitals remained problematic since the Ministry of Health had not developed a contingency plan. Consequently, the likelihood of preventable deaths during new arrival influxes was very high. The situation in hospitals receiving IDPs was reported to be increasingly difficult, as they were extremely under-staffed and severely overcrowded. In Vanuniya there was an estimated 1,500 to 1,800 patients with a bed capacity of 600. A similar situation was reported in Chettikulum hospital that currently was treating more than 520 patients with a bed capacity of 140. IDPs who had received lifesaving surgery reportedly were dying due to a lack of post-operative care capacity.

268. It was alleged that there was an urgent need for professional mental health support, as significant numbers of IDPs reportedly were suffering from mental trauma as a result of their experience during the conflict. In addition, it was alleged that since 1 April hardly any shipment of food, medical supplies or non-food relief items had been delivered to the no fire zone. It further was alleged that for the previous six months, shipment of essential medicine and medical supplies for the people in the no-fire zone had been met with consistent delays in clearance from the Ministry of Defence, which consequently was hindering access to life-saving supplies. Chronic water shortages and limited access to scant water supplies had been reported at Omanthai as well as in most of the transit sites. It also was alleged that the quality of drinking water was not satisfactory and that the Ministry of Defence had not been clearing consistently the supply of chlorine tablets to treat water supplies in the no-fire zone.

269. In the transit sites and IDP camps, reports emerged of insufficient toilet facilities and an inadequate drainage system to manage the situation, particularly with heavy rains. It also was reported that sanitation facilities and water supplies were located far away from the blocks at Menik Farm zone 3, creating access problems particularly for the elderly and the disabled, and security concerns for women and children. Furthermore, the lack of adequate access to sanitation reportedly was leading to increased open defecation, which could cause serious health problems for the entire IDP population.

Response received

270. By letter dated **11 May 2009**, the Government of Sri Lanka sent a reply regarding the communication sent on 29 April 2009. In addition to addressing concerns regarding the availability of food and adequate nutrition, the Government denied allegations that people in the IDP camps would suffer from epidemics. It admitted, however, that the health situation is problematic due to a large number of people living in the camps. Additionally the Government included some statistics indicating the amount of supplies provided for the people from the LTTE-controlled zones. Finally the Government informed the Special Rapporteur that it requested more detailed information to a number of Ministries in Sri Lanka.

Communication sent

271. On **26 May 2009**, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, together with the Chairperson of the Working Group on Arbitrary Detention, the Chairperson of the Working Group on Enforced or Involuntary Disappearances, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government of Sri Lanka. It concerned information received regarding Dr. Thangamutha Sathiyamoorthy, the regional director of health services in Kilinochchi, Dr. Thurairaja Varatharajah, the regional director of health services in Mullaitivu, and Dr. V. Shanmugarajah, medical superintendent at Mullivaaykkaal field hospital.

272. According to the information received, Dr. Sathiyamoorthy, Dr. Varatharajah and Dr. Shanmugarajah are government employed and had been treating the sick and wounded in the conflict zone in northeastern Sri Lanka until they left the “no-fire zone” with approximately 5,000 other civilians on 15 May 2009. The Sri Lankan Army detained the three doctors on 16 May 2009, under the broad arrest and detention powers of security forces pursuant to the Prevention of Terrorism Act. The physicians were last seen on the morning of 15 May 2009 at a holding area at Omanthai check point. An official of the Ministry of Health stated on 18 May that Government forces handed over the physicians to the police.

273. Dr. Shanmugarajah and Dr. Sathiyamoorthy apparently are being held at a detention centre of the Terrorist Investigation Division in Colombo. However, their relatives are not aware of their exact whereabouts and neither has had access to a lawyer. Dr. Varatharajah was seriously injured and is reported to have been airlifted by the Sri Lankan Air Forces from the Omanthai checkpoint to an unknown destination.

274. Reportedly, while working in the conflict zone, the doctors provided detailed eyewitness reports to the media and the international community from hospitals and makeshift medical centres. Their reports detailed the suffering of ordinary civilians, many of whom died from war-related injuries. Their reports also highlighted continuous shelling of areas with large concentrations of non-combatants.

Response received

275. By letter dated **28 May 2009**, the Government of Sri Lanka responded to the abovementioned urgent appeal sent on 26 May 2009. It indicated that Dr. Varatharajah was injured and is now undergoing treatment, and will be well looked after by his colleagues from the Ministry of Health. The Government cannot publicly reveal where he is since his life may still be under threat from LTTE elements. However, the Government would be happy to discuss the issue with the Special Rapporteurs in Geneva.

276. With regard to the other two doctors, they are in custody and the circumstances in which they made certain statements, under duress, over the last couple of months are being investigated.

277. By letter dated **15 July 2009**, the Government indicated that Dr. Thangamutha Sathiyamoorthy, Dr. V. Shanmugarajah and Dr. Thurairaja Varatharajah surrendered to the Army when they arrived at Omanthai checkpoint on 15 May 2009. Dr. Varatharajah, who was injured at the time of surrender, was admitted to the General Hospital on Colombo. He was released on 6 June 2009.

278. The three doctors were detained under section 19(1) of the Emergency Regulation on charges of their alleged links with the LTTE organization, disseminating false information to the international media, and supplying medicine and medical equipment to the LTTE from Government hospitals. They are now being held in protective custody by the Criminal Investigation Department in Colombo, pending the completion of the investigations. They have been visited by the ICRC and their families on several occasions, and were given healthcare services.

279. At a media briefing on 8 July, all three doctors stated that they were forced by the LTTE to speak to foreign media and provide exaggerated information on civilian casualties. They also said that they were not under duress to attend the media briefing organized by the Media Centre for National Security.

280. By letter dated **3 August 2009**, the Government indicated that investigations so far have revealed that Dr. Shanmugarajah moved to Mullaitivu and joined the LTTE in 1995. He worked as a doctor at Puthuikuvuruppu Hospital run by the LTTE. During the peace accord in 2002, he completed his medical degree and served as a Government doctor in an LTTE controlled until 2009.

281. While he was serving at a makeshift hospital in Mullaivaikkal in May, a member of the LTTE Medical Wing informed him that the BBC in London would contact him, and that he should say that shelling by the Government troops continued and that scores of civilians and patients were dying as a result, which he did.

282. Dr. Sathiyamoorthy was appointed to the Kilinochchi Base Hospital in 2000 and was promoted as the acting Medical Superintendent.

283. Between February and March 2009, when he was at Puthkuduiruppu makeshift hospital, a member of the LTTE Medical Wing informed him that the BBC in London would contact him, and that he should say that there was a severe shortage of drugs and those scores of civilians and patients were dying as a result, which he did.

284. Dr. Varatharajah was appointed Director of Health Services in Mullaitivu District in December 2008. In early 2009, he was given a check for 5 million Rs. by the leader of the LTTE Transport Wing, to purchase a jeep used by a Tamil National Alliance Member of Parliament. On instructions of the LTTE member, he bought the jeep and used it for his official and private work. At the request of the LTTE Medical Wing, medical equipment and drugs were given to the LTTE from the Government Hospitals in Mullaitivu District.

These were then taken to LTTE makeshift hospitals to treat the injured LTTE cadres. BBC correspondents contacted him on several occasions, and he gave them exaggerated casualty figures. He also reported shelling by the Government troops to several other news agencies. On 14 May he sustained injuries due to LTTE shelling.

285. All three doctors had access to healthcare facilities at the expense of the state, and were visited on several occasions by the ICRC and their families. In addition, physical exercises, reading and writing material and draft boards are available. No complaint has been lodged by or on behalf of these doctors.

Communication sent

286. On **27 August 2009**, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Special Rapporteur on human rights defenders and the Chairperson of the Working Group on Arbitrary Detention sent a joint urgent appeal to the Government of Sri Lanka. It was brought to the attention of the Government information concerning Mr. Charles Raveendran Navaratnam, aged 45, employed by the United Nations High Commissioner for Refugees and Mr. Kanthasamy Sounthararajan, aged 31, employed by the United Nations Office for Project Services.

287. Reportedly, on 11 June 2009 Mr. Navaratnam was questioned at his home by a person addressed as the "OIC" and several other persons in civilian clothes. He was informed that he had to be taken away for an inquiry, and was taken to a dark blue Pajero Jeep (Registration No. 61-7068), where he was immediately handcuffed. He was then blindfolded and asked to indicate where the "goods" were. He denied any knowledge about this, following which he was beaten and stricken with an iron rod on his head. He was threatened with being killed if he did not reveal "the truth." He was then taken to Vepankulam, where he was beaten in the stomach, neck and face, including the mouth, ears and jaw, as well as on his legs with a wooden baton. He was taken to a house where other persons were being held. He spent the night handcuffed and with his legs chained.

288. On 12 June 2009, he was again interrogated about the "goods" and asked whether he knew certain individuals. He denied any knowledge and was beaten again. He was also taken to the Menik Farm and Technical College Internally Displaced Persons Camp, where he was ordered to identify LTTE suspects, which he failed to do. He spent the night at the Vanuniya Police Station, where he was forced to sleep with his legs chained.

289. On 13 June 2009, at about 8:30 a.m., he was taken away in the same jeep and stopped at the Petrol Station close to Vanuniya Kachcheri. There, the persons in the jeep got out and forcibly took Mr. Kanthasamy Sounthararajan, indicating that he was being taken for questioning and would be released after an inquiry. He was questioned about some suspected persons and was beaten when he denied any information. Both men were then taken to Temple Road where international nongovernmental organizations and United Nations Agencies have their offices. They were both directed to tell whether staff in these organizations had any connections with terrorists. They denied any knowledge and were threatened with death. In the afternoon, they were taken in the direction of Vanuniya Mannar Road and stopped at a cemetery in Bharathipuram. Mr. Sounthararajan was taken out, beaten and threatened with a pistol. However, when bystanders arrived on the nearby road he was forced back into the jeep. Later that day, both men were taken to Colombo and were held in a building behind Borella Police Station. There they were subjected to prolonged interrogations by several police officers and beatings and were later transferred back to Borella Police Station.

290. On 25 June 2009, they were examined by officers of the International Committee of the Red Cross. Later, they were permitted visits by relatives, staff of their employing agency and their lawyers. The next day, they were forced to sign a statement in Sinhalese, a language that they did not understand. They are still being held at the Borella Police Station, and it is believed that they were arrested for “actively engaging in LTTE activities”. A fundamental rights application was filed in the Supreme Court for both men.

The Supreme Court gave them leave to proceed and instructed the Judicial Medical Officer (JMO) to examine the detainees and submit a report to the court. They were examined by the JMO on 26 June. On 23 July, the police took them back to the JMO and requested him to write a new report based on documentation provided by the police. However, the JMO refused. As a result of the beatings, both men suffer from back pain, partial loss of hearing and severe headaches.

Observation

291. The Special Rapporteur regrets that at the time of the finalization of this report, the Government has not transmitted any reply to his communication.

Communication sent

292. On **5 August 2009**, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health sent an urgent appeal to the Government of Sri Lanka to call attention to information received concerning the detention of 300,000 internally displaced persons interned in forty camps in and around Vanuniya and other areas allegedly against their will without freedom to enter or leave the camps.

293. According to the information received, 300,000 persons are being detained in the camps against their will and that the nature and scale of their injuries and their deteriorating health is developing into a large-scale humanitarian crisis. The current provision of health services allegedly are be inadequate in meeting the IDPs’ needs in terms of coverage, comprehensiveness and quality.

294. It was alleged that there are more than five deaths a day in the welfare centres within the camps due to starvation and malnutrition. On one day alone there were 14 death of older persons registered. Allegedly, there were over 8,500 chicken pox cases in Vanuniya and large numbers of injured, including those who have recently undergone amputation surgeries, who would be reportedly not receiving care. The incidence of hepatitis A, typhoid and respiratory tract infections reportedly have been on the rise, which indicates overcrowded and poor sanitary conditions in part of the camps. Considerable gaps in the provision of health services allegedly exist, despite the existing government efforts services have not been continuously available, no psychosocial care services have been provided, and services to provide basic sterile services, as well as surgical and reconstructive services for those injured in conflict, have been absent. In addition, reportedly restrictions on movement imposed within the camps have hindered access to medical assistance and access to the camps, and approval to provide the full range of necessary health services have been restricted for NGOs and international agencies.

295. Furthermore, the absences of adequate water supply and of a health and hygiene promotion programme allegedly have exacerbated the current situation, similar to the alleged lack of protection provided from sexual and other forms of violence.

Observation

296. The Special Rapporteur regrets that at the time of the finalization of the report, the Government has not transmitted any reply to his communication. ***(Excerpt from the original report)***

http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.Add.1_EFS.pdf

SPECIAL RAPPORTEUR ON ADEQUATE HOUSING
AS A COMPONENT OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING, AND
ON THE RIGHT TO NON-DISCRIMINATION IN THIS CONTEXT,

RAQUEL ROLNIK

A/HRC/13/20/Add.1 - 22 February 2010
Addendum

Summary of communications sent and replies received from Governments and other actors*

Sri Lanka

Communication sent

80. On 8 June 2009, the Special Rapporteur sent an urgent appeal to the Government of Sri Lanka concerning alleged imminent forced evictions from tsunami shelters in the Moratuwa and Ratmalana DS Divisions and alleged unequal application of the Tsunami Housing Policy in regards to the needs of certain groups, including extended families and tenants. According to the information received, transitional shelter scheme under the Tsunami Housing Policy is an effective and widely used mean of providing temporary shelter and other basic services to families impacted upon by the devastating effects of the Tsunami in Sri Lanka in December 2004. The information received indicates that the Tsunami Housing Policy entitles everyone who lost a house in the disaster to receive a ready built house or a cash grant to build a house, regardless of the shelter they had in the past. However, the Tsunami Housing Policy allegedly states that tenants are not eligible to receive housing assistance. The Tsunami (Special Provisions) Act (2005) reportedly states that rent agreements between landlord and tenant remain valid even if that house was completely destroyed during the Tsunami disaster. The information provided indicates that tenants are disqualified from housing assistance because of their old agreements. In this context, families that were still living in transitional shelters in late 2008 reportedly received a first eviction notice from the Government dated 10 September 2008, which ordered them to vacate the camps by 25 September 2008. In addition to this notice, access to basic facilities and services was cut off in all camps. A fundamental rights petition was reportedly filled with the Supreme Court. On 10 October 2008, during the first hearing of the Court, representatives of the communities reportedly sought an order for the provision of housing assistance to all camp residents. A second hearing was reportedly held on 20 October 2008, in which the Government continued to claim that camp residents were not qualified for compensation under the tsunami housing policy. While judges reportedly agreed that residents would have to leave the camps, they also stated that residents would have to be given more time – between 3 to 6 months – as well as compensation before they can be evicted. Three months time and 25,000 Rupees compensation as a solution was accepted by the Court, who ordered people to leave the camps by 28 February 2009. By this decision, the Court reportedly upheld previous decisions and confirmed the Tsunami Housing Policy, based on which tenants and extended family members are not eligible for housing assistance under the tsunami assistance scheme. The District Court held an additional hearing on 22 May 2009 ordering the families to vacate the camps by 5 June 2009, when a fifth hearing would have been held. It was alleged that an eviction order would be issued by the Court rapidly and that the around 500 families threatened to be imminently evicted would become homeless. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the measures taken to ensure that the allocation of grants under the Tsunami Housing Policy is applied equally to all victims of the Tsunami disaster, including extended families and tenants; the reasons for the Tsunami Housing Policy to make no provision for tenants whose house has been destroyed; if landlords are benefiting from the Tsunami Housing Policy; on the measures foreseen to ensure that the around 500 families threatened with imminent eviction will not become homeless; on measures foreseen in terms of relocation, including details on the exact location and on the area and quality of land, access to public services and livelihood sources.

Observation

81. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/111/91/PDF/G1011191.pdf?OpenElement>
<http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx>

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

E/C.12/LKA/CO/2-4 - 9 December 2010

Sri Lanka

Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant Concluding observations of the Committee on Economic, Social and Cultural Rights

1. The Committee considered the combined second to fourth periodic reports of Sri Lanka on the implementation of the Covenant (E/C.12/LKA/2-4) at its 40th, 41st and 42nd meetings, held on 8 and 9 November 2010 (E/C.12/2010/SR. 40, 41 and 42), and adopted, at its 55th meetings, held on 19 November 2010, the following concluding observations.

A. Introduction

2. The Committee welcomes the open and constructive dialogue with the delegation of the State party. However, it expresses concern that the State party's report, which was submitted with a 15-year delay, contained limited information, disaggregated data or relevant statistics on the practical implementation of Covenant rights in the State party. The Committee regrets that the State party did not provide responses to half of the Committee's list of issues. The Committee calls upon the State party to ensure full compliance of its next periodic report with the Committee's reporting guidelines so as to enable a full assessment of the degree of implementation of Covenant rights in the State party. The Committee recommends that the State party consult civil society organizations during the preparatory process of its next periodic report.

B. Positive aspects

3. The Committee welcomes the ratification of the two Optional Protocols to the Convention on the Rights of the Child, namely on the involvement of children in armed conflict in 2000 and on the sale of children, child prostitution and child pornography in 2006 and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2002. It also welcomes the ratification of ILO Conventions Nos. 111 (1998) concerning Discrimination in Respect of Employment and Occupation, 138 (2000) concerning Minimum Age for Admission to Employment, and 182 (2001) concerning the Worst Forms of Child Labour.

4. The Committee notes with appreciation the positive developments related to the implementation of the Covenant, such as the adoption of:

- (a) The Prevention of Domestic Violence Act No. 34 of 3 October 2005;
- (b) The Employment of Women, Young Persons and Children (Amendment) Act No. 8 of 2003 which increases the minimum age of employment from 12 to 14 years; and
- (c) The National Policy on Disability in 2003.

5. The Committee commends the State party for its significant progress towards the achievement of the Millennium Development Goals, especially in the field of health and education and notes with appreciation that the State party is on track to achieve the targets for most of the indicators by 2015.

C. Principal subjects of concern and recommendations

6. The Committee is concerned that the Covenant has not been given full effect in the domestic legal order and that although some of its provisions are justifiable before the supreme court, they are rarely invoked which reveals a limited knowledge of the Covenant in the State party. The Committee also expresses serious concern that the legally binding nature of international human rights treaties and more specifically of ILO Conventions to which the State party is party has been questioned by the Supreme Court on numerous occasions.

The Committee calls upon the State party to ensure that the Covenant enjoys full legal effects in the domestic legal order and prevails over domestic legislation in case of conflict. It also urges the State party to bring its domestic legislation in conformity with the rights contained in the Covenant. The Committee calls upon the State party to improve human rights training programmes in such a way as to ensure better knowledge, awareness and application of the Covenant and other international human rights instruments, in particular among the judiciary, law enforcement officials and other actors responsible for the implementation of the Covenant.

7. The Committee is concerned that, although partially lifted, the continuation of the state of emergency is hampering the full realization of the economic, social and cultural rights.

The Committee urges the State party to consider repealing all remaining emergency regulations which jeopardize the realization of economic, social and cultural rights.

8. The Committee expresses concern about the lack of independence of the National Human Rights Commission which was downgraded to B status, notably for this reason, by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in December 2007. The Committee also notes with concern that posts on the National Human Rights Commission remain vacant and that the National Human Rights Commission is effectively in abeyance.

The Committee urges the State party to ensure that the National Commission on Human Rights meets the requirements of independence and autonomy set out in the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly resolution 48/134).

9. The Committee is concerned that the judiciary and important oversight bodies lack independence to effectively carry out their role in the promotion and protection of economic, social and cultural rights. The Committee is also concerned about the 18th amendment of the Constitution passed on 8 September 2010 which further reduces the independence of the judiciary and other oversight bodies as it provides for direct appointments by the president of, inter alia, chairpersons and members of the Commission to Investigate Allegations of Bribery or Corruption, members of the Judicial Service Commission and the Parliamentary Commissioner for Administration (Ombudsman).

The Committee calls upon the State party to take all the necessary measures to ensure the independence and integrity of the judiciary and oversight bodies. It also recommends that the State party consider reviewing the provisions of the 18th amendment of the Constitution related to the appointment procedure of chairpersons and members of oversight bodies.

10. The Committee expresses serious concern about widespread threats, attacks, defamation campaigns and various forms of stigmatization against human rights defenders in the State party as well as about illegitimate restrictions of their activities.

The Committee urges the State party to take the necessary action in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms of 9 December 1998 to end the ongoing harassment and persecution of human rights defenders and ensure that those responsible for the threats and attacks are duly prosecuted and punished. The Committee calls upon the State party to engage in a constant dialogue with civil society actors, including those carrying out human rights advocacy campaigns and human rights defenders to formulate and implement strategies for the protection and promotion of economic, social and cultural rights throughout the country, including the current formulation of a national plan of action for human rights. It also urges the State party to speed up the process of adoption of a Right to Information Act.

11. The Committee is concerned that the conversion of the Veddahs's traditional land into a national park has led to their socio-economic marginalization and impoverishment, Veddahs having been prohibited access to their traditional hunting grounds and honey sites. The Committee is also concerned that Veddahs are highly stigmatized in the State party, in particular Veddah children who are the victim of ostracism in the school system and often employed in hazardous occupations. (art. 1, para. 2)

The Committee urges the State party to ensure that the Veddahs can return to and remain undisturbed on the lands from which they were evicted, in particular in the Maduru Oya reserve, to establish a state authority for the representation of Veddahs which should be consulted and should give consent prior to the implementation of any project or public policy affecting their lives. The Committee also recommends that the State party consider ratifying ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

12. The Committee expresses concern about the high levels of corruption which undermines the realization of economic, social and cultural rights for all and the fact that the State party has not yet taken firm and effective measures to combat corruption and impunity associated with it. (art. 2, para.1)

The Committee calls upon the State party to take all necessary measures to combat corruption and impunity associated with it. In this regard, it encourages the State party to train the police and other law enforcement officers, as well as prosecutors and judges in the strict application of anti- corruption laws, to require the public authorities, in law and in practice, to operate in a transparent manner, and to ensure that prosecution cases are brought to justice. The Committee encourages the State party to seek the cooperation of international organizations with special expertise in the field of combating corruption and requests the State party to provide detailed information in its next periodic report about progress made in combating corruption and impunity.

13. The Committee is concerned about the harsh working and living conditions of plantation workers and their families, a high proportion of them living in extreme poverty. It also expresses concern that Citizenship Act No.18 of 1948 which deprived Tamils of Indian origin of citizenship has still not been abrogated and that thousands of Tamils of Indian origin are still awaiting to be granted citizenship on the basis of the 2003 Grant of Citizenship to Persons of Indian Origin Act, and as stateless persons do not enjoy their economic, social and cultural rights. (art.2, para.2)

The Committee calls upon the State party to provide the necessary resources for the implementation of the National Plan of Action for the Social Development of the Plantation Community adopted in 2006 and to provide comprehensive information in its next periodic report on the concrete measures taken to ensure that plantation workers and their families as well as Tamils of Indian origin are no longer subject to discrimination and live in decent conditions. The Committee calls upon the State party to repeal Citizenship Act No.18 of 1948 and to speed up the process of issuing identity documents for Tamils of Indian origin in accordance with the 2003 Grant of Citizenship to Persons of Indian Origin Act.

14. The Committee is concerned that in spite of the recent establishment of quotas for the employment of persons with disabilities, they remain discriminated against in their access to employment and highly stigmatized in the society. The Committee is also concerned that the 2003 National Policy on Disability has not yet been implemented and that families of disabled persons have so far only received limited support from the State party and therefore continue to resort to institutionalization of their children with disabilities, often for long periods. The Committee also expresses concern that a large proportion of children with disabilities, most of them girls, remains deprived of any type of education opportunities. (art.2, para.2)

The Committee calls upon the State party to take concrete steps to implement its 2003 National Policy on Disability and to strengthen its efforts to promote inclusion of persons with disabilities into the labour market, including by strengthening the system of job quotas for persons with disabilities. The Committee also calls upon the State party to gather accurate disaggregated statistical data on children with disabilities and ensure that all these children, particularly girls, have access to education. The Committee encourages the State party to ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

15. The Committee is concerned that in spite of repeated recommendations made by treaty bodies since 1998, the State party has still not repealed statutory and personal laws that discriminate against women and girls, such as the 1935 Land Development Ordinance and the provisions of the Muslim Personal Law allowing early marriage of girls as young as 12 years old, and has taken limited steps to address the persistence of stereotypes, attitudes and patriarchal traditions on family and societal roles of men and women. The Committee notes with serious concern that the State party relies on the communities themselves to amend their personal status laws and that the Women's Bill does not protect women and girls from all communities from early and forced marriage. (art. 3)

The Committee reminds the State party that the equal right of men and women to the enjoyment of all economic, social and cultural rights is an immediate obligation of the States parties which cannot be conditioned to willingness of concerned communities to amend their laws. The Committee therefore calls upon the State party to take immediate action to repeal all statutory laws that discriminate against women and to amend the Muslim Personal Law and to put it in conformity with its national legislation with the view to outlaw early marriage. The Committee also encourages the State party to vigorously promote equality between women and men at all levels of society, including through targeted educational programmes and mass media campaigns against stereotypes which prevent women from enjoying their economic, social and cultural rights. The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women.

16. The Committee notes with concern that despite the decrease in unemployment in recent years, the female unemployment rate has remained twice as high as that of males for the past decades and that almost half of the 15-29 age group, especially educated youths, remain unemployed. The Committee is also seriously concerned that about 300 000 women are at risk of losing their employment as a result of the withdrawal by the European Union (EU) of the GSP preferential trading scheme due to significant shortcomings in respect of Sri Lanka's implementation of three United Nations human rights conventions, which are a relevant condition for receiving benefits under the scheme. (art.6)

The Committee recommends that the State party adopt a national action plan for the promotion of stable employment opportunities for women and younger Sri Lankans containing numerical targets and a time frame for its implementation and establish a national mechanism to monitor the implementation of the plan of action. The Committee also encourages the State party to monitor closely the situation of the women at risk of losing their employment due to the withdrawal of the GSP so as to enable them to enjoy their economic, social and cultural rights.

17. The Committee expresses concern that several statutory provisions and emergency regulations of the State party allow for the recourse to compulsory labour, in particular the Compulsory Public Service Act, No. 70 of 1961, under which compulsory public service of up to five years may be imposed on graduates, has still not been repealed. (art. 6)

The Committee welcomes the State party's assertion during the interactive dialogue that measures are being taken to repeal Compulsory Public Service Act No. 70.

18. The Committee expresses concern about the low and declining representation of women in decision-making and public positions and their concentration in only a few sectors of the economy and in low-skilled and low-paid jobs. The Committee is also concerned that the prohibition of direct and indirect discrimination in employment and occupation and the principle of equal remuneration for men and women for work of equal value have still not been reflected in national legislation. (arts. 7 and 3)

The Committee also calls upon the State party to ensure that its legislation prohibits direct and indirect discrimination in employment and occupation and reflects the principle of equal remuneration for men and women for work of equal value and is enforced with adequate mechanisms. The Committee encourages the State party to adopt temporary special measures to increase the number of women in decision-making and public positions and to effectively combat women's discrimination in the workplace.

19. The Committee is concerned that workers in sectors not covered by wage boards are not entitled to any minimum wage. The Committee is also concerned that tea plantation workers are denied a monthly salary and receive extremely low daily wages. (art.7)

The Committee recommends that the State party ensure that minimum wages enable all workers and their families to enjoy an adequate standard of living and that these are regularly adjusted to the cost of living. The Committee further strongly recommends that the State party take urgent measures to ensure that plantation workers are provided with a decent monthly salary.

20. The Committee expresses serious concern that sexual harassment is particularly widespread in tea plantations and in export processing zones (EPZs). (art. 7)

The Committee calls upon the State party to include provisions prohibiting and preventing sexual harassment in its national labour law and to provide its labour inspectorate with the necessary human, technical and financial resources to deal with cases of sexual harassment in an efficient manner.

21. The Committee expresses deep concern that Sri Lankan women have often no other choice but to migrate to find employment and that one million of them work abroad as domestic workers, often in slavery-like conditions. The Committee is also concerned that the State party has not studied the impact of such massive labour migration on Sri Lankan families, nor provided women with alternative employment opportunities. (arts. 7, 9 and 10)

The Committee reiterates its recommendation (E/C.12/1/Add.24 para. 27) to the State party to conduct a comprehensive assessment of women labour migration. It urges the State party to give priority to the development of employment opportunities for women within the State party, including through the introduction of innovative micro-credit schemes. The Committee also urges the State party to strengthen its efforts to adequately inform women prior to their departure, and strengthen the role of Labour Attaches in Sri Lankan missions abroad in protecting the rights of migrant workers in host countries. The Committee also encourages the State party to take all necessary measures to ensure that families, in particular children of migrant workers residing in the State party are able to fully enjoy all their economic, social and cultural rights.

22. The Committee is concerned about the restrictions on trade unions activities, the widespread harassment of trade unionists and the low protection against anti-union discrimination in the State party, especially in export processing zones (EPZs). In particular, the Committee is concerned that the Public Security Ordinance of 1947 and the Essential Public Services Act of 1979 impose restrictions on the right to strike enforceable with sanctions involving compulsory. The Committee is also concerned that legal recognition is only granted to unions representing over 40 per cent of workers at any given workplace and that the Emergency Regulation No. 01 2006 amendment gives such a broad definition of essential services, that restrictions of trade union rights may be imposed on almost any sector of the economy. The Committee is further concerned that trade unions are strongly discouraged in EPZs through suspension, demotion, dismissal of unionists, warning of new workers not to join unions, prohibition of trade unionists to enter EPZs and creation of employees' councils funded by and functioning under the aegis of the employer. (art. 8)

The Committee calls upon the State party to:

(a) Ensure that no sanctions involving compulsory labour be imposed for disciplinary offences or participation in peaceful strikes in services other than essential services defined in the strict sense of the term and to amend its legislation accordingly;

(b) Remove legal obstacles to trade unions' rights notably by providing a clear definition and limiting the scope of "essential services" to services where interruption would endanger the life, personal safety or health of the whole or part of the population and by reviewing the 40 per cent requirement for legal recognition in accordance with ILO recommendations;

(c) Increase penalties applicable to anti-union discrimination, allow trade unions to bring anti-union discrimination claims directly before the courts and ensure that anti-union actions are duly investigated and examined by courts within a short period of time;

(d) Take urgent measures to ensure the freedom to form and join trade unions, to prevent interference in the management and operation of trade unions in EPZs and to allow labour inspectors to make unannounced visits.

23. The Committee is concerned that in spite of the existence of a large number of social assistance schemes in the State party, the social security system remains highly fragmented and does not adequately cover all workers. The Committee is also concerned that disadvantaged and marginalized groups, notably families in the plantation sector and older persons, remain excluded or under-covered by the Samurdhi poverty alleviation programme due to shortcomings in its management and coordination, corruption and fraud. (art. 9)

The Committee urges the State party to take all the necessary measures to ensure that poverty alleviation and social assistance programmes are managed in an adequate and transparent manner and targeted at the most disadvantaged and marginalized individuals and groups, including families in the plantation sector and older persons. The Committee encourages the State party to continue its collaboration with the ILO to expand social security coverage, including through the establishment of the social protection floor.

24. The Committee expresses deep concern that in spite of the high incidence of domestic violence against women and children in the State party, the provisions of the Prevention of Domestic Violence Act No.3 of 2005 remain insufficiently known, notably by the police, and that protection orders are seldom issued and perpetrators rarely prosecuted. The Committee also notes with concern the absence of temporary shelter for women and children victims of domestic violence and the considerable delays to obtain court decisions in this matter.

The Committee urges the State party to take active measures to combat domestic violence and to enforce the 2005 Prevention of Domestic Violence Act No.3 including through public awareness and education campaigns and recruitment of additional female police officers within the Bureaus for the Protection of Children and Women (BPCW). The Committee also encourages the State party to ensure that crisis centres and shelters where victims of domestic violence can find safe lodging and counselling are available and accessible throughout the country.

25. The Committee expresses serious concern that cultural sensitivities are used as a justification by the State party not to criminalize marital rape in all circumstances. (art. 10)

The Committee urges the State party to take immediate steps to criminalize marital rape in all circumstances.

26. The Committee is deeply concerned that no effective measures have been taken by the State party to enforce child labour laws as previously recommended by the Committee (E/C.12/1/Add.24, para. 26) and that almost one million children continue to be exploited economically in agriculture or as domestics, the latter being often subjected to various forms of violence. (art.10, para.3)

The Committee urges the State party to adopt effective measures to combat child labour.

27. The Committee is deeply concerned that thousands of children remain sexually abused and exploited including in child sex tourism. The Committee notes with grave concern that perpetrators of child sexual exploitation and abuse, including child traffickers are rarely prosecuted, while child victims may still be excluded from protection of the law and placed on remand for conducting prostitution. (art.10, para.3)

The Committee calls upon the State party to amend its legislation against child sexual exploitation and ensure that it covers all children and does not criminalize child prostitutes. The Committee also urges the State party to implement the 2006 national Plan of Action against Child Sex Tourism and to report on the results achieved in its next periodic report to the Committee. The Committee further requests the State party to take more active measures to bring perpetrators of child sexual exploitation to justice. The Committee calls upon the State party to take immediate measures to establish shelters and trained professionals to meet the recovery and rehabilitation needs of children victims of sexual abuse and exploitation.

28. The Committee expresses deep concern about allegations according to which during the last months of the armed conflict in 2009, civilians were deliberately deprived of food, medical care and humanitarian assistance which constitute violations of article 11 of the Covenant as well as of the international humanitarian prohibition of starvation and may amount to a war crime. (art.11)

In light of its general comment No.12 (1999) on the right to adequate food, the Committee draws the attention of the State party to the fact that the prevention of access to humanitarian food aid in internal conflicts constitutes a violation of article 11 of the Covenant as well as a grave violation of international humanitarian law. The Committee encourages the State party to fully cooperate with the United Nations Secretary-General's panel on accountability.

29. The Committee is concerned that in spite of progress made by the State party to resettle internally displaced persons (IDPs) and to rebuild damaged infrastructure in conflict-affected areas, thousands of IDPs are still prevented from returning due to the establishment of High Security Zones (HSZs) on their homelands. The Committee is also concerned about the conditions of resettlement of internally displaced persons who often lack basic shelter, access to sanitation and water and livelihood opportunities, a situation aggravated by the regular restrictions placed on United Nations agencies, international organizations and international and national NGOs to access internally displaced persons requiring urgent assistance. (arts. 11 and 12)

The Committee urges the State party to speed up the closing of HSZs as indicated during the interactive dialogue, to restore housing land and/or property of which IDPs have been arbitrarily or unlawfully deprived and to establish adequate mechanisms at local levels to resolve land and property disputes and to provide compensation to land owners for the occupation of their land. The Committee draws the attention of the State party to its obligation to respect and protect the work of United Nations agencies, human rights advocates and other members of civil society who assist internally displaced persons in the realization of their economic, social and cultural rights and to refrain from imposing further restrictions on access to IDPs, especially those who are living in food insecurity. The Committee requests the State party to provide detailed information on the situation of internally displaced persons in its next periodic report.

30. The Committee notes with concern the persistence of significant disparities in levels of economic development between the Western region and the rest of the country that affect the equal enjoyment by all of economic, social and cultural rights such as employment, welfare benefits, health and social services. The Committee is also concerned that while poverty has decreased in urban areas, it has grown by over 40 per cent in the estate sector. (arts. 11 and 12)

The Committee recommends that the State party take all necessary remedial measures to address the regional disparities that affect the equal enjoyment of economic, social and cultural rights and to ensure that its poverty reduction strategies specifically address, through targeted measures, the needs of the most disadvantaged and marginalized individuals and groups, especially in the estate sector. The Committee encourages the State party to further develop indicators and benchmarks, disaggregated by sex, age, urban/rural population and social and ethnic group, for monitoring progress achieved in combating poverty, and that it report on such progress in its next periodic report. In this regard, the State party is referred to the Committee's statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights"(E/C.12/2001/10).

31. The Committee is concerned about the acute housing shortage in the State party and the large number of homeless persons. The Committee is also concerned that slum dwellers are vulnerable to forced evictions. (art.11)

The Committee recommends that the State party address the acute housing shortage by adopting a national strategy and a plan of action on adequate housing; drastically increase its national housing budget to an appropriate level commensurate with the extent of the problem and to ensure that plans to construct new social housing units are fully implemented, especially those intended for disadvantaged and marginalized individuals and groups, including those living in slums. The Committee also urges the State party to ensure that persons who are forcibly evicted are provided with adequate compensation or alternative accommodation in accordance with a legal framework that complies with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee further requests the State party to provide in its next periodic report detailed information on the incidence of forced evictions and on the extent of homelessness in the State party, as well as the measures taken to address these problems.

32. The Committee is concerned about the acute overcrowding and the inhuman detention conditions which prevail in many of the State party's prisons. The Committee is also concerned that children are not regularly separated from adults. (arts. 10, para.3; 11 and 12)

The Committee calls upon the State party to take urgent active measures to combat prison overcrowding, in particular by focusing on alternatives to custodial measures. The Committee also recommends that the State party remove children from adult detention facilities.

33. The Committee expresses concern that malnutrition affects nearly one-third of children and one quarter of women and that the nutrition status of internally displaced persons, especially children, remains an issue of serious concern. (arts. 11 and 12)

The Committee urges the State party to adopt the necessary measures to protect the right to adequate food, including through the setting up of a public food distribution system for the most disadvantaged and marginalized individuals and groups. It also encourages the State party to formulate and implement an Integrated Nutrition Programme throughout the State party.

34. The Committee is deeply concerned that 10 per cent of maternal mortality is reported as the direct result of clandestine abortions. The Committee also notes with concern the lack of basic sexual and reproductive health services, the limited information available on safe contraceptive methods in the State party and the insufficient and educational programmes about sexual and reproductive health, especially in the curricula of the Sri Lankan education system. (art. 12)

The Committee urges the State party to amend abortion laws and to consider providing for exceptions to the prohibition on abortion in cases of therapeutic abortion or pregnancies resulting from rape or incest to help women not to have to resort to illegal abortions that expose them to a high risk of morbidity and mortality. The Committee also urges the State party to establish basic sexual and reproductive health services throughout the State party, to set up comprehensive educational programmes on sexual and reproductive health, including public awareness-raising campaigns about safe contraceptive methods programmes and inclusion of appropriate information on sexual and reproductive health in the curricula of the Sri Lankan education system.

35. The Committee is concerned that mental health services remain insufficient to cope with widespread post-conflict mental disorders. The Committee is also concerned that the 2007 draft Mental Health Act has still not been adopted. (art.12)

The Committee recommends that the State party adopt the draft Mental Health Act of 2007 and to formulate strategies to strengthen available psycho-social assistance, especially for children and recruit more mental health workers and other specialized professionals to address post-conflict mental disorders.

36. The Committee commends the achievements of the State party in primary school enrolment and gender parity. However, The Committee notes with concern that public investment in education is at a relatively low level in spite of the needs of rebuilding school infrastructure in conflict-affected areas, reducing persistent disparities in accessing education between the State party's provinces and providing schools with water, sanitation and electricity. The Committee is also concerned about the high school dropout (one in five children) before completion of the compulsory nine-year cycle due mainly to the existence of school fees despite the constitutional guarantee of free education and the low quality of education. The Committee also regrets that insufficient efforts have been made to include human rights and peace education in the school curricula. (arts.13 and 14)

The Committee recommends that the State party significantly increase the funding of the public education system and to ensure the effective abolition of school fees. The Committee also calls upon the State party to take active measures to reintegrate children in conflict-affected areas into education through rehabilitation of school facilities, to reduce disparities among provinces and districts in access to and full enjoyment of the right to education and to ensure that schools are adequately equipped with water, sanitation and electricity facilities. The Committee further calls upon the State party to improve the quality of education by ensuring that teachers are well-trained and fully qualified and to ensure that human rights and peace education is fully included in school curricula.

37. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant.

38. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

39. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee also encourages the State party to proceed with the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol as indicated in its written responses to the Committee.

40. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee (E/C.12/2008/2), by 30 June 2013.

ETHNIC CONFLICT

WHAT PRESIDENT RAJAPAKSA SAID BEFORE AND AFTER THE WAR

OUR METHOD IS DISCUSSION INSTEAD OF WAR

The Policy Statement made by President Rajapaksa - 25 November 2005

Peace with dignity in an undivided country

My government will give the **highest priority to launch a new peace process** to usher in a lasting peace through a political solution to the country's national question. Our method is discussion instead of war. We are aware that such discussions are not simple and easy. Yet it is the only way to peace.

My Government is ready to have direct talks with the Liberation Tigers of Tamil Eelam. The political solution to a lasting peace should be based on a consensus reached through discussions among all parties linked to the problem and it should receive the approval of majority of the people. Our policy for reaching such a consensus is as follows:

In order to realise a lasting peace by solving the national crisis, we propose to build a new social democratic state cherishing political pluralism that upholds the aspirations and rights of all sections of our society. Based on that principle we will pursue the following policy to reach a national consensus for peace with dignity. *(Excerpt)* [http://www.president.gov.lk/speech arc 25 11 2005.php](http://www.president.gov.lk/speech_arc_25_11_2005.php)

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ALL PARTY CONFERENCE REPRESENTATIVES WILL BE DELIBERATING TO FORM THE BASIS FOR DEVOLUTION

An interview published in "Junior Vikatan" – 17 December 2006.

What did you consider as most important during your recent Indian visit?

I am happy that my recent visit to India was fruitful; the most important being my meeting with the Indian leadership when I reiterated my commitment to a negotiated political settlement to the ethnic problem.

Tamils are citizens by descent in Sri Lanka. But will the Government itself act against Tamils?

The Tamil community is an important component of our country. They have played important roles in the development of Sri Lanka and have been continuously doing so. They continue to hold high positions in the government sector including in the armed forces.

You would be happy to note that the All Party Conference representatives will be deliberating to form the basis for devolution, to meet the aspirations of all communities including Tamils, within an undivided Sri Lanka. (S/P) *(Excerpt)* [http://www.president.gov.lk/interviwedecember 2006 12 17.php](http://www.president.gov.lk/interviwedecember_2006_12_17.php)

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"POLITICAL NEGOTIATIONS AND CONSTITUTIONAL REFORMS HAVE BEEN INITIATED TO ADDRESS CONCERNS OF ALL COMMUNITIES"

PRESIDENT MAHINDA RAJAPAKSA AT THE G - 11 SUMMIT IN JORDAN ON 19TH MAY 2007

"Sri Lanka has suffered heavily from terrorism. We have been working together with the global community to deal with terrorism. We have also firmly confronted senseless terrorist violence. Not only we seek to defeat terrorism, but also to liberate the people who have become victims of terrorism. In this exercise, we are fully committed to safeguarding human rights and democracy. Political negotiations and constitutional reforms have been initiated to address concerns of all communities". *(Excerpt)*

<http://www.president.gov.lk/speech .asp>

"WE HAVE REMOVED THE WORD MINORITIES FROM OUR VOCABULARY"

ADDRESS BY MAHINDA RAJAPAKSA AT THE CEREMONIAL OPENING OF PARLIAMENT,
SRI JAYAWARDHANAPURA - KOTTE, MAY 19, 2009

"We have removed the word minorities from our vocabulary three years ago. No longer are the Tamils, Muslims, Burghers, Malays and any others minorities. There are only two peoples in this country. One is the people that love this country. The other comprises the small groups that have no love for the land of their birth. Those who do not love the country are now a lesser group". (*Excerpt*)

http://www.president.gov.lk/speech_New.asp?id=74

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I DIVIDE THEM INTO PEOPLE WHO LOVE THE COUNTRY AND PEOPLE WHO DO NOT

President Rajapaksa in an extensive interview with the 'Forbes' Magazine – 01 September 2009

"The war is over," he said. "Now we have no excuses. We have to start working and develop this country."

"I am a president for the whole nation. I divide people not as Sinhalese or Tamils or Muslims or Burghers. I divide them into people who love the country and people who do not," the President said. He said he speaks Tamil when he wants to, as he can approach them more closely by speaking to them in their own language.

He spoke of his government's commitment to economic development and said "We must have a Sri Lankan model." ... "I prefer to be agriculturally based. If you can be self-sufficient in food, then the industries will come," he said. (*Excerpt*) http://www.president.gov.lk/inter_New.php?id=15

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ECONOMIC DEVELOPMENT WILL BE HIGH ON THE PRIORITY LIST

President Mahinda Rajapaksa in an interview with Times of India – 30 May 2010

You arrive in India on June 8. Will we finally see the revival of the India-Sri Lanka Comprehensive Economic Partnership Agreement, which has been hanging fire for two years?

We hope to discuss a number of issues. *Economic development will be high on the priority list.*

You recently said that you learnt a lot from India's mistake in handing police control to state governments. Is that an excuse for not implementing the 13th Amendment, which provides for devolution of power to Sri Lanka's provincial governments?

India is a huge country — you can't compare it with Sri Lanka. I always say that police powers can't be given to provinces. There are too many issues. Look what happened during the Mumbai attacks, when it took so much time to get the commandos, because all kinds of clearances were required. That is why I feel that police powers on the island should be centralized. (*Excerpt*)

http://www.president.gov.lk/inter_New.php?id=18

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WE WILL TAKE OUR OWN TIME AND THE SOLUTION, YOU CAN'T ASK FOR AN INSTANT SOLUTION LIKE INSTANT NOODLES

President Mahinda Rajapaksa in an interview with Times of India – 28 June 2010

The international community, including EU, even India, frequently asks you to speed up the process of finding a political solution. Where do you stand on that?

We will take our own time and the solution, you can't ask for an instant solution like instant noodles. Constitutions are not for one or two days. It is not a magazine which is published weekly or monthly. We can't change the Constitution frequently. We will have to take our own time. We will certainly change all this. My commitment remains. (*Excerpt*) http://www.president.gov.lk/inter_New.php?id=19

WHEN I ASKED FOR TWO THIRDS MAJORITY, THEY GAVE ME NOW IT IS THE ECONOMIC DEVELOPMENT, SO WE DO THAT

President Rajapaksa in an interview with Al Jazeera's '101 East' today – 27 May 2010

Fauziah Ibrahim: But a year on, some people are saying that you have not addressed the grievances that started this war in the first place. The Tamil community still feels marginalized. How do you

President Mahinda Rajapaksa: (interrupts) I don't agree with that, because some politicians are making these issues. Or some NGO's. Now if you go to the camps and if you ask them what do you want first? They will say I want my house back, I want a job, and I want to educate my children. They will not ask for anything else. So first what we must do is resettle these people. Give them the facilities, give them the things that are enjoyed by others in the south. Why not? Let them enjoy that first, then the people will... once they elect their own people, their representatives, into parliament, into provincial governments.... And then we can discuss with them, we can have a dialogue.

Fauziah Ibrahim: You're confident of this? Why do you say that?

President Mahinda Rajapaksa: People will trust me. I know that people will trust me. *When I asked for two thirds majority, they gave me.*

Fauziah Ibrahim: Going forward and as Sri Lanka tries to rebuild itself after a near 30 year war, and reconciliation as you say is trying to take place. What do you think is the biggest obstacle that faces your people?

President Mahinda Rajapaksa: We have to build that trust as soon as possible and it's building up. This is the challenge we are ready to take. So, after 30 years we took the challenge to defeat terrorism, so we took that challenge and won. *Now it is the economic development, so we do that.* Within one year, we resettle the people. 90% have been resettled. By December, everyone will be resettled in this country. (Excerpt) http://www.president.gov.lk/inter_New.php?id=17

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30 YEARS CANNOT BE RESOLVED IN A HURRY

President Rajapaksa said at his meeting with newspaper Editors – 30 January 2012

"Whether it be 13 plus or 13 minus, these and more issues should be sorted out through the PSC mechanism. The Opposition must join in this effort as the problems at hand should be resolved democratically," the President explained. It is the PSC which must clear-up all outstanding questions, he said. "Parliament's decision on these matters is my decision," the President emphasized.

"I am willing to expedite the PSC process to search for solutions to these issues. There is absolutely no need for intermediaries. While it is the responsibility of all to come together to search for solutions to our issues collectively, some parties in the Opposition are not even nominating their personnel to the PSC. The TNA has, on occasion, acted like the LTTE.

They have joined discussions only to leave them abruptly. All need to remember that a problem which raged for 30 years cannot be resolved in a hurry," the President explained. (Excerpt) <http://www.president.gov.lk/news.php?newsID=1568>