



COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

REPORT OF THE COMMITTEE'S DELEGATION ON ITS MISSION TO SRI LANKA 9 - 11 July 2013

- ▶ CASE No. SRI/12 - JAYALATH JAYAWARDENA
- CASE No. SRI/49 - JOSEPH PARARAJASINGHAM
- CASE No. SRI/53 - NADARAJAH RAVIRAJ
- CASE No. SRI/61 - THIYAGARAJAH MAHESWARAN
- CASE No. SRI/63 - D.M. DASSANAYAKE
- CASE No. SRI/68 - SARATH FONSEKA
- CASE No. SRI/69 - SIVAGANAM SRITHARAN

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A. BACKGROUND AND CONDUCT OF THE MISSION

1.1 The cases of concern to the mission were submitted to the Committee between September 2004 and January 2008. At its 140th session (January 2013), the Committee considered that the sheer number of cases before it and the serious issues involved warranted an on-site mission enabling it to take direct stock of progress made in addressing those issues within the current political context of Sri Lanka. On 20 February 2013, the Secretary General conveyed to the Speaker of Parliament and the Minister of Plantation Industries and Special Envoy of the President of Sri Lanka on Human Rights (further referred to as the Minister of Plantation Industries) the Committee's suggestion that an on-site mission should take place to Sri Lanka. In his letter of 14 May, the Secretary General proposed that the mission take place from 9 to 11 July, which proposal was subsequently favourably received by the authorities.

1.2. The Committee asked its Vice-Chairperson, Senator Juan Pablo Letelier (Chile), and the outgoing substitute member for the Asia-Pacific region, Senator Francis Pangilinan (Philippines), to carry out the mission. The delegation was accompanied by the Committee Secretary, Mr. Rogier Huizenga.

- Programme

The delegation met the following persons:

(a) Parliamentary authorities

- Mr. Chamal Rajapaksa, Speaker of Parliament
- Mr. Chandima Weerakkody, Deputy Speaker of Parliament
- Mr. Nimal Siripala de Silva, Leader of the House, Chairman of the Committee on Privileges and Minister of Irrigation and Water Resources Management
- Mr. Ranil Wickremasinghe, Leader of the Opposition
- Mr. Dhammika Dasanayake, Secretary General of Parliament

(b) Government authorities

- Mr. Mahinda Samarasinghe, MP, Minister of Plantation Industries and Special Envoy of the President of Sri Lanka on Human Rights
- Mr. Rauff Hakeem, MP, Minister of Justice

(c) Judicial authorities

- Mr. Palitha Fernando, Attorney General, and members of his team

(d) Police authorities

- Mr. N.K. Illangakoon, Inspector General of Police (IGP), and his Deputy

(e) Other members of parliament

- Mr. Vijitha Herath
- Mr. R. Sampanthan
- Mr. Suresh K. Premachandran
- Mr. Tiran Alles

(f) National Human Rights Commission (NHRC)

- Chairperson Justice Priyantha Perera and two other members of the Commission

(g) Others

- Mr. Paikiasothy Saravanamuttu, Director of the Centre for Policy Alternatives
- Ms. Cynthia Veliko, Senior Human Rights Adviser, United Nations

- Mr. Robbie Bulloch, British Deputy High Commissioner to Sri Lanka and the Maldives, and two of his colleagues
- Diplomatic representatives from the European Union, Australia, Canada, Germany, Italy, the Netherlands, Norway and Switzerland

1.3. The delegation wishes to thank the Parliament of Sri Lanka for having received the mission. It is highly appreciative of the extensive efforts made by the parliamentary authorities and staff to organize the meetings it requested. It wishes in particular to thank the Speaker and the Deputy Speaker for the luncheon they hosted and for their hospitality.

1.4. The delegation is grateful to the Minister of Plantation Industries for his assistance and support in organizing the visit and the meetings with officials. It thanks him for the dinner he hosted, which provided an opportunity for more informal discussions with a number of officials.

1.5. The delegation regrets that a requested meeting with H.E. President Rajapaksa did not take place, since he could have shed light at the highest level on the human rights situation in Sri Lanka. It also regrets that, apart from members of the TNA and Mr. Herath of the People's Liberation Front (JVP), no one else attended the scheduled meeting with parliamentary group leaders on Tuesday, 9 July.

1.6. The delegation greatly appreciated the opportunity it had to attend part of the afternoon parliamentary sitting on 9 July, which gave it greater insight into the workings of Parliament.

B. CASE SUMMARIES AND IPU CONCERNS

The cases below, involving alleged violations of the human rights of members of the Sri Lankan Parliament, were pending before the Committee at the time of the mission and were included in the mission's mandate.

1. The murders of Mr. Pararajasingham, Mr. Raviraj, Mr. Maheswaran and Mr. Dassanayake

1.1. Mr. Pararajasingham, TNA Member of Parliament for Batticaloa, was shot dead on 24 December 2005 while attending midnight mass in St. Mary's Cathedral in Batticaloa. The Cathedral is located in a high-security zone and was surrounded by soldiers at the time of the murder. Three names or aliases of possible suspects were given to the authorities who have repeatedly stated that they are not able to identify and locate these persons with that information alone. According to the information provided by the current Minister of Plantation Industries in October 2009, one of the main problems was the question of witnesses, as the priest playing the organ had been unable to identify any suspects and witnesses were afraid to come forward. In this respect, the Minister stated that the Witness Protection Bill debated in Parliament in 2008 had not been passed and had subsequently lapsed owing to the dissolution of Parliament, so that party leaders would have to discuss the matter anew. It should be noted that the Bill had been criticized by many, in particular by human rights groups, as providing victims and witnesses with inadequate protection. The Minister of Plantation Industries, on the occasion of the hearing held during the 126th IPU Assembly (Kampala, March/April 2012), stated that the Government was ready to present the new Witness Protection Bill but that the opposition had requested more time to study it, and that, once the political party leaders were in agreement, the Bill would be tabled for discussion in Parliament. In the absence of any progress in the investigation, it had been laid by and could be reactivated if and when fresh material was received.

1.2. Mr. Raviraj, TNA Member of Parliament for Jaffna, was assassinated on 10 November 2006 while travelling in his vehicle on a busy highway in Colombo. Security personnel were reportedly on duty at several points along the highway, including in the immediate vicinity of the crime. According to the information provided by the Criminal Investigation Department (CID), based on an eyewitness account, soon after firing, the gunman escaped on a motorcycle (registration SPJE 6507). Investigations led to the owner of the motorcycle, Mr. Vanderburg, who testified that he had acquired the vehicle and sold it in November 2004 with the assistance of a broker by the name of Nalaka Matagaweere. The broker was arrested and testified that he, together with another broker by the name of Ravindra,

had sold the motorcycle to one Arul, who at the time was living at S.K.T. Jayasuriya's house. Arrest warrants were issued for Arul and Ravindra. Mr. Matagaweere and Mr. Jayasuriya were subsequently arrested and released on bail as inquiries revealed that they were not in Colombo when Mr. Raviraj was shot dead. Along with Arul and Ravindra, they were later strongly suspected of having escaped to the LTTE-controlled areas. Since the defeat of the LTTE in May 2009, the Criminal Investigation Department had attempted in vain to trace Arul and Ravindra among the refugees from the north. A report had been sent to the Attorney General seeking advice on further investigation, and the authorities had read reports from non-governmental organizations, including University Teachers for Human Rights, for information about the murder. Scotland Yard had assisted with the initial investigation and taken swabs of the bloodstain in the bag in which the firearm used for Mr. Raviraj's assassination was hidden and transported, and which was found at the crime scene. The swabs were profiled by Scotland Yard and preserved for matching if and when the suspects are apprehended. As late as June 2013, the authorities reiterated that investigations were still being conducted by the CID and that the case continued to be under judicial review.

1.3. Mr. Maheswaran, an opposition UNP Member of Parliament and member for the former constituency of Jaffna, was shot dead on 1 January 2008 while attending a religious ceremony at a Hindu temple in Colombo. The shooting came a few hours after Mr. Maheswaran had reportedly stated that, when parliament reconvened on 8 January 2008, he would reveal details of how abductions and killings in Jaffna were being managed from Colombo by the Government of Sri Lanka through the EPDP (Eelam People's Democratic Party). Moreover, his security detail had been cut from 18 to two, reportedly after his vote against the budget on 14 December 2007. The magistrate in the case reportedly instructed the police to base their investigation on the aforesaid statement. On 27 February 2008, the authorities arrested a suspect who had been identified as the gunman on the basis of a DNA analysis. The investigators concluded that the assailant was a Liberation Tigers of Tamil Eelam (LTTE) activist who had been trained and sent to Colombo to kill Mr. Maheswaran. The suspect confessed to the crime and was indicted. On 27 August 2012 he was found guilty and sentenced to death.

1.4. Mr. D. M. Dassanayake, member of parliament and Minister for Nation Building, was killed on 8 January 2008, along with a bodyguard, in a roadside Claymore mine attack in the town of Ja-Ela, north of Colombo, while on his way to parliament. The attack also left 10 people wounded. The subsequent arrest of a key Liberation Tigers of Tamil Eelam (LTTE) suspect operating in Colombo led to the arrest of other suspects whose revelations resulted in the recovery of the remote-control device used to detonate the explosive that killed Mr. Dassanayake. All three suspects were indicted. One of them, Mr. W. D. Hyacinth, was subsequently convicted on his own plea for failure to give information and has been sentenced to a suspended sentence of two years' rigorous imprisonment and a fine of 30,000 Sri Lankan rupees. The trial against the other two was pending in the High Court of Negombo under Case No. 136/2012.

1.5. The IPU had expressed deep concern at each of the four killings and the continued impunity in the cases of Mr. Pararajasingham and Mr. Raviraj. It had also expressed concern at the reduction of Mr. Maheswaran's security detail in spite of the known threat to his life. It was also concerned at the severity of the penalty imposed on the culprit of his murder and wished to know whether his conviction had enabled the authorities to establish the motive for the murder, in particular in the light of earlier concerns that the crime may be related to Mr. Maheswaran's criticism of the Government. In the case of Mr. Dassanayake, the IPU wished to receive clarification regarding the exact ground for the conviction of one of the culprits, together with a copy of the verdict, and to be kept informed of progress in the proceedings against the other two suspects.

2. The case of Dr. Jayawardena

2.1. Dr. Jayawardena was an opposition parliamentarian who was regularly under threat as a result of his vocal and critical parliamentary work. He considered that the authorities were not doing enough to protect him and at times in the past aggravated his security by wrongly portraying him as a Liberation Tigers of Tamil Eelam (LTTE) supporter. According to the authorities, as a result of the end of the civil war in Sri Lanka, Dr. Jayawardena was no longer under any threat. However, the source claimed that Dr. Jayawardena continued to be the target of false allegations, Ministers labelling him a traitor even inside parliament, and attacking him physically on two occasions. All this posed an added risk to his security. Furthermore, Dr. Jayawardena was injured by the police, together with a colleague,

at a joint opposition protest held in Colombo on 17 February 2012, during which he claims that he was deliberately targeted and that the police used excessive force. He submitted a Fundamental Rights Petition (No. 108/2012) to the Supreme Court on 12 March 2012 under Articles 17 and 126 of the Constitution against the Head of the Police Department and the Attorney General, claiming use of excessive force.

2.2. Dr. Jayawardena died in hospital on 30 May 2013, following a recent history of heart disease.

3. The case of Mr. Sarath Fonseka

Mr. Fonseka, a former General and Commander of the Sri Lankan Army who had become the main opposition leader, was arrested on 8 February 2010 shortly after he lost the January 2010 presidential elections, the results of which he strongly contested. He was prosecuted in five different cases before military and civilian courts after his arrest, each one of which, according to the source, raised serious concerns about respect for fair trial. While in detention, Mr. Fonseka contested the April 2010 parliamentary elections as the leader of the newly formed Democratic National Alliance and was elected for Colombo district. He was allowed to leave his prison cell to sit in Parliament until he was found guilty by the Court Martial in the Hicorp case in September 2010. Mr. Fonseka was granted a conditional pardon by the President on 18 May 2012 and released three days later. The full extent of this presidential pardon and its impact on the judicial proceedings against Mr. Fonseka and on his political and civil rights were not entirely clear before the mission took place.

4. The case of Mr. Sivanagesam Shriitharan

4.1. Mr. Sivaganam Shriitharan is a member of parliament for Vanni and belongs to the Tamil National Alliance (TNA). On 7 March 2011, Mr. Shriitharan was travelling from Vavuniyaa to Colombo to attend Parliament the following day. At around 6 p.m., when his vehicle was passing Nochchiyagama, on the Anuradhapura Puttalam Road (a 100% Sinhalese area, according to the source), at a place called Udukkulam, three persons got out of a vehicle parked at the roadside without a number plate, opened fire on the vehicle and hurled two hand grenades under it. Thanks to the driver's skill, Mr. Shriitharan escaped unscathed and the vehicle was only slightly damaged.

4.2. According to the source, Mr. Shriitharan and those working for him are being repeatedly harassed by law enforcement agencies because of his vocal work as a member of parliament and a human rights activist. According to the source, on 12 January 2013, while Mr. Shriitharan was in Colombo for the parliamentary session, officers attached to the Terrorist Investigation Division (TID) entered and reportedly placed explosives, compact discs with pornographic content and condoms in his office. The TID allegedly came together with pro-government media to document the search and took photographs of Mr. Shriitharan's personal secretary and arrested one of his employees. Reports from the police and the Attorney General's Office indicate, however, that the arrest of two suspects transporting 11.10 kilograms of cordite led the TID to search Mr. Shriitharan's office where they recovered 300 grams of cordite under the pantry slab of his office, along with CDs containing pornographic videos and other videos of anti-government activities. The TID later arrested another person and recovered 2.5 kilograms of cordite and 50 containers in the form of a charge, each containing amounts of cordite, for possible use as ammunition.

4.3. According to the source, on 16 January 2013, the military authorities, in coordination with members of the Sri Lanka Freedom Party and Eelam People's Democratic Party, orchestrated a demonstration in Kilinochchi and Mullaitththeevu districts by forcefully enlisting innocent bystanders and having them call for Mr. Shriitharan's office to be closed and his secretary to be arrested.

4.4. The source affirms that, on 18 January 2013, military intelligence personnel distributed to the public in Kilinochchi, Mullaitththeevu and Vavuniya districts, pamphlets with photographs of the items seized at Mr. Shriitharan's office. That same day, a police spokesman notified the media that Mr. Shriitharan's personal secretary had been arrested. Mr. Shriitharan had reportedly not been informed of her arrest in writing. According to reports from the police and the Attorney General's Office, the personal secretary, who had first tried to flee the country, confessed that after the office search she had met with Mr. Shriitharan and, at the latter's request, had drafted a letter critical of

the search, mentioning inter alia that the articles recovered at the Office during the search had been planted by the TID. Mr. Shritharan has denied the allegations of his personal secretary.

4.5. The source affirms that on 22 January 2013 Mr. Shritharan's office was again searched while he was in Colombo. Six persons reportedly carried out the search, including TID Inspector Sarath Sandra and translator police constable Resmin. During the search, Mr. Shritharan asked them by telephone whether they had a warrant. He was told that the search was conducted under the Prevention of Terrorism Act. When they left his office they took his main desktop computer and interrogated a party supporter for nearly two hours. The source affirms that the action taken against Mr. Shritharan has to be seen in the context of the critical remarks he made in November 2012 in Parliament and elsewhere about how young Tamil women were recruited for the Army in Kilinochchi and Mullaitheevu districts. As a result his security personnel were withdrawn, which according to the source then facilitated the January 2013 searches of his office.

4.6. On 22 January 2013, the TNA party leader Mr. Sampanthan and Mr. Sumanthiran, both MPs, raised the withdrawal of Mr. Shritharan's security detail with the Speaker of Parliament. The Speaker reportedly called on the Inspector General of Police to provide Mr. Shritharan immediately with police security. The source affirms, however, that no steps have since been taken in this regard. However, according to reports from the police and the Attorney General's Office, as forwarded by the Parliament in June 2013, two police officers are assigned to Mr. Shritharan as per IGP Circular EM/04/48/94, prepared on the instructions of the Ministry of Defence. Neither of those officers was withdrawn at any time by the police. In addition, he is also provided with security at his request whenever he visits his residences in Jaffna and Kilinochchi. The reports point out that parliamentarians are not provided with any security for their offices anywhere in the country unless otherwise requested for special occasions, such as meetings, functions and the like.

4.7. On 4 May 2013, the source reported that the TID had requested Mr. Shritharan to appear at its Headquarters over comments he had made to the press on alleged land acquisition by the Army in Kilinochchi District. According to the source, it was the fourth time that Mr. Shritharan was going to be questioned by the TID (previous occasions were in May and November 2012 and January 2013).

C. INFORMATION GATHERED

1. Information concerning the political context

Many of the delegation's interlocutors referred, in one way or another, to the following issues pertaining to the current political situation in Sri Lanka.

1.1. Steps taken in recent years by the Sri Lankan authorities and the international community to address human rights issues in Sri Lanka

- *National efforts*

1.1.1. All the Sri Lankan authorities highlighted in their meetings with the delegation that, with the end of the armed conflict in May 2009, a new era had started that was finally bringing Sri Lanka's communities together. In this regard, the Government was making huge efforts to bring development to northern and eastern Sri Lanka, which had already significantly improved the lives of Sri Lankans in those parts of the country.

1.1.2. Many of the Sri Lankan authorities stressed that Sri Lanka had taken several steps in recent years to address human rights concerns and promote accountability. In May 2010 the President of Sri Lanka appointed the *Lessons Learnt and Reconciliation Commission* (LLRC), a commission of inquiry mandated to investigate the facts and circumstances which led to the failure of the ceasefire agreement of February 2002, the lessons that should be learnt from those events and the institutional, administrative and legislative measures which needed taking in order to prevent any recurrence of such concerns and to promote further national unity and reconciliation among all communities. After an 18-month inquiry, the commission submitted its report to the President on 15 November 2011. The

report was made public on 16 December 2011. The LLRC concluded that the rebel Liberation Tigers of Tamil Eelam (LTTE) had repeatedly violated international humanitarian law. The commission acknowledged that it had received testimony attributing responsibility for civilian deaths to the military and asked the authorities to ascertain more fully the circumstances under which specific instances of death or injury to civilians could have occurred. The commission blamed Sinhalese and Tamil politicians for causing the civil war: the Sinhalese politicians failed to offer a solution acceptable to the Tamil people and the Tamil politicians fanned militant separatism. Following publication of the LLRC report, the authorities adopted a national action plan to accept several of its recommendations and set up a task force to ensure adequate implementation of the action plan.

1.1.3. In addition, following Sri Lanka's first examination by the United Nations Human Rights Council under its Universal Periodic Review (see also 1.2.4.), the authorities adopted the National Action Plan for the Promotion and Protection of Human Rights (NHRAP) 2011-2016, which addresses eight thematic areas: civil and political and economic, social and cultural rights, women, child, labour, IDP and migrant worker rights, and the prevention of torture.

- *International scrutiny of respect for human rights in Sri Lanka*

1.1.4. In recent years, the human rights situation in Sri Lanka has come under increasing international scrutiny. Much of the momentum for the criticism arose from a Channel 4 video entitled "Sri Lanka's killing fields", which gives an account of what happened during the final stages of the war in northern Sri Lanka, the truth of which the authorities have contested.

1.1.5. In June 2010, the United Nations Secretary-General established a Panel of Experts mandated to advise him on the issue of accountability with regard to any alleged violations of international human rights and humanitarian law during the final stages of the conflict in Sri Lanka. The Panel of Experts, in the report they delivered to the Secretary-General in April 2011, concluded that their work revealed "a very different version of the final stages of the war than that maintained by the Government of Sri Lanka". The experts found "credible allegations" which, if proven, indicated that war crimes and crimes against humanity were committed by the Sri Lankan military and the rebel Liberation Tigers of Tamil Eelam (Tamil Tigers). The panel concluded that "the conduct of the war represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace". The Panel found that as many as 40,000 civilians may have been killed in the final months of the civil war, most as a result of indiscriminate shelling by the Sri Lankan military. The Panel has called on the United Nations Secretary-General to conduct an independent international investigation into the alleged violations of international humanitarian and human rights law committed by both sides. The Sri Lankan Government has rejected the Panel's entire report, calling it "fundamentally flawed in many respects", and as being based on "patently biased" and unverified material.

1.1.6. In 2012, the United Nations Human Rights Council adopted for the first time a resolution on Sri Lanka with a focus on promoting reconciliation and accountability. In it, the Council notes with concern, echoing criticism voiced by a number of international human rights groups, that the LLRC report does not adequately address serious allegations of violations of international law. The resolution nevertheless acknowledges the LLRC report's possible contribution to the process of national reconciliation in Sri Lanka. The Council therefore called on the Government of Sri Lanka to implement the constructive recommendations in the LLRC report and take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans. It repeated those concerns in the resolution it adopted in 2013, and which followed on the report on a visit of a technical mission of the Office of the United Nations High Commissioner for Human Rights to Sri Lanka. The 2013 Council resolution welcomes that report and its conclusions, in particular regarding the establishment of a truth-seeking mechanism as an integral part of a more comprehensive and inclusive approach to transitional justice, and emphasizes that Sri Lanka's national plan of action does not adequately address serious allegations of violations of international human rights law and international humanitarian law.

1.1.7. In November 2012, the United Nations Human Rights Council examined the human rights situation in Sri Lanka. One prevalent recommendation was that Sri Lanka should take more steps to combat impunity for those who committed crimes during the civil war. States from Latin and South

America, as well as several European countries, were particularly vocal on the issue. The Council's Working Group made 204 recommendations to the Government of Sri Lanka, of which the Sri Lankan authorities accepted 113. The authorities rejected the other 91 arguing, inter alia, that they diverged from the above-mentioned National Action plan for the Promotion and Protection of Human Rights (NRHAP). Several States made objections before the report was adopted. The United States of America, France and the United Kingdom were concerned that Sri Lanka had made changes to the substance of the recommendations given to it in the interactive dialogue. In response, Sri Lanka highlighted the importance of a State's sovereignty within the UPR mechanism and argued that all the changes to recommendations had been made in concurrence with the parties concerned. Additionally, Sri Lanka pointed out their flexibility in accepting a large total of recommendations.

1.2 Concern about effective checks and balances

1.2.1 Several interlocutors, from both the political opposition and the international community, expressed deep concern about lack of effective checks and balances, the centralization of State power in the Presidency and in a single family, interference in the judiciary and the lack of any serious attempt to promote devolution. They pointed out that the police remained under the authority of the Ministry of Defence and that the Attorney General's Office stayed in the hands of the Presidency. In its final report, the LLRC recommended that the police should not be directly supervised by the Ministry of Defence.¹

1.2.2. In September 2010, Sri Lanka's Parliament passed, following fast-track procedure and therefore without providing either the Sri Lankan public or the Provinces with any real possibility of presenting their views, the 18th Amendment Bill (basically an amendment of the 17th Amendment). The 18th Amendment Bill allows the President to seek re-election any number of times and brings independent commissions under his or her authority. Before, the President was obliged to obtain the recommendation of the Constitutional Council for appointments to the independent commissions. The 18th Amendment replaced the Constitutional Council with a Parliamentary Council, which consists of the Prime Minister, the Speaker, the Leader of the Opposition Party and two Members of Parliament to be nominated by the Prime Minister and Leader of the Opposition. Under the 18th Amendment, the President has the power to appoint the Chairman and members of the Election Commission, the Public Service Commission, the National Police Commission, the Human Rights Commission, the Permanent Commission to Investigate Allegations of Bribery and Corruption, the Finance Commission, the Delimitation Commission, the Chief Justice and Judges of the Supreme Court, the President and Judges of the Court of Appeal, Members of the Judicial Service Commission, the Attorney General, the Auditor General, the Ombudsman and the Secretary General of Parliament. The President shall seek the observation of the Parliamentary Council while making the appointments, but is not bound by the Council's observations. He/she is also empowered to remove members of the Independent Commissions. Moreover, he/she can remove the two nominated members appointed by the Prime Minister and the Leader of the Opposition from the Council.

1.3. Devolution of powers

1.3.1. The Leader of the House explained to the delegation that a Parliamentary Select Committee to Recommend and Report on Political and Constitutional Measures was going to meet for the first time on 9 July. Its mandate was to formulate recommendations to: (i) preserve and promote their respective identities and live with dignity and security as one Nation, (ii) enhance the unity of the people of Sri Lanka, and (iii) empower the people and the country to promote social, economic, political and cultural development to address the question of devolution. According to the Leader of the House, there were no concrete proposals from the Government on the table and anyone was free to present his or her views. The Select Committee comprised 31 members, 19 from the ruling parties and 12 from the opposition. The Leader of the House pointed out that the UNP had not yet designated its members on the Committee and that the TNA had so far declined to take part in the Committee for lack of trust in the authorities, even though the latter had changed

¹ Since the mission took place, the Ministry on Internal Law and Order was created. It has direct authority over the police, with the President of Sri Lanka having ultimate responsibility.

the Committee's remit to accommodate their wishes. The Leader of the House stated that the public could make representations and that the UNP had already presented a new draft constitution. The issue of devolution, as well as other issues would most likely be part of the discussion.

1.3.2. Interlocutors from the opposition and the international community stated that the discussion would focus on amending the 13th Amendment to the Constitution which deals with devolution and was enacted following the Indo-Sri Lanka Accord of July 1987 in respect of legislative, executive and administrative powers. The Amendment gives provinces the power to block laws and constitutional changes that affect them. It also gives adjacent provinces the right to merge. Several interlocutors from the opposition and the international community expressed the belief that the Government aimed to dilute the already weak devolution framework in place in Sri Lanka and that pressure was being exerted to obtain that result. In this regard, some of them pointed out that the Government feared that the Tamils might be able to obtain a separate State or large autonomy through the democratic process, in particular through the use of the 13th Amendment. They argued that such fear had no foundation, with the TNA agreeing that the needs of Tamils could be respected in a united and undivided Sri Lanka. Those interlocutors stressed that unjustified fears should not be used to avoid the search for a genuine political solution. They considered that the 13th Amendment already fell short of what was needed, but that it was at least something.

1.4. Militarization in the north and forthcoming elections for the Northern Province

1.4.1. Members of the opposition and representatives from the international community told the delegation that the north of Sri Lanka remained highly militarized and that there was in fact no real civil administration. Several pointed out that the Army ran every aspect of public life and was heavily engaged in economic activity, allegedly having taken more than 6,000 acres of land. According to them, the Army and the Ministry of Defence could essentially decide whether an MP could go to the north.

1.4.2. They pointed out that there were some 100,000 to 150,000 armed soldiers in the north for a population of 1 million people. Some went as far as to say that the Army was selecting or interviewing candidates for the ruling party in the forthcoming council elections of 21 September for the Northern Province. Military checkpoints were commonplace in the north and, even though emergency rule had been abolished, the Prevention of Terrorism Act was still in place. The opposition members stated that the Army should return to its barracks, and that international observers should monitor elections in the Northern Province.

1.4.3. The Minister of Plantation Industries stated that there were far fewer soldiers in the north, numbering around 50,000. Their presence was still necessary given that 12,000 former LTTE fighters were living in that area. When asked if there had been any terrorist attacks since the end of the war, he stated that there had been none.

1.4.4. The Leader of the Opposition told the delegation that the Jaffna Security Forces were behind the attacks on a political rally held in Jaffna in February 2013, which he had attended and where he met with politicians from the TNA and other parties. Sri Lankan military operatives, reportedly in plain clothes, attacked peaceful protesters in front of Thurkkai Amman temple in Thellippazhai in Jaffna, where a token fast against the decision to convert the former Sri Lanka Military High Security Zone (HSZ) into Sinhala Military Zone (SMZ). The attack came after the Leader of the Opposition had left the site taking part and addressing the protesters. He had subsequently informed all the relevant officials of the incident but no action had been taken to prevent its recurrence. He also stated that it was very difficult for TNA parliamentarians to do their work in northern Sri Lanka, citing as an example the situation of Mr. Shritharan. He had raised the matter twice in Parliament, but to no avail.

1.5. Independence of the judiciary

Several interlocutors pointed to the erosion of the independence of the judiciary, which in their view had taken a turn for the worse with the highly contested impeachment of the Chief Justice, who was forced to resign in January 2013. Former Attorney General and senior

government legal adviser Mohan Peiris was appointed to replace her, sparking concerns about his independence vis-à-vis the Government.

1.6. The rise of religious extremism

Several interlocutors, from both the opposition and the international community, referred to a recently new phenomenon, namely that of increased Buddhist religious intolerance. There have been a series of attacks on Muslim places of worship and business establishments for over a year, with some pointing to a clear pattern emerging in what is a hate campaign against Muslims. These crimes are committed in full public view and in the presence of police, who have reportedly taken no steps to apprehend the culprits.

2. **Investigations into the murder cases**

2.1. General information on investigations into the murder cases

2.1.1. Several authorities emphasized that the murders of the four MPs had been committed at a time of war. In such cases, they stressed, it was very plausible that the LTTE bore responsibility for the crimes. The Minister of Justice stated that during the war TNA members of parliament had been held to ransom by the LTTE. The fact that crimes were committed in high-security zones did not necessarily mean that the Army or Police were involved. Even a heavily protected place like Parliament had been targeted by an attack in 1987 and a former President had lost an eye in an LTTE attack. Law and order were not up to par during those troubled times.

2.1.2. Since May 2009, a new era had started during which most of the 12,000 LTTE cadres had been pardoned by presidential proclamation. The pardoned LTTE members had been rehabilitated in society, even receiving money to set up businesses. People were nevertheless afraid to come forward to help the authorities with solving past crimes. The Leader of the House referred in this regard to fear of former LTTE members, but also of the Army and Police. That said, the authorities were doing their utmost to shed light on the crimes committed during the conflict and to identify and hold to account the assassins of the members of parliament. Those efforts had started with a careful background check of the 12,000 pardoned LTTE members. They also included a careful examination of the possible involvement of the 600 former LTTE cadres who remained in custody on the basis of suspicions that they bore direct responsibility for serious human rights and humanitarian law violations during the conflict. The Leader of the House stated that one possible scenario was that the murderers had been killed in action during the conflict and that their bodies had not been found.

2.1.3. Many interlocutors stressed that the Sri Lankan justice system was very slow. The authorities were adamant, however, in tackling any abuses committed by Army and Police officers. However, while the previous emergency powers gave law enforcement agencies wide-ranging powers, the abolition of those powers brought about enhanced protection for the accused, which meant that the authorities had to become ever more effective. On several occasions, the authorities pointed to the recent arrest of the Deputy Inspector of Police, Mr. Vass Gunarwardena, in connection with his alleged responsibility in the contract killing of a Sri Lankan businessman, to demonstrate their willingness to tackle violations, including at the highest level, by its own law enforcement agencies. The authorities also pointed out that 13 members of the Special Task Force of the Sri Lanka Police had recently been detained in connection with the murder of the 5 students in Trincomalee and the 17 aid workers of the NGO *Action contre la Faim*. Other interlocutors were quick to observe that such steps were no serious indication of the Government's willingness to tackle impunity and had been taken, firstly, to settle scores and secondly to show the United Nations High Commissioner for Human Rights, during her visit to Sri Lanka in August 2013, that the Government was serious about human rights. The same interlocutors claimed that the detention of the police officers was a whitewash and that all the evidence in connection with the murders had long been removed.

2.1.4. In the delegation's meetings the witness protection bill came up several times. The Minister of Justice stated that the draft bill had been presented to the Cabinet and shared for comments with the Attorney General. He was confident that the bill would soon be officially submitted for consideration by Parliament. In response to some of the concerns expressed about

the previous draft, the Minister said it was essential to ensure the veracity of the witness statements and the identity of witnesses, which made it necessary that for witnesses abroad at least a member of the local Embassy had to be present during the taking of testimony. The draft Bill proposed that a separate witness protection unit be created and placed under the authority of or as part of the Police. The Attorney General seemed to indicate that, at present, witnesses were in a position to present their testimonies from a concealed location.

2.2. Investigations regarding the murders of Mr. Pararajasingham, Mr. Raviraj, Mr. Maheswaran and Mr. Dassanayake

1. *Mr. Pararajasingham*

1.1.1. According to the source in the case, the murder had to be seen in the following light: the LTE split into two groups in 2004, a move which was supported by the Government. The split was based on regional boundaries, the breakaway group was led by Mr. Vinayagamoorthy Muralitharan (his alias during the war being Colonel Karuna Amman), who at present holds a ministerial position in the government party. During that time when LTE was divided Karuna's faction asked Mr. Pararajasingham to support the split but the latter refused to back regionalism. According to the source, this became a problem for those who wanted the Tamils from the north and east to be divided. The source affirms that Mr. Pararajasingham requested the President, the Defence Secretary and the Army General, in the course of a meeting, to remove high-security zones from Batticaloa in December 2005. After that meeting, Mr. Pararajasingham reportedly informed the President that he would be going to Batticaloa for Christmas. According to the source, many people have confirmed in confidence that the assailants were from the Karuna faction and that the white van with the assailants went in the direction of the Army camp situated within a radius of under a mile. Moreover, two of Mr. Pararajasingham's bodyguards were sent to the Ministry of Defence just days before the killing and two new guards were sent instead. When the killing took place the bodyguard who drove the car was reportedly not even on site. He locked the car and went away somewhere. After shooting Mr. Pararajasingham, the assailant(s) walked out of the entrance which was guarded by the other bodyguard. The source emphasizes that the way in which Mr. Pararajasingham was murdered has to be seen as an effort to send a message to the people of east Sri Lanka that "we can kill anyone, anywhere". The source affirms that the killing was part of a wider strategy to capture by force the east of Sri Lanka from the Tamils and to silence those who stood in the way of this strategy, such as was the case with the five high school students who were murdered days later in Trincomalee, which fate was shared by the journalist who wanted to publish his findings about the cause of their death.

1.1.2. In the meetings with the delegation, the authorities reiterated the information which they had provided previously, namely that shortly after the crime two Army officers, who had been hovering in the vicinity of the place on the night of the murder, had been apprehended for questioning and taken into custody. The officers had denied any involvement in the crime and were released following the results of the identification parade. At the instigation of the IPU, the authorities had also made inquiries in the Batticaloa District to trace an individual named Kaluthavalai Ravi and Kommathurai Ravi, but these efforts proved futile as no addresses were provided. Similarly, attempts to trace individuals Kalai and Sitha alias Pradeep in the Batticaloa area also failed to produce any results in the absence of their full names and addresses.

1.1.3. The authorities therefore stressed that they had been doing their utmost to identify Mr. Pararajasingham's murderers, but that they had made no significant progress in this regard. The Reverend, Brother Arukkiyam James, who was playing the organ in the church on the night of the murder, had been unable to identify the assailants and no one else had come forward to assist the investigation. In response to the observations that the Government should also look into the possible involvement of the Karuna group in the murder, the delegation was told in the meeting with the Minister of Plantation Industries, the House Leader, the Inspector General of Police, his Deputy and others, that there was no evidence pointing in that direction. The Minister of Plantation Industries suggested that the authorities should also offer a financial reward to those who might be able to assist with identifying the culprits, a suggestion that was taken on board by those participating in the meeting.

2. *Mr. Raviraj*

2.1.1. Members of the opposition stated that the authorities had not really investigated the murder and that there was no likelihood of a serious investigation taking place as this was exclusively in the hands of the Executive. One member mentioned rumours that the assailant had escaped Sri Lanka soon after the murder. The opposition expressed its conviction that Mr. Raviraj was not killed by the LTTE. They all pointed to the fact that he had been killed on one of the most secure roads in Colombo, between police checkpoints, and that he had been very critical of the Government. Shortly before he was killed, he had in fact criticized the Government in a TV programme. The delegation was reminded of the special report No. 29 of the NGO University Teachers for Human Rights (Jaffna), which contains, inter alia, a detailed analysis of the case. The report concludes that the circumstances of the murder point to State responsibility and that the immediate purpose of Mr. Raviraj's killing appears to have been to silence the Civil Monitoring Committee,² whose reports on abductions, killings and extortions had "created a huge stink".

2.1.2. The authorities told the delegation that they were still looking for the suspects. Although there were no new elements, the authorities expressed their commitment to continuing the investigation and had offered a reward for anyone who could lead them to the culprits. The Minister of Plantation Industries undertook to make a copy of the Scotland Yard report available to the Committee.

3. *Mr. Maheswaran*

3.1.1. The Leader of the Opposition told the delegation that Mr. Maheswaran had announced that, when Parliament reconvened in January 2008, he would identify those responsible for the abduction and killings in Jaffna. They said that, notwithstanding police and intelligence reports indicating that he was under threat, Mr. Maheswaran's security detail had been reduced from eight to two after he had voted against the budget. The Leader of the Opposition was very critical of how the matter had been handled by the police, which criticism he had repeatedly voiced in the Parliament.

3.1.2. The authorities stated that they were able to solve the case of Mr. Maheswaran once the conflict was over as it allowed them to establish, through DNA analysis, that the assailant was an LTTE cadre specifically sent to Colombo to carry out the murder. A video recording of the culprit's confession existed, and his parents had confirmed that he was an LTTE member. Given that the culprit had been sentenced and convicted, the authorities considered the case to be closed.

4. *Mr. Dassanayake*

The Attorney General stated that the person who had been sentenced had been found guilty of harbouring the LTTE suicide bomber who killed Mr. Dassanayake. Two separate indictments were under way against two other suspects. That case was pending before court, with a hearing scheduled for 16 September 2013.

5. *Mr. Shritharan*

The Attorney General stated that in January 2013 explosives had been found in a truck in Jaffna. The drivers pointed to Mr. Shritharan whereupon the authorities decided to search his office, where they found explosive material and pornographic CDs. Mr. Shritharan's personal secretary had been arrested as well as a second person. The investigation was ongoing. The Member of Parliament himself did not stand formally accused at that point.

6. *Mr. Fonseka*

The Attorney General stated that Mr. Fonseka had been granted a remission of sentence, not a pardon. He is still being prosecuted in case No. 5331/2010 before the High Court of

² The Civil Monitoring Committee was established in 2006, inter alia by Mr. Raviraj and Mr. Mano Ganesan, MP, to monitor and report on extrajudicial killings, abductions and disappearances.

Colombo, in which he is indicted under sections 113A, 128 and 133 of the Penal Code for harbouring Army deserters attached to the Sri Lanka Corps of the Military (SLCMP) during the period between 16 November 2009 and 27 January 2010. The trial in this case began on 13 March 2012 and hearings were ongoing. Pleadings in the pending case before the Supreme Court (in case No. 65/2010 concerning the fundamental rights petition challenging Mr. Fonseka's arrest) were complete: the matter was due to be heard on 24 September 2013. The legal challenge against Mr. Fonseka's disqualification from Parliament and loss of civil and political rights (barring him from voting and standing in elections for a period of seven years following the completion of his sentence pursuant to Articles 89(d) and 91 of the Constitution) before the Court of Appeal was proceeding and had been fixed for argument for 30 August 2013.

D. CONCLUDING OBSERVATIONS AND REMARKS

1. General context

1.1. The delegation shares the authorities' view that Sri Lanka entered a new era four years ago with the defeat of the LTTE. The Government's significant efforts to have Sri Lankans in the north and east reap the benefits of socio-economic development are laudable and indispensable to help rebuild devastated lands and communities. However, the delegation emphasizes that socio-economic development for all Sri Lankans is but one of several key pillars for building a successful post-conflict Sri Lanka.

1.2. The delegation points out that a new Sri Lanka requires that all its citizens can speak their minds free of reprisals. The delegation welcomes in this regard the decision of the authorities to hold council elections for the Northern Province on 21 September 2013, which it sees as a historic opportunity for Sri Lankans in the north to express their views on how they want their province to be governed. The delegation is nevertheless very concerned about the reportedly continued extensive militarization of the north, which appears to be wholly disproportionate to any real need, and about allegations that the military are exerting control over the political process, including with regard to forthcoming elections. The delegation is also concerned in this regard about reports of undue restrictions being placed on politicians visiting the north and alleged incidents of disruption by the Army of political meetings. The delegation stresses that it is absolutely essential for the credibility of the political process in Sri Lanka that majority and opposition parties alike can reach out without restraint to the electorate and vice versa. In a similar vein, the delegation is concerned about reports that, even though the authorities have abandoned the idea of reviving the notion of defamation as a criminal offence and the adoption of a code of conduct for the media, the space for critical media reporting has narrowed. The delegation is also worried about the surge in religious intolerance, which, taken together with the above-mentioned factors, portrays a very different picture from the peaceful and progressive Sri Lanka that the Sri Lankan authorities are expressly seeking to promote.

1.3. The delegation takes note of the efforts by the Government to engage Sri Lankans in a discussion on a new political and constitutional framework for their country, including in the area of devolution. It notes that the Government has repeatedly stated that it has no preconceived ideas about the outcome of this discussion, that it would like the process to be fully inclusive, and that it is therefore doing its utmost to reach out to the opposition, which – at the time of the mission – had declined to participate in the consultation for fear that it would not be productive. The delegation encourages the Sri Lankan authorities to do all they can to listen and take into account the views of all segments in Sri Lankan society, including the communities in the north and east, in particular with regard to the very sensitive and complex question of devolution, so that the outcome of the consultation process can indeed strengthen the fabric of Sri Lankan society. The delegation suggests that the IPU make available, should the Sri Lankan Parliament consider it helpful, relevant expertise of other parliaments with experience of addressing the question of devolution of powers.

1.4. The delegation appreciates the extensive efforts made by the Government to promote human rights, including through the establishment of a national action plan and task force to follow up on the LLRC recommendations and a National Human Rights Action Plan. Notwithstanding the achievements brought about through these initiatives, the delegation is

concerned that true accountability is still perceived to be absent by many, more than four years after the war. The delegation stresses in this regard that tackling impunity requires a legal and political framework in which unaccountability can be challenged effectively. The delegation is deeply concerned therefore that, with the 18th Amendment to the Constitution in place, it is very difficult for national oversight institutions to do their work quite independently. The recent decision to place the Police under the authority of a newly created Ministry may be a step in the right direction, but only if it effectively ensures that the Police can operate with the independence they require.

2. On individual cases

2.1. The four murder cases

2.1.1 The delegation takes note of the progress made, of which it was already aware before the mission, in the cases of Mr. Maheswaran and Mr. Dassanayake in which two culprits were identified and convicted. The delegation is nevertheless concerned that the meetings with the authorities did not help shed further light on a longstanding concern in the case of Mr. Maheshwaran, namely that his murder took place at a critical time in his political career and against the background of a sudden reduction in security protection. The delegation remains keen to understand how these elements have been taken into account by the authorities in their efforts to shed full light on his murder and to establish accountability.

2.1.2. Two of the murder cases being investigated by the IPU Committee, namely those of Mr. Pararajasingham and Mr. Raviraj, have remained unpunished to date. The delegation regretted that, other than the announcement that a reward was offered to anyone able to assist the authorities with identifying the culprits, no new information was provided on the investigations in question. The fact that the investigations are at a standstill is of deep concern to the delegation.

2.1.3. The delegation notes that the duty of the State to dispense justice is not in dispute in Sri Lanka and is pleased to acknowledge the many unequivocal statements by the authorities, at all levels, committing it to comply with this duty in the cases under investigation by the delegation. The delegation encourages the authorities in this regard once more to examine seriously the possibility that others than LTTE cadres were responsible for these murders, in particular given that members from the opposition and others continue to point to the alleged responsibility of paramilitary groups in those crimes. While in the past the authorities could claim that they could not identify and apprehend the suspects, given the likelihood that they had fled to areas of the country which were then no longer under government control, this argument no longer holds. In this regard, the delegation fails to understand how the authorities are unable to establish the fate of the reported head of intelligence of the Karuna faction, namely Sitha alias Pradeep. The delegation also emphasizes that in the past Sri Lankan organizations have gathered a wealth of information, inter alia on the cases of Mr. Pararajasingham and Mr. Raviraj. While the delegation is not competent to assess the content of those reports, it believes that any lead is worth investigating independently and impartially given the gravity of the crimes concerned. While the delegation notes that the authorities have already stated in the past that they have carefully examined those reports, it does not know what concrete steps were taken in this regard. The delegation is keen for the authorities to provide further details on this point. It also encourages them to take proactive action to gather new information in both cases.

2.1.4. The delegation is aware in this regard that crimes can be committed even in high-security zones. It finds it highly improbable, however, that the perpetrators in the case of Mr. Pararajasingham could have escaped without the complicity of the security forces. The delegation is also concerned about the alleged change to his regular bodyguards and their behaviour at the time of the murder and looks forward to receiving the comments from the authorities on this point.

2.1.5. The delegation firmly believes that there can be no better deterrent against violence targeting members of Parliament and indeed the public at large than combating impunity and ensuring that those responsible for assassinations and other crimes are identified, apprehended and brought to justice. Given that – as the authorities have time and again acknowledged –

potential witnesses in the cases of Mr. Pararajasinghama and Mr. Raviraj may be afraid to come forward, the delegation is pleased that a witness protection bill will soon be brought before Parliament. It urges the Government to ensure that this indeed happens. The delegation is nevertheless concerned about some apparent key features of the bill, which make it difficult to believe that it will effectively help to protect witnesses. Given that many Sri Lankan civilians who have experienced first-hand the conflict in Sri Lanka may not fully trust their own law enforcement agencies, it seems inappropriate to create and place a witness protection unit within the national Police. The delegation considers it crucial that a new entity be created, which is and is perceived to be, truly independent of Sri Lanka's law enforcement agencies. The delegation calls on the Parliament of Sri Lanka to take the necessary steps to reflect this in the bill. It also calls on the Parliament to ensure that the bill enables witnesses abroad to provide their testimony in the absence of State officials, as long as certain minimum requirements are met. The bill should also ensure that those who endanger the safety of witnesses face adequate punishment.

3. The case of Mr. Shriitharan

3.1. The delegation is concerned that no information was made available about the state of the investigation into the attempt on Mr. Shriitharan's life in March 2011. The delegation is concerned that this may indicate that no progress has been made in identifying and holding to account those responsible and therefore urges the authorities to do everything possible to shed full light on this crime.

3.2. The delegation is concerned, in the light of the above-mentioned observations about the situation in northern Sri Lanka, about the allegations that Mr. Shriitharan is facing undue harassment due to his prominent parliamentary work. The delegation takes note in this regard of the concerns that, although the emergency provisions may no longer be in place, the Prevention of Terrorism Act still exists and has been extended in scope. While the delegation understands the authorities' concerns that they should remain vigilant against the resurgence of terrorism, it believes that, over four years after the end of the internal conflict, it is highly questionable whether there can be any justification for keeping the Prevention of Terrorism Act in its present form. The delegation sincerely hopes therefore that the authorities will seriously consider amending if not abolishing the Act.

3.3. The delegation notes that Mr. Shriitharan does not stand accused at present in connection with the explosives and other illegal material reportedly found in his office. The delegation suggests that the IPU Committee continue to follow closely the matter.

4. The case of Mr. Fonseka

4.1. The delegation appreciates the clarifications provided by the authorities on the status of the ongoing legal proceedings against Mr. Fonseka. It nevertheless considers that concerns which have arisen in the past about the right to fair trial in the proceedings leading to his conviction have not been fully dispelled.

4.2. The delegation is concerned that, as a result of Articles 89(d) and 91 of the Constitution, Mr. Fonseka will be debarred from participating in the next parliamentary and presidential elections. The delegation encourages the authorities to explore all possible avenues, including by granting a free pardon - as mentioned in Article 89(d)-, to allow Mr. Fonseka to be fully part of the political process. The delegation also strongly encourages the authorities to review Articles 89(d) and 91 with a view to reducing or eliminating the seven-year exclusion from political life following the completion of a prison sentence of not less than six months. It also advises the Committee to follow ongoing legal proceedings with respect to Mr. Fonseka.

5. The case of Mr. Jayawardena

The delegation considers that, in the light of his death, it is no longer appropriate for the Committee to examine the case of Mr. Jayawardena. It nevertheless considers that his case has brought to the fore concerns about the treatment of members of the opposition in Parliament and the effectiveness with which allegations concerning ill-treatment in and outside Parliament of opposition members are handled by the competent authorities. The delegation therefore proposes to the Committee to close further examination of this case, while encouraging the competent authorities, in particular Parliament, to remain vigilant and to take the necessary action when members of Parliament come under attack.

Geneva, 12 September 2013

E. OBSERVATIONS SUPPLIED BY THE AUTHORITIES

• **Observations to the Committee's mission report submitted by the Government of Sri Lanka (30 September 2013)**

The following are comments and observations made on the above report (hereinafter "the report") dated 12 September 2013 and transmitted to the Government of Sri Lanka under cover of the IPU Secretary-General's letter dated 19 September. The Hon Mahinda Samarasinghe MP, Minister of Plantation Industries and Special Envoy of H.E. the President on Human Rights, requests that the CHRP be pleased to consider these comments and observations and make the necessary adjustments/amendments to the report prior to its submission to the 129th IPU Assembly, to be held in Geneva, Switzerland, commencing 05 October 2013.

1. Relating to the allegation of "impunity" (paragraph B 1.5 at p.3 & D 2.1.5 at p.15) in relation to the killings of the late Messrs. Pararajasingham and Raviraj; "impunity" connotes knowledge of the identities of implicated/suspected perpetrators and their subsequent avoidance of any penal consequences for their alleged criminal acts. Based on the information provided to the CHRP over time, it is clear that investigations have been carried out by the authorities which have proved fruitless to date. These investigations were carried out under judicial supervision. Prosecutions cannot be launched without clear identification of suspects. The non-identification of suspects through formal investigations does not connote "impunity".

2. With reference to the UN Secretary-General's Advisory Panel of Experts' report (paragraph C 1.1.5 at p.7) – the Government of Sri Lanka has repeatedly pointed out that this was not a body empaneled consequent to a decision of any intergovernmental body. Instead it was an initiative by the Secretary-General to advise himself of certain matters exercising his own discretion. The evidence considered by the Advisory Panel, was untested and untried and the deponents were given the assurance of anonymity for 20 years (See paragraph 23 at p. 6 of the report of the Panel dated 31 March 2011). The Experts themselves acknowledge that there are weaknesses in the methodology used to gather this evidence. They said in their report: "This account should not be taken as proven facts, and any effort to determine specific liabilities will require a higher threshold". (See paragraph 53 at p. 15).

3. The Human Rights Council resolutions of 2012 and 2013 (paragraph C 1.1.6 at p. 7) were not unanimous decisions of the Council. The division of the Council on these resolutions indicates a clear dichotomy of opinion expressed by the members of the Council. In 2012 the voting record was 24 in favour, 15 against, 8 abstentions; in 2013 it was 25 in favour, 13 against and 8 abstentions with one absentee. It is clear that the Council is divided and this should be reflected in the report.

4. In relation to the Universal Periodic Review of Sri Lanka in November 2012 (C 1.1.7 at p.7) the bulk of member nations and observers acknowledged that Sri Lanka had made clear and considerable progress in the post armed-conflict phase since May 2009. Sri Lanka did accept 113 recommendations that were constructive. It gave clear reasons as to why it could not agree to 91 recommendations that it did not support. (See Addendum to the Outcome of the UPR of Sri Lanka - March 2013). No changes were made to the substance of any recommendation made during the UPR process. Some nations did agree to vary their terminology leading to Sri Lanka accepting these amended recommendations. The implication that Sri Lanka unilaterally made such changes is false and misleading. The UPR report was adopted unanimously in the Council in March 2013.

5. Reference is made in the report to the 'international community' (paragraph C 1.2.1 and 1.3.2 at pp. 7 & 8). A perusal of the international interlocutors met by the delegation reveals that the delegation met diplomatic representation from the United Kingdom, European Union, Australia, Canada, Germany, Italy, the Netherlands, Norway and Switzerland. Sri Lanka is of the view that these countries are hardly representative of the international community in its entirety. Consultation with this one small segment of the international community is hardly a basis for the assertion that the international community (as a whole) expresses the view reflected in the report.

6. In relation to the observations on the 17th Amendment to the Constitution (paragraph C 1.2.2 at p. 8), it may be noted that the Constitutional Council established by the 17th Amendment

was not devoid of personalities with political affiliations – constituted as it was based on nominations from political parties. It also may be noted that the 18th Amendment was subject to judicial scrutiny prior to its passage in 2010 and determined to be constitutional.

7. With regard to devolution of powers (C 1.3.1 and 1.3.2 at p. 8), the election for the Northern Provincial Council, the Central Provincial Council and the North Western Provincial Council were conducted successfully on 21 September 2013. The Parliamentary Select Committee has been convened and is pursuing deliberations in accordance with its mandate. As pointed out to the delegation, the mandate is broad and open-ended and the assertion in paragraph 1.3.2 that it is merely limited to discussions on the 13th Amendment of 1987 is wholly erroneous.

8. Relating to the allegation of militarization in the north (C 1.4.1 at p. 9) it is incorrect to state that “there was in fact no real civil administration”. Civilian Government Agents/District Secretaries at the District Level, Divisional Secretaries at the sub-District level and Grama Niladhari’s at the local level are functioning. Local Government authorities have been elected drawing on representation from the areas in which they serve. The Army does not engage in any civilian administration. Neither did the Army engage in any political campaigning or political activity relating to the Northern Provincial Council election. The fact that the Tamil National Alliance/ITAK secured 78% of the votes cast in that election is testament to the people being able to freely cast their vote for the candidates of their choice.

9. As to the numbers of military personnel in the Northern Province (C 1.4.2 and C 1.4.3), it may be noted that demining operations (led by the Sri Lanka Army) are still ongoing with 10 Districts being demined, i.e. 1.967 billion square metres demined and 98.663 million sq. mtrs. yet to be decontaminated, the Army is also providing engineering and support services to the reconstruction effort and, essentially, providing security to the area. Police officers are in charge of the maintenance of law and order and efforts have been made to recruit persons from the locality to the Police Service. Language training for police personnel in the Tamil language is ongoing. It may be recalled that in addition to the (already mentioned) approximately 12,000 ex-combatants rehabilitated and reintegrated into society, caches of weapons and explosive materials continue to be discovered in the former theatre of conflict. The efforts to restore normality in the North would be futile if peace and security were compromised or threatened in any way. The military presence offers a deterrent to any person or persons aiming to destabilize or create conditions of insecurity affecting the civilian population. The reference to military presence being disproportionate to the need for security (paragraph D 1. General Context particularly 1.2 at p. 13) is, with respect, a matter for the Sri Lankan Government and the question of proportionality of presence is to be determined in line with the Government’s responsibility to ensure peace and security and to create conditions of stability under which civilians may go about their regular business without fear of violence or disruption of normal life.

10. Relating to alleged disruption of political activity in the Northern Province (paragraph 1.4.4 at p. 9) in February 2013, further information is required of the incident and complaints made to relevant authorities in order to advise on action taken. It should be noted that a voter turnout of 67.52% was recorded and the alliance opposed to the Government obtained over 78% of the valid votes polled. This is inconsistent with the alleged disruption of political activity/electoral campaigning.

11. With reference to the independence of the judiciary (paragraph 1.5 at p. 9) it may be noted that the removal of the former Chief Justice and the appointment of the present incumbent were carried out in accordance with existing constitutional provisions. Any variations to the established constitutional order may only be discussed in the context of constitutional reform initiatives.

12. With reference to the supposed manifestation of Buddhist religious intolerance (paragraph 1.6 at p. 9), it may be noted that a sub-committee of the Cabinet of Ministers has been appointed to ensure regular dialogue and religious amity. This Committee is multi-ethnic, multi-religious and multi-lingual in character and composition and is a clear indication that the Government does not condone any acts disruptive of religious harmony and peaceful coexistence.

13. In relation to the allegation of "undue restrictions being placed on politicians visiting the north and alleged incidents of disruption by the Army of political meetings" (paragraph D 1. General Context 1.2 at p. 13), it must be reiterated that, by and large, a free and fair election devoid of violence, intimidation and undue influence was carried out in that Province in which an alliance of parties in opposition to the Government secured over 78% of the votes polled. No person engaged in legitimate political activity has been unduly restricted in their movement. If specific details are made available of any such restriction, the Government will investigate such allegations and make its findings available, in due time.

14. With reference to the case of Mr Sritharan (paragraphs D 3), a full update will be provided to the CHRP, in due course. With regard to the alleged attempt on his life in 2011, Police records indicate the following:

"Hon. MP Sivaganam Shriharan (IPU Case No : SRI/69).

Facts in brief:-

Hon. Sivaganam Shriharan, MP was travelling with his Security Officer PS 4125 Samarasingha and a relation named Danaraja Danarajan from Vauniya to Colombo on 07.03.2011 in his vehicle bearing number WP HP 4846 driven by his driver Vidyananda. There was gun fire directed at this vehicle at Nochchiyagama Police area. He made a complaint to Nochchiyagama Police Station, stating that there was a bomb attack and firing at his vehicle on the Anuradhapura-Puttalam road in Nochchiyagama police area near the Ulukkulama lakeside.

Evidence available:-

The Anuradhapura Police conducted investigations into this complaint under the supervision of a team led by the Senior Superintendent of Police (SSP) Anuradhapura. They took necessary steps to take Hon. MP and the others safely to Colombo from Nochchiyagama by another vehicle. Statements were recorded from all persons available able to give evidence in this case. No information with regard to the motive and persons involved in the shooting has been established so far. Scene of Crime Officers had thoroughly investigated the scene around the area and sent the samples of the bomb and soil to the Government Analyst. The pistol that was belongs to Security Officer PS 4125 Samarasingha and the 09 mm empty ammunition which was found at the scene were also sent to the Government Analyst. The report of the Government Analyst is awaited.

Action taken:-

The vehicle no: WP HP 4846 was produced before the Government Analyst and it was handed over to the Hon. MP. Further investigation is being conducted with regard to this case. Facts have been reported to the Magistrate's Court Anuradhapura under case no B/538/2011.

Observations/Analysis:-

No information with regard to the motive and the persons involved in this incident has been established to date."

15. With regard to the cases involving Mr Fonseka (paragraph D 4 at p. 15), information is provided hereunder relating to legal proceedings (with the next court date indicated) for information of the CHRP.

At present there is a case pending against him in High Court of Colombo.

No	Court	Case No	Charge	Next date
1	Colombo High Court No. 01	HC 5331/2010	Harbouring Army Deserters	08.11.2013

In addition there are 5 cases filed by Mr Fonseka in the Court of Appeal/Supreme Court.

No	Court	Case No	Subject matter of the Petition	Next date
01	Court of Appeal	CA 196/2010	Preliminary objection with regard to the jurisdiction of Court Martial I	06.12.2013
02	Court of Appeal	CA 625/2010	Appeal against the verdict of Court Martial I	06.12.2013
03	Court of Appeal	CA 676/2010	Unseating as a MP owing to the Court Martial II verdict.	30.10.2013
04	Court of Appeal	CA HC 02/2010	Habeas Corpus Application	06.12.2013
05	Supreme Court	SC (FR) 65/2010	Fundamental Rights violation due to arrest and detention.	20.05.2014

16. With regard to the scope of the pardon/remission of sentence (D 4.2 at pp. 15 & 16) – the granting of such pardon/remission is within the discretionary powers of the President of the Republic and applicable constitutional provisions govern the consequences/outcome of the grant of pardon/remission.