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COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

REPORT OF THE DELEGATION ON ITS MISSION TO THE SRI LANKA

21 - 24 February 2008

- ▶ Case No. SRI/12 - JAYALATH JAYAWARDENA
- Case No. SRI/48 - D.M.S.B. DISSANAYAKE
- Case No. SRI/49 - JOSEPH PARARAJASINGHAM
- Case No. SRI/50 - GAJENDRAKUMAR PONNAMBALAM
- Case No. SRI/51 - SELVARAJAH KAJENDREN
- Case No. SRI/52 - SENATHIRAJAH JAYANANDAMOORTHY
- Case No. SRI/53 - NADARAJAH RAVIRAJ
- Case No. SRI/54 - SIVANATHAN KISHORE
- Case No. SRI/55 - T. KANAGASABAI
- Case No. SRI/56 - K. PATHMANATHAN
- Case No. SRI/57 - THANGESWARI KATHIRAMAN
- Case No. SRI/58 - P. ARIYANETHRAN
- Case No. SRI/59 - C. CHANDRANEHRU
- Case No. SRI/61 - THIYAGARAJAH MAHESWARAN
- Case No. SRI/62 - MANO GANESAN
- Case No. SRI/63 - D.M. DASSANAYAKE
- Case No. SRI/64 - KIDDINAN SIVANESAN

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A. BACKGROUND AND CONDUCT OF THE MISSION

The cases of concern to the mission were submitted to the Committee between September 2004 and January 2008. At its 118th session (July 2007), the Committee considered that the multiple cases before it and the serious issues involved warranted an on-site mission enabling it to take stock and share its concerns directly with the competent authorities. In October 2007, on the occasion of the 117th IPU Assembly in Geneva, the head of the Sri Lanka delegation invited the Committee to visit Sri Lanka to collect as much detailed information as possible on the cases in question from the competent authorities, the parliamentarians concerned and other relevant parties. Following consultations about the timing of the visit, the dates of 21 to 24 February 2008 were decided on. The Committee asked its Chairperson, Senator Sharon Carstairs (Canada), and the titular member for the Asia-Pacific region, Senator Aquilino Pimentel (Philippines), to carry out the mission. However, urgent matters in his Parliament kept Senator Pimentel from travelling to Colombo. At the Committee's request, the Secretary General replaced him at short notice and the mission went ahead as planned from 21 to 24 February 2008. The delegation was accompanied by the Committee Secretary, Ms. Ingeborg Schwarz.

Programme

The delegation met with the following persons:

1. Parliamentary authorities

- Mr. W.J.M. Lokubandara, Speaker of Parliament
- Mr. Nimal Siripala de Silva, Leader of the House and Minister for Health and Nutrition
- Mr. Ranil Wickremasinghe, Leader of the Opposition
- Ms. Priyjanee Wijesekera, Secretary General of Parliament

2. Government authorities

- H.E. Mahinda Rajapaksa, President of Sri Lanka
- Mr. Gotabhaya Rajapaksa, Secretary of Defence
- Mr. Mahinda Samarasinghe, MP, Minister for Disaster Management and Human Rights
- Mr. Anura P. Yapa, MP, Minister for Mass Media and Information
- Professor Rajiva Wijesinha, Secretary General of the Secretariat for Coordinating the Peace Process (SCOPP)

3. Judicial authorities

- Mr. Priyasath Dep, President's Counsel (PC), Solicitor General
- Mr. Shavindra Fernando, Deputy Solicitor General

4. Police authorities

Mr. Asoka Wijetilleka, Deputy Inspector General of Police (IGP)

5. Parliamentarians concerned and lawyers

- Mr. Senathirajah Jayanandamoorthy
- Mr. Thanmanpillai Kanagasabai
- Ms. Kathiraman Thangeswari
- Mr. Mano Ganesan
- Dr. Jayalath Jayawardena
- Mr. Sujeewa Arjuna Senasinghe, attorney-at-law
- Mr. N. Sri Kantha, attorney-at-law

6. Other members of parliament

- Mr. Basil Rajapaksa, MP, political advisor to President Rajapaksa
- Mr. Mangala Samaraweera, former Minister of Foreign Affairs
- Mr. Rukman Senanayake, Chairman, Sri Lanka United National Party (UNP)
- Mr. Daya Pelpola, Vice Chairman, UNP
- Mr. Lakshman Senewiratne, UNP

- Mr. Ravi Karunanayake, UNP
- Mr. Sampanathan, Tamil National Alliance (TNA)
- Mrs. Pathmini Sithamparanathan, TNA
- Mr. Nizam Kariapper, Deputy Secretary General, Sri Lanka Muslim Congress (SLMC)
- Mr. Shafeek Rajabdeen, SLMC
- M.S.M. Aslam, SLMC
- Mr. Vijitha Herath, People's Liberation Front (Janatha Vimukthi Peramuna, JVP)

7. National Human Rights Commission (NHRC)

- Justice S. Ananandacoomaraswamy, Chairman
- Justice D. Jayawickrama, member
- Justice M. Tilakaratne, member
- Ms. N.D. Abeywardena

8. Others

- Rt. Rev. Dr. Rayappu Joseph, Bishop of Mannar
- Dr. Devanesan Nesiiah, Member of the Commission of Inquiry and of the Executive Board of the Marga Institute, Consultant, Centre for Policy Alternatives (CPA)
- Mr. Desmond Fernando, PC
- Mr. Rohan Edrisinha and Ms. Bhavani Fonseka, Centre for Policy Alternatives
- Dr. K. Vigneswaran, General Secretary, Tamil United Front
- Mr. Tiran Alles, owner of the *Sunday Standard* and *Mawbima*

The delegation wishes to thank the Parliament of Sri Lanka for having invited the Committee to visit Sri Lanka to gather first-hand information on the cases of Sri Lankan parliamentarians submitted to it. It is highly appreciative of the efforts made by the parliamentary authorities and staff to organize the meetings it requested. It wishes in particular to thank the Speaker and the Secretary General for the luncheon they hosted and for their hospitality.

The delegation is grateful to the Minister for Disaster Management and Human Rights 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.

The delegation is particularly grateful to H.E. President Rajapaksa for having received it and sharing his views on the cases of concern to the mission.

The delegation regrets that a planned meeting with Prime Minister Ratnasiri Wickramanayaka did not take place. As the Chairman of Parliament's Privileges Committee and Minister for Internal Administration, Prime Minister Wickramanayaka could have clarified a number of issues regarding the cases under review. It also regrets that, apart from members of the TNA and Mr. Herath of the People's Liberation Front (JVP), no members of the other parliamentary groups attended the meeting with parliamentary group leaders on Friday, 22 February 2008.

Owing to the mission's heavy schedule of meetings, it was not possible to meet with the Head of the National Police Commission or to hold a separate meeting with Justice Tilarakatne, member of the NHRC and of the Special Inquiry Commission appointed to examine the case of Mr. Pararajasingham. The delegation apologizes for any inconvenience the late cancellation of both meetings may have caused them.

The delegation greatly appreciated the opportunity it had to attend the morning parliamentary sitting on 21 February, at which important issues such as the 17th Amendment and a privilege issue were debated and 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. The cases under para. 1, 2, and 5 were being examined in the framework of the Committee's public procedure.

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. The TNA reportedly provided names of possible suspects to President Rajapaksa. The investigation had, however, been unavailing. The case had been included in the mandate of the National Commission of Inquiry set up by President Rajapaksa in November 2006 to investigate a number of alleged serious human rights violations, but had yet to be dealt with.

1.2. Mr. Raviraj, TNA member of parliament for Jaffna, was assassinated on 10 November 2006 while travelling in his vehicle on a well-travelled highway in Colombo. Security personal were reportedly on duty at several points along the highway, including in the immediate vicinity of the crime. Investigations were under way and suspects had been identified.

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 2, 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. Nine suspects had been produced in court and the statement of the alleged gunman who was wounded in the attack had been taken by the police.

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. Although no one has claimed responsibility, it is widely suspected that the Liberation Tigers of Tamil Eelam (LTTE) are behind the attack.

1.5. The IPU had expressed deep concern at these killings and stressed that the prevailing climate of impunity encouraged crime. It had expressed particular concern at the reduction of Mr. Maheswaran's security detail in spite of the known threat to his life.

2. Death threats, attempts on the lives and/or property of Dr. Jayawardena, Mr. Ponnambalam, Mr. Kajendren, Mr. Jayanandamoorthy, Mr. Kishore, Mr. Kanagasabai, Ms. Pathmanathan, Ms. Thangeswari, Mr. Ariyanethran and Mr. Chandranehr

2.1. Dr. Jayawardena, member of the UNP and former Minister for Rehabilitation, Resettlement and Refugees, had reportedly been receiving death threats since his re-election in April 2004. He was said to have received written threats, to have been manhandled by members of a southern extremist group on his way to Parliament and to have been portrayed as a traitor to the Sinhala community on a website. His security detail had been reduced and judicial proceedings started in this respect.

2.2. On 2 May 2006, two individuals entered Mr. Ponnambalam's house in Jaffna in his absence and threatened his housemaid while questioning her about his whereabouts and that of members of his staff. Mr. Ponnambalam requested that the incident, which was reportedly not the first of its kind, be investigated.

2.3. On 13 May 2006, Sri Lanka army personnel attacked Mr. Kajendren's office in Jaffna and set it on fire. This was reportedly the fifth attack on his office. An investigation was launched. One of Mr. Kajendren's assistants who witnessed the incident was shot dead in August 2006.

2.4. On 19 November 2006, Mr. Kanagasabai, Mr. Jayanandamoorthy, Ms. Pathmanathan, Mr. Ariyanethran and Mr. Chandranehr received death threats over the telephone from someone who introduced himself as Gunanan of the Tamil Makkal Viduthalai Puligal (TMVP, or Karuna group), Batticaloa. The incident was reported to the Speaker and raised in Parliament.

2.5. Mr. Jayanandamoorthy and Mr. Kishore's houses were attacked with hand grenades on 21 July 2006 and on 29 October 2006 respectively, while they and their families were at home. Investigations were launched into both attacks. In addition, Mr. Chandranehru was attacked during a visit to his constituency in June 2007, reportedly by a member of the Karuna group. An investigation had been launched.

2.6. In December 2007, before the vote on the budget, family members of Mr. Ariyanethran, Mr. Jayanandamoorthy, Mr. Kanagasabai and Ms. Kathiraman were abducted, reportedly by the paramilitary group Pillayan, which threatened to kill the hostages if the members of parliament voted against the budget. As a result, none of the members of parliament attended the budget session. Their relatives were subsequently released.

2.7. The IPU had expressed deep concern at the death threats and attacks perpetrated against these members of parliament, who, with the exception of Dr. Jayawardena belong to the TNA. It had insisted that the number and magnitude of these threats and attacks required robust and diligent investigation, and had urged the authorities to provide the members of parliament concerned with the necessary security. The IPU Governing Council had condemned the kidnappings, considering that they constitute a threat to the free exercise of the parliamentary mandate.

3. The case of Mr. Ganesan

3.1. Mr. Ganesan, co-founder of the Civil Monitoring Commission and leader of the opposition Western People's Front, had had his security detail significantly reduced after voting against the budget on 14 December 2007. He had been portrayed in the official newspaper of the ruling Sri Lanka Freedom Party, *Dinakara*, as "an arms supplier to the LTTE, drug trafficker and collaborator with underworld criminals". Death threats and lack of security had obliged him to leave the country.

3.2. The Committee had urged the authorities to restore his security detail immediately and to investigate the death threats.

4. The case of Mr. S. B. Dissanayake

On 7 December 2004, the Supreme Court of Sri Lanka had found Mr. Dissanayake, then an opposition member of the Sri Lanka Parliament, in contempt of court for his criticism of the Court and had sentenced him to two years' rigorous imprisonment. Mr. Dissanayake had served his sentence until it was remitted in early February 2006 by President Rajapaksa. In the meantime, however, he had lost his parliamentary seat and been barred for seven years from standing in elections. The Governing Council had expressed concern at the fairness of the proceedings against Mr. Dissanayake. It held that the sentence was out of proportion and affirmed that, in making the allegedly offending statement, Mr. Dissanayake was exercising his right to freedom of speech. The Council recalled that both common law jurisprudence and human rights doctrine amply demonstrated that freedom of speech must be the overriding value where contempt of court was concerned. It had urged the President of Sri Lanka to grant Mr. Dissanayake a full pardon.

C. POLITICAL BACKGROUND

1. Sri Lanka has been home to armed conflict since the 1970s, when the Tamil nationalist struggle turned violent. The signing of the Ceasefire Agreement (CFA) in February 2002 raised hopes that the peace process between the Government and the LTTE would be successful. Those hopes were dashed, however, when hostilities resumed in the wake of Mahinda Rajapaksa's election as President of Sri Lanka in November 2005.

2. The Government and the LTTE met in February 2006 to discuss the implementation of the CFA, but a further meeting scheduled for April that year did not take place. By July of the same year the CFA had collapsed and full-scale fighting had resumed in the eastern provinces. Twelve months later, the Government took renewed control of the eastern provinces, and on 16 January 2008 it officially abrogated the CFA.

3. The return to war has come at a high human cost. The fighting has led to huge losses of life, high levels of violence against civilians, the displacement of hundreds of thousands of civilians,¹ and destruction of homes and infrastructure. It has also brought with it an increasing number of human rights

¹ It is estimated that currently over 515,000 persons are internally displaced (CPA Policy Brief, December 2007), 312,000 of whom were IDPs before the present government assumed office.

violations, as set out in reports of the Office of the United Nations High Commissioner for Human Rights and many national and international human rights organizations.

D. INFORMATION GATHERED

1. Information concerning the political context

Most of the people seen by the delegation referred, in one way or another, to the following issues pertaining to the current political situation in Sri Lanka.

1.1. The ethnic conflict and constitutional reform

1.1.1. In July 2006, President Rajapaksa had established the All-Party Representative Committee (APRC) to prepare proposals for constitutional reform and devolution of power. After more than 63 meetings over 18 months, the APRC had adopted an interim proposal on 23 January 2008 that focused on implementing provisions of existing law pending finalization of agreement on further modifications to the Constitution. The interim proposal focused on ensuring maximum and effective devolution of power to the provinces in the short term, particularly in the North and East. It called for the immediate implementation of the 13th Amendment² to the 1978 Constitution, enacted following the Indo-Sri Lanka Accord of July 1987 in respect of legislative, executive and administrative powers, and called for adequate funds to be provided by the Government to facilitate effective functioning of the Provincial Councils. The interim agreement also proposed special arrangements to permit maximum devolution of power to the northern and eastern provinces and made practical suggestions for implementing the official languages provision of the Constitution.

1.1.2. Almost all opposition politicians stressed to the delegation that the current situation was the result of the failure of successive governments to find a solution to the ethnic conflict and provide a credible devolution scheme for the Tamils. They considered the APRC to have been a failure. They pointed out that the President could have implemented the 13th Amendment at any time without the APRC, and that it fell far short of Tamil demands. The delegation was told that what the Tamils were seeking was internal self-determination and that all secessionist movements and/or parties had always been defeated in elections.

1.1.3. The delegation raised the question of constitutional reform with the SCOPP Secretary General. He stated that the TNA had previously not been willing to discuss the establishment of a second chamber in parliament, which in view of their close relationship to the LTTE suggested that the latter was not interested in a united country. According to him, this was obvious because, even in a federal dispensation that gave maximum powers to units, there were still some powers which remained at the centre, and a second chamber was an established method of giving the units weight at the centre too. The Secretary General observed further that there were no serious discussions under way either at the time or now, although finally some elements in the TNA had agreed to look at the question and a draft proposal in this regard which, in his view, could be a sign that they at least would accept a united Sri Lanka.³

1.2. Local council elections in the eastern province (Batticaloa)

1.2.1. The local council elections in Batticaloa were mentioned in all conversations. On the recommendation of the APRC, local government elections in Batticaloa province had in fact been scheduled for 10 March 2008 and the election campaign was in full swing at the time of the mission. The delegation was told that the TMVP, a paramilitary group formed when the LTTE's eastern commander, alias "colonel" Karuna, broke ranks in March 2004 and which is now led by Karuna's former deputy Pillayan,⁴ was standing in the elections jointly with the ruling United People's Freedom Alliance (UPFA). The nomination papers of TMVP candidates had been registered on that party's ticket.

1.2.2. Opposition members and the delegation's non-governmental contacts all affirmed that the TMVP was responsible for many and repeated human rights violations, such as abductions for ransom, forced disappearances and extrajudicial executions, that had gone unpunished. They also affirmed that the group had enjoyed government support since its inception and was largely funded by the Government. While the

² The 13th Amendment was adopted in 1987 as part of the Indo-Sri Lanka Accord. It made Tamil an official language and established the provincial council system in most of the country. The councils, which have limited authority, have never properly functioned in the North and the East, the areas whose problems they were designed to address.

³ See also section D.3.4.

⁴ Karuna was arrested on 25 January 2008 in London, where he had travelled to attend a conference on environmental issues. He was sentenced to nine months in prison for travelling under a false name on an official Sri Lankan diplomatic passport.

group was not carrying weapons during the election campaign, people were frightened since they feared the weapons would reappear after the elections. The opposition told the delegation that the TMVP was intimidating the population and other candidates, for example by circulating threatening letters, and that this had actually prevented the TNA and others from running in the elections. In their view, the whole election was therefore a sham.

1.2.3. The government representatives affirmed that a start had to be made somewhere. The SCOPP Secretary General said that the fact that the Government had succeeded in convincing elements of the TMVP to stand in the elections was the big success of the past year. He also stated that several TMVP candidates had been killed, which was why the group had not been disarmed; its members had to be able to defend themselves against attacks. The Secretary of Defence told the delegation that the Government had wanted to contest the elections with the TMVP because "we wanted to take them back into the political process". Minister Devananda's party, the EPDP, had also been a terrorist group and was now part of the Government.

1.2.4. As far as the operation of paramilitary groups in general is concerned, the SCOPP Secretary General stated that the split in paramilitary groups and their growing number posed a problem as it increased the level of terrorism. According to the Secretary of Defence, the paramilitary groups currently operating had originally been part of the LTTE. They were breakaway groups wanting to dominate the LTTE areas and they posed a problem to the Government.

1.3. Tolerance of dissenting views and criticism

1.3.1. In their conversations with the delegation, all opposition members affirmed that their freedom of expression was under threat. They stated that dissent could have serious consequences for the personal safety of opposition parliamentarians. Apart from the cases of concern to the mission and dealt with in the sections below, the delegation learned the following:

- Mr. Mangala Samaraweera, former Minister for Foreign Affairs in President Rajapaksa's Government, told the delegation that he had enjoyed great support during his first six months in office, but that the situation had later changed, as evidenced by the killing of five youths in Trincomalee on 2 January 2006 and 16 workers of the non-governmental organization *Action contre la Faim* (ACF) in August 2006. At the time, he had expressed concern about the lack of government action and the protection of those who were involved in criminal acts, and had warned that a culture of impunity was being installed. Six months after he had repeated his warnings in a letter addressed to the President of Sri Lanka on 13 December 2006, he was sacked as Foreign Minister, removed from his other official functions and accused of being an LTTE sympathizer. His security detail was withdrawn within two days of his dismissal. He had petitioned the NHRC and had been accorded six security personnel. They had been hand-picked by the Defence Ministry, however, and he felt safer without them.
- The delegation was also informed by Mr. Tiran Alles, present at the meeting with Mr. Samaraweera, of the *de facto* closure of his newspaper, *Mawbima*. The paper had been critical of a military solution to the conflict and President Rajapaksa had criticized it. Its offices had been raided by the Inland Revenue Department in January 2007, the newspaper's director arrested and Mr. Alles himself, after having been questioned in May 2007 about his alleged support for the LTTE, detained on 30 May 2007 while in hospital, remanded for two weeks and then released on bail. No charge had been filed. He said that the newspaper had had to close down because its bank accounts were frozen. When the delegation raised the matter briefly at the wrap-up meeting with Minister Samarasinghe, it was told that the court had released sufficient funds for the newspaper to continue.
- Mr. Lakshman Senewiratne, member of the UNP, told the delegation that he was also under threat because of his criticism of the Government. In June 2007, he had revealed in Parliament information, which had enabled the authorities to arrest a retired Air Force Squadron leader, Mr. Nishanta Gajanayake, in July 2007 on suspicion of responsibility for the abductions of Tamil and Muslim business people from Colombo for the purpose of extorting money from them. Mr. Gajanayake was later bailed out of jail, reportedly by police officers in uniform, and since then, new abductions had reportedly taken place. In early January 2008, government officials friendly to Mr. Senewiratne had informed him that there were plans to kill him to end his criticism of the Government. He had made an open statement and requested that his security be strengthened. However, this had not been done. The IGP's representative told the delegation that no official complaint had been received regarding death threats against Mr. Senewiratne.

- The delegation was also told that Mr. Rauff Hakim's security detail and back-up vehicle had been withdrawn, reportedly in connection with his call for an independent inquiry into the Pottuvil massacre.⁵

1.3.2. The delegation was also told by opposition politicians that the Government was pressuring opposition members into joining it. According to them, twenty-three members of the UNP had crossed over to the Government. The political parties to which those members belonged had been prevented by a Supreme Court ruling from expelling them⁶. By virtue of Article 99 (13) (a) of the Constitution, if expelled, they would have lost their parliamentary mandate. According to the opposition, Parliament was no longer acting as a check on the President, whose powers had been extended in various Supreme Court rulings.

1.4. Implementation of the 17th Amendment to the Constitution of Sri Lanka

1.4.1. Almost all non-governmental interlocutors raised the failure to implement the 17th Amendment to the Constitution, which had been approved in September 2001. The Amendment aimed to check the President's power via a Constitutional Council responsible for appointing a number of independent commissions, such as the NHRC, the Public Service Commission, the National Police Commission and the Permanent Commission to Investigate Allegations of Bribery or Corruption. The Council would also be competent to recommend to the President of Sri Lanka persons for appointment to the posts of inter alia Chief Justice, Supreme Court judges, Appeal Court President and judges, Attorney General, Inspector General of Police and Secretary General of Parliament. It would be composed of 10 members: the Prime Minister, the Speaker of Parliament and the Leader of the Opposition *ex-officio*, one member appointed by the President of Sri Lanka, five members nominated by both the Prime Minister and the Leader of the Opposition and one member nominated by minority parties. The 17th Amendment further stipulates (Article 41 (A) (5)) that the President shall, upon receipt of a written communication regarding the nomination of the latter six members, make the respective appointments.

1.4.2. Until recently, the minority parties had been unable to agree on a candidate, which was why the Government had said that the Council could not be established. Some interlocutors pointed out, however, that the Council could have been set up since it had a quorum of six members and more than six had already been nominated. For their part, the government authorities affirmed that, failing nomination by the minority parties of their Council member, President Rajapaksa was entitled to appoint the members of the independent commissions and had done so with regard to the NHRC, the National Police Commission and the Public Service Commission.

1.4.3. In early January 2008 the minority parties had agreed on a common candidate, Mr. S.C. Mayadunne, a former Auditor General, and put forward his name. Despite this, no appointments had been made. President Rajapaksa explained to the IPU delegation that he was prevented from implementing the 17th Amendment because a parliamentary select committee had been set up to discuss amendments to it. The delegation learned subsequently that he had also not yet nominated his own appointee to the Council. During the parliamentary debate attended by the delegation, the question of the failure to implement the 17th Amendment was extensively discussed, with the opposition strongly criticizing the Government's failure to establish the Constitutional Council now that all requirements had been, in its view, fulfilled.⁷

1.4.4. The delegation understood from the arguments put forward by the Government Chief Whip that the Government considered the minority parties' nominee to be unsuitable as he was an adviser to a parliamentary commission, such a position being incompatible with membership of the Council. However, the opposition pointed out that Mr. Mayadunne had already publicly stated that, should he be appointed, he would resign from his post. The opposition blamed the Government for pursuing a strategy which would allow the President to appoint whoever he wanted, thus preventing Parliament, in particular the opposition, from having its say. The prompt establishment of the Constitutional Council was seen to be all the more urgent as major positions – Secretary General of Parliament, Attorney General, possibly IGP and Supreme Court judges - were expected to fall vacant. The SCOPP Secretary General emphatically stated to the IPU delegation that the Council should be set up as quickly as possible.

⁵ On 17 September 2006, ten Muslim workers who had gone to repair a water tank near Pottuvil in Ampara district were killed. Mr. Hakim had raised the question of State responsibility after the entire village where the workers came from had accused the commanding police officer.

⁶ Supreme Court ruling SC(Expulsion) No.1/2006, K.B.D. Rambukwella vs UNP, 6 November 2006.

⁷ The question of the failure to set up the Constitutional Council as provided for in the 17th Amendment has been taken to the Supreme Court. The petition failed, however, following a preliminary objection by the Attorney General on the basis of Article 35 of the Constitution, which affords the President immunity from proceedings "in any court or tribunal, in respect of anything done or omitted to be done by him either in his official or private capacity".

2. Security afforded to members of parliament

2.1. The delegation was informed that members of parliament in Sri Lanka may not have recourse to private security. This obliges them to rely on security provided by the State. From the divergent information provided on this point by the authorities and majority parliamentarians, the delegation understood that the following procedure and rules govern the provision of security to members of parliament and government officials.

2.2. Ministers are entitled to seven security staff and two back-up vehicles.⁸ The number of security staff to which parliamentarians are entitled had been reduced from four to two in September 2007 but restored to four in January 2008, following the murder of Mr. Maheswaran. Mr. Siripala explained that the position occupied also counts: thus the Supreme Court had ruled that a party leader is entitled to additional security. A parliamentary committee chairperson against whom no threats have been made but who is involved in government propaganda is also afforded additional security. Members of parliament who feel at risk first inform the Speaker, who relays the information to the IGP, who then puts in motion the procedure, that is, the threat assessment carried out by the National Intelligence Bureau.

2.3. The National Intelligence Bureau comes under the authority of the Ministry of Defence. The Defence Secretary stated that he received the report from the intelligence service and forwarded it to the security officials. An appeal against the final decision, which, the delegation understood, is taken by the Defence Secretary, can be submitted to the courts. However, the Defence Secretary expressed his dissatisfaction with this possibility as, in his view, judges may not always take account of the overall situation. Appeals on security details were unfortunate and a source of trouble, because national security was at stake. He insisted that the number of security personnel did not really matter. For example, at the time of his assassination Mr. Kardigamar⁹ had more security than the President himself. Moreover, since security vehicles tended to attract attention, deception was the best means of protection. That strategy had helped Minister Devananda of the EPDP to survive 16 attempts on his life. President Rajapaksa informed the delegation that there were permits for duty-free vehicles for all members of parliament, and that fuel was provided depending on the distance to the constituency. However, members of parliament were not prepared to use private vehicles.

2.4. When the delegation pointed out that the murders of Mr. Pararajasingham and Mr. Raviraj, as well as most of the other incidents in question, had occurred in high-security zones with a heavy police presence or between police checkpoints, the Defence Secretary responded that there was no high security "when it comes to terrorism". He and the Army Chief had been the target of a (suicide) attack right in front of the Defence Ministry.

2.5. Several opposition members, in particular those belonging to the TNA, stated that the number of security staff was in fact "immaterial" since the threats came from paramilitary groups working in collusion with military intelligence. They could therefore not rely on security arrangements. The delegation was told that gunmen often had identity cards issued by the Defence Ministry and thus were not arrested. One member of parliament reported that paramilitary fighters in the Batticaloa and Amapara districts used special pistols which had been shortened, allowing them to be identified and proceed unhindered at military checkpoints. None of the TNA parliamentarians felt safe, since they were convinced that no one would ever be apprehended for killing them. For this reason, they left the country from time to time. Other opposition parliamentarians stated that loyalty to the Government was an issue when determining security details and that a reduction of security meant that the person was "open for shooting".

2.6. The delegation understood that the overwhelming majority of ruling party parliamentarians also hold government positions as cabinet or deputy ministers or advisers and hence are entitled to more security. Only three (according to the Leader of the Opposition) or twelve majority parliamentarians (according to the House Leader) did not have any government function, among them Mr. Basil Rajapaksa, a political adviser to his brother, President Rajapaksa. The government authorities explained some of the complaints by members of parliament by the fact that they had crossed over to the opposition, one example being Mr. Rauff Hakim, leader of the SLMC. Since they no longer had a government position, their security detail had been curtailed.

⁸ Number of security staff assigned to ministers provided by Mr. Anura P. Yapa, MP, Minister for Mass Media and Information.

⁹ Minister for Foreign Affairs, assassinated in 2006.

2.7. The government authorities and majority parliamentarians emphasized budget constraints. The cost of providing security to members of parliament, including back-up vehicles, was prohibitive and came at the cost of policing throughout the country. The Defence Secretary, in particular, stated that if he provided each of the 225 members of parliament with two vehicles, police stations would be left without any. Members of parliament were already complaining about the insufficient staffing and equipment of police stations in their area. In addition, more police were needed in the East (because of the local government elections). Sri Lanka was short 14,000 police officers and was buying 3,000 vehicles for police stations from India. The Defence Secretary also mentioned a directive President Rajapaksa had issued to Ministers in 2005, ordering that cars be provided by their respective ministries and not the Defence Ministry. They should not ask for vehicles from the police. Opposition parliamentarians responded to the cost argument that the security details of ministers and parliamentarians close to the Government were huge in comparison – one majority member of parliament was said to have as many as 400 security officers in his unit – and could easily be more evenly distributed.

2.8. Dr. Jayawardena told the delegation that he had suggested that the Speaker should control security issues relating to parliament and determine members' needs, but the Speaker had not wanted to take that responsibility. The Speaker himself did not appear to be interested in the proposal. The Leader of the Opposition observed that all security issues should normally come under the independent Police Commission, and not the Defence Secretary.

2.9. When asked about the security issue, the NHRC stated that security was provided for each member of parliament according to his or her status. It was competent to take action on security matters if a complaint was submitted. So far, it had received only the complaint of the former Minister for Foreign Affairs, Mr. Mangala Samaraweera, and that complaint was pending. The Commission was entitled to make recommendations to the Defence Secretary, the Police or the Armed Forces. If its recommendations were not implemented, it was competent to refer the matter to the Supreme Court. Commissioners told the delegation that most members of parliament preferred to go "incommunicado" because travelling with security actually increased the security risk.

3. Targeting TNA members of parliament

3.1. Abductions and other forms of harassment to prevent TNA members of parliament from voting on the Appropriation Bill

3.1.1. The TNA parliamentarians stated that parliamentarians from Batticaloa had been threatened by the TMVP and pressured into not voting at the second reading of the budget. On 19 November 2007, a day before the vote was to take place, Mr. Kanagasabai's son-in-law, Mr. Sasikaran, was abducted from Mr. Kanagasabai's house while police guards were on duty, and Mr. Kanagasabai told that his son-in-law's fate depended on whether and how he voted. As a result, Mr. Kanagasabai did not exercise his right to vote. The same night, his son-in-law was reportedly handed over by his abductors to the Headquarters Inspector of Batticaloa Police Station, who brought him to Colombo and delivered him to Mr. Kanagasabai. Mr. Ariyanethran, for his part, voted against the budget on second reading. When his brother, Mr. P. Srisanthaseya, was abducted on 11 December 2007, he abstained from voting on the budget on third reading on 14 December 2007. His brother was released the following day. Ms. Kathiraman had complained that the TMVP had threatened and tried to intimidate her between July and December 2007; her personal secretary, Mr. Nagalingan, was abducted, reportedly by the same group, on 11 December 2007. On 13 December 2007, she was told by the abductors that he would be killed and her house damaged if she voted against the budget at third reading. She therefore abstained and Mr. Nagalingan was released on 16 December. In the privilege issue raised on this matter in Parliament on 19 November 2007, Mr. Sampanathan, leader of the TNA parliamentary group, reported that the police guards on duty at the Batticaloa houses of Ms. Kathiraman and Mr. Ariyanethran were withdrawn shortly after the abduction of Mr. Kanagasabai's son-in-law, and that shortly thereafter members of the paramilitary group in question entered their houses and informed the occupants that their lives depended on how both parliamentarians acted regarding the Appropriation Bill. These messages of intimidation were also conveyed to the parliamentarians concerned. These matters had also been raised with President Rajapaksa and his personal secretary, Mr. Lalith Weeratunga, without any result. Apart from raising these incidents in Parliament, complaints were also made by the parliamentarians concerned themselves. During the debate in Parliament on these issues, the Leader of the Opposition stated that Batticaloa had been fully under the control of the Armed Forces at the time of the abductions.

3.1.2. According to the information note provided to the delegation by Minister Samarasinghe, relatives of Mr. Jayanandamoorthy and Mr. Ariyanethran had indeed been abducted by unknown armed persons in a van on 11 December 2007. Ms. Kathiraman's personal secretary had been abducted the same day at

Kathankudy by a group of armed persons in a van. On receipt of their complaints, the police had instituted immediate investigations; the abductees were released on 15 December 2007 while those investigations were under way. Although the victims were unable to identify either the abductors or the places where they were held and were also unable to state "a logical reason to establish the motive for their abduction", further inquiries were under way. The relevant cases were to be called on 18 February 2008.

3.1.3. From the Hansard of 19 November 2007, a copy of which was provided to the delegation, it appears that not only the abduction of family members and intimidation of the three TNA members of parliament, but also a privilege issue concerning Mr. Sagala Ratnayake were raised in Parliament. Mr. Ratnayake had reported that on 18 November 2007 a jeep carrying five army personnel in uniform had come to his house. One officer had entered through the front door and another by the back door. They had asked for him, and left after questioning the servant on the premises about his whereabouts. Mr. Ratnayake had stated that there had been no need for military personnel to enter the house from both sides with their weapons and that their sole purpose had been to prevent him from attending Parliament and carrying out his duties.

3.1.4. On the issue of the abductions, President Rajapaksa stated that the Government had been in no fear of defeat in the budget debate and that there had therefore been no reason to resort to abductions. In his view, these were just allegations, but an investigation was nevertheless being conducted in Batticaloa. Mr. Basil Rajapaksa stated that a team had been sent to the location of the abducted person (the delegation understood he was referring to Mr. Kanagasabai's son-in-law), but the allegedly abducted person said that he was staying in the house of his own accord. He had nevertheless been provided with security. The Speaker said that the reason for the abduction was unknown and that such incidents happened in times of war. He had allowed these matters to be raised in Parliament and the Privilege Committee was looking into them, but no report had as yet been made. He referred explicitly to the abduction of Mr. Kanagasabai's son-in-law, stating that nothing had happened to him. He had met Mr. Kanagasabai several times, and asserted that he "was not unhappy" and had made no further complaint. The case, he said, was pending before the Privileges Committee and he had asked the police to report back on the investigation. The SCOPP Secretary General said that the abductions could well have been an excuse for the parliamentarians not to vote.

3.1.5. The NHRC's members informed the delegation that they had received no complaint regarding the kidnappings, and stated in this respect that some members of parliament went abroad, for example, to avoid paying taxes, as was the case of the parliamentarian who owned the house in which the Commission had its offices.

3.2. Discrimination against TNA parliamentarians

3.2.1. During the parliamentary debate attended by the delegation, Mr. Kiddinan Sivanesan, a TNA parliamentarian, raised a privilege issue.¹⁰ He complained that he had been targeted by police and subjected to discriminatory treatment when travelling to Colombo together with other parliamentary colleagues. Not only had his vehicle been searched several times, unlike that of his colleagues, but in one instance his vehicle had been searched in the presence of a threatening dog.

3.2.2. While the House Leader stressed that majority parliamentarians also had to undergo security checks of their persons and vehicles, Mr. Basil Rajapaksa said that it was normal for minority members to feel discriminated against, even if they were not. The Government was trying to ease this sentiment by increasing the number of Tamils in the Police and the Armed Forces and engaging more interpreters. Thus, 300 interpreters had been engaged and 200 Tamils in the East had joined the police force. The Government's aim was not to discriminate but "to control the deadliest terrorist organization". However, others told the delegation that very few Tamils and Muslims had been recruited into the Police and the Armed Forces and that efforts to that end were insincere. Tamils accounted for only 1 per cent of the Armed Forces and about 2 per cent of the Police.

3.3. Role of Parliament's Privileges Committee

Several privilege issues concerning cases of concern to the mission had been brought before the Privileges Committee. The Speaker explained to the delegation that when a privilege issue was raised, the Secretary General of Parliament examined whether the matter was indeed a privilege question; if so, it was submitted to the Committee, currently chaired by Prime Minister Wickramanayaka. Security questions were also referred to it. According to the Leader of the Opposition, nothing ever came of the Committee's meetings.

¹⁰ Mr. Sivanesan was killed in a claymore mine attack on 6 March 2008.

3.4. The TNA and the LTTE

3.4.1. For the government authorities and majority parliamentarians, in order to understand the cases under review by the IPU, one had to understand the situation on the ground, namely that the members of parliament belonging to the TNA were LTTE proxies and that the TNA was actually run by the LTTE, which controlled all activities of TNA parliamentarians. Professor Wijesinha, the Secretary of Defence and others mentioned in this context the 2004 elections and the relevant election observer report by the European Union, which suggested that the TNA parliamentarians were elected owing to ballot stuffing by the LTTE. Mr. Siripala told the delegation that TNA parliamentarians could not "go home" if they did not follow LTTE instructions. The LTTE disliked it when TNA parliamentarians worked with the Government, as, for example, Mr. Pararajasingham and Mr. Raviraj had done. Mr. Pararajasingham had had a meeting with President Rajapaksa just two days before he was killed, and Mr. Raviraj had appealed to the President to open a school in Jaffna shortly before he was killed. He said that sometimes TNA members of parliament claimed that they were being threatened so as to have an excuse to talk to the Government. For example, Mr. Maheswaran¹¹ - a ship owner who wanted to accommodate the Government by putting a ship at its disposal - had asked the Defence Ministry's Essential Services Commission for a letter stating that the ship had been taken by force. According to Professor Wijesinha, the situation was becoming increasingly difficult for the TNA; with the improvement of operations in the East, it had started discussing with the Government and had therefore come under even greater threat. Apart from the Secretary of Defence, for whom the TNA "was not in the democratic process" and was working with the LTTE, the authorities nevertheless acknowledged that, as Professor Wijesinha said, while TNA parliamentarians were under LTTE control they were not guerrillas, murderers or even former militants, but politicians.

3.4.2. President Rajapaksa confirmed the view he had earlier stated in public, namely that TNA parliamentarians were employing LTTE members. According to him, they did this because they had to show that they were LTTE sympathizers, otherwise they would not be tolerated. He stated that one staff member had indeed admitted that he was an LTTE member. In this context, President Rajapaksa referred to the LTTE website, which showed (or had shown) children throwing stones at his effigy in the presence of one TNA parliamentarian, whose name was not disclosed to the delegation.

3.4.3. The TNA parliamentarians strongly denied that they were "LTTE proxies". Mr. Sampanathan stated in this respect that he was a member of the Federal Party, set up in 1949 for the purpose of resolving the Tamil question by obtaining autonomy for the Tamil majority areas in the North and East and parity for the Sinhala and Tamil languages. It was because of the failure of the State to solve that problem that the LTTE had come into being in the first place. The TNA was an alliance of several political formations which had worked with the LTTE during the peace negotiations. TNA parliamentarians had had contact with the LTTE about being part of a political solution, as they believed that the LTTE must be involved in the peace process for it to be successful. Moreover, the TNA had often been "at the receiving end", as a number of its members had been killed by the LTTE.

4. **Responsibility for the murders and other alleged human rights abuses of concern to the mission**

4.1. The authorities blamed the murders, death threats and other alleged human rights violations of concern to the mission on the LTTE and excluded more or less explicitly any responsibility of the Armed Forces, Police or other groups. According to the Government, the LTTE resorts to murder and other human rights abuses to discredit the Government. In this respect, the Defence Secretary stated that Mr. Pararajasingham was killed inside the church only to bring discredit on the Government and the President. Likewise, when "there was something in Geneva" or when the President was meeting a foreign leader, someone would be killed in Sri Lanka. In the same vein, Professor Wijesinha said that Mr. Maheswaran had been killed by the LTTE to throw suspicion on the Government. On the question of impunity, the authorities generally expressed the view that it was difficult for the Government to identify and arrest the culprits since they slipped back into uncleared LTTE-controlled areas. Professor Wijesinha nevertheless clearly stated that every effort had to be made to bring the culprits to book. As to possible collusion between paramilitary groups and the Armed Forces, the NHRC stated that it did not believe there was any such collusion. The Armed Forces would never try to kill a member of parliament. The Secretary of Defence said that allegations of collusion between the Armed Forces and paramilitary groups must have been made by the TNA since its members were LTTE proxies.

11 A member of the UNP.

4.2. According to the opposition parliamentarians and non-government interlocutors, the murders of Mr. Pararajasingham, Mr. Raviraj and Mr. Maheswaran as well as a number of the other human rights abuses in question were the work of paramilitary groups enjoying the protection of the Armed Forces. The delegation was told that some of these groups, such as Pillayan, were actually funded by the Government. The existence of death lists was mentioned in a number of meetings. More particularly, it was alleged that the EPDP, also said to be largely funded by the Government, had drawn up a list of 400 persons to be eliminated so as to ensure that the party would win the next elections in the North and that this was known to the Government.

4.3. While the government authorities and majority parliamentarians affirmed that the opposition parliamentarians concerned were killed by the LTTE because they were friendly to the Government, had friendly relations with President Rajapaksa, in particular Mr. Pararajasingham, and had criticized the LTTE leadership, the opposition affirmed that Mr. Pararajasingham, Mr. Raviraj and Mr. Maheswaran had been killed because they defended the human rights of Tamils, criticized the Government and denounced its human rights violations. Moreover, Mr. Raviraj had spoken fluent Sinhalese and had been prominent even in the Sinhalese community.

4.4. The NHRC was of the opinion that the parliamentarians were killing each other. Its members told the delegation that it was not easy to investigate the murders, especially those committed by terrorists. Furthermore, the NHRC was not entitled to look into such matters since it was the duty of the Speaker to examine matters concerning members of parliament. It would be an insult for the NHRC to investigate parliamentary matters, because Parliament was supreme. In the view of the NHRC President, members of parliament were to blame for that situation. They were quite privileged people.

5. Investigations

5.1. General information on procedural issues

5.1.1. The Solicitor General provided the following general information about the workings of the Attorney General's Office and criminal procedure. The Police conducted the initial investigation. The material gathered by them was transferred to the competent magistrate for evidence taking (identification parades, gathering of forensic evidence, and so on). During the investigation, the Attorney General's Office was entitled to give directions and provide advice. Once the investigation had been completed, the file was transferred to the Attorney General's Office, which examined the evidence and issued an indictment if there was a strong prima facie case. Under Sri Lankan criminal law, statements, confessions or admissions given to the Police were not admissible evidence. However, under the Emergency Rules (ER) or the Prevention of Terrorism Act (PTA), if a statement was given by the accused to a person of the rank of Assistant Superintendent of Police and above and if the court was satisfied that the statement was not made under duress, then it could be admitted as evidence. Those provisions were only applicable if a person was charged under the ER or the PTA. The Solicitor General also observed that there were often several versions of any crime, but the Attorney General's Office always relied only on the investigation carried out by the Police.

5.1.2. Asked about the possibility of Parliament monitoring the investigation, the Speaker stated that a parliamentary select committee could definitely be appointed to look into the cases in question. The House Leader likewise stated that this was an option that could be considered. However, the Leader of the Opposition stated that a select committee with such a mandate would be blocked.

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

5.2.1. *Mr. Pararajasingham*

(a) The authorities emphasized that special efforts had been made to elucidate the murder of Mr. Pararajasingham. President Rajapaksa referred to the discarded military uniforms that had been found near St. Mary's Cathedral. Investigations had revealed that they had been left there by two deserters who wanted to escape punishment for smoking marijuana. They had been apprehended and disciplined. House Leader Siripala added that the uniforms had been sent for DNA testing and that all the guns in the nearby Army camp had been sent to the government analyst. Thirty-two soldiers had been in the camp at the time and had all been arrested. A fundamental rights case had been filed and they had had to be released. Mr. Siripala stressed that the rule of law, as inherited from the British, prevailed in Sri Lanka and that arrests could be made only in the presence of prima facie evidence. What witnesses there were had been

unable to identify the culprits in an identification parade. According to him, at the time Batticaloa was an LTTE-controlled area and criminals could go back to the LTTE area, where they could not be arrested. Moreover, security had advised Mr. Pararajasingham not to attend the mass. The Secretary of Defence also affirmed that the two security officers assigned to Mr. Pararajasingham had advised him against attending the mass and had stayed outside the church. However, according to Mr. Pararajasingham's family, whom the delegation contacted after its return, no one had stopped Mr. Pararajasingham from going to the church and only his wife, who was feeling unwell, had said they should stay home and attend the morning mass.

(b) According to the Armed Forces report provided to Minister Samarasinghe, a copy of which was given to the delegation, the Criminal Investigation Department (CID) arrested two soldiers, Pte Thilaka Cyril Bandara and Pte Abeyesundara PKTS, in connection with Mr. Pararajasingham's murder. The soldiers, who had been on duty from early morning on 24 December to 8 a.m. on 26 December 2005, the former at a road block adjoining an office of the People's Liberation Organization of Tamil Eelam (PLOTE) and the latter at a hospital, had been found to have consumed ganja on 26 December while on duty and had been informed that they would be disciplined accordingly on 27 December. Supposedly fearing disciplinary punishment, they had broken out of the camp on 27 December 2005 but had been apprehended by the Special Task Force (STF) as Army deserters at a roadblock the same day. On 12 January 2006, they had been confined to barracks for 14 days. On 10 July 2006, they had been handed over to the CID. They had not been identified at the identification parade on 1 September 2006 and had been handed back to the Army.

(c) In addition, the information note regarding the investigation given to the delegation by Minister Samarasinghe, apart from reiterating information that had previously been provided, stated that discreet inquiries had revealed that two Army personnel had been hovering in the area on the night of 25 December 2005 and were later apprehended by STF officers for questioning as their movements appeared suspicious. Inquiries at the STF Karativu camp revealed that the two soldiers, Jayasiri and Abeyesundara, had been deployed for surveillance duty by the Batticaloa 233 Brigades, which was confirmed by the two soldiers concerned.

(d) The TNA parliamentarians affirmed that, in the first week of January 2006, the name of a suspect who had been identified by people near the altar of the church, namely Kommathurai Ravi, had been given to President Rajapaksa at a meeting in his office. The President had said that he would follow the matter up. The next day, while the TNA was in a parliamentary group meeting, he had reportedly called, asking to talk to Mr. Ponnambalam, whom he asked to provide the name of the suspect once more, which was done. President Rajapaksa for his part stated that he had not met with the TNA parliamentarians and had not been given a name. On the contrary, he stated that he had invited the TNA parliamentarians to come and provide names of witnesses, which, according to him, they never did. Had they given him names, he would have passed them on to the IGP. He also stressed that the LTTE had been in almost total control of the area at the time.

(e) The SCOPP Secretary General said that the names provided to the IPU earlier by several sources and communicated to the authorities were not mentioned in the police report, which was a problem. He had sent the relevant IPU letter to the head of the investigation, who was a nephew of Mr. Pararajasingham. A note given to the delegation by Minister Samarasignhe, referring to the resolution adopted by the IPU Governing Council in May 2007, states that in the course of the investigation the names given by the IPU had not transpired, that no information had been received to the effect that these persons were involved in or connected with the inquiry, and that further inquiries were being conducted.

5.2.2. *Mr. Raviraj*

(a) The delegation learned that two individuals had now been identified as the assailants, but that the CID was finding it difficult to trace them since they had gone into hiding in the uncleared areas. The information note handed over to the delegation by Minister Samarasinghe provides extensive information about the visit of a team of Scotland Yard investigators which had travelled to Sri Lanka at the request of the Government. It states that the team, consisting of five investigators headed by a Detective Superintendent and including a forensics head and telephone analysis expert, arrived in Sri Lanka on 4 January 2007. After conducting investigations, it provided advice on further tests to be carried out and left on 14 January. The team praised the CID investigators for their expeditious conduct of a meticulous investigation, apprehension of two suspects, identification of the motorcycle used by the assailants and identification of the assailants. The relevant letter was read out to the delegation by Minister Samarasinghe. The note states further that the CID periodically and confidentially reported on the investigation to the Magistrates Court, that the investigation was under judicial review and that a hearing had been set for 15 February 2007. The delegation was not informed of any progress made in the intervening year. President

Rajapaksa told the delegation that the Army was now closing the uncleared areas and would be able to arrest the assailants.

(b) 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.

(c) The delegation was provided with a copy of 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 Committee¹², whose reports on abductions, killings and extortions had "created a huge stink".

5.2.3. *Mr. Maheswaran*

(a) The authorities emphasized the existence of scientific proof in this case, namely the DNA analysis that had been carried out, which had enabled the investigators to conclude that the assailant was an LTTE cadre who had been specifically sent for the purpose to Colombo. A video recording of the culprit's confession existed, and his parents had confirmed that he was an LTTE member.

(b) The information note handed over to the delegation by Minister Samarasinghe states the following regarding the investigation: Mr. Maheswaran and two others were shot while they were at the Kotahena Sivam Temple performing religious rituals. Police arrested the assassin, named Johnson Colin Valentirio alias Wasantha, from Jaffna, who had been chased and shot at by Mr. Maheswaran's personal security guard while attempting to escape from the scene. The bodyguard, who had also been injured, identified the assassin at the hospital to which both had been admitted. Police recovered the weapon, spent bullets and bullet heads from the victim's body and sent them to the government analyst, whose reports were pending. The DNA analysis of the bloodstains on the murder weapon, the blood lost by the assassin at the crime scene and the blood samples taken from his body revealed that the bloodstains from the weapon and crime scene tallied with the assassin's blood samples. Inquiries then revealed that he was a trained LTTE cadre who had been specifically sent to eliminate Mr. Maheswaran. The facts were reported to the Colombo Chief Magistrates Court and a hearing set for 7 March 2008.

(c) Opposition parliamentarians told the delegation that Mr. Maheswaran had joined the TNA in voting and had been quite vocal in denouncing violations of the human rights of Tamils. According to them, he 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 SCOPP Secretary General stated in this respect that the assumption was that parliamentarians in Colombo needed less security. The lesson to be learned was therefore that security was necessary. According to the opposition, within 24 hours of the murder, the Government (or IPG) reportedly issued a statement that the LTTE was behind the murder. Minister Rambukwella had reportedly later said that a paramilitary group or someone from the Ministerial Security Division might be behind the murder, but this version had been discarded two weeks later. Conversations with the different opposition parliamentarians showed that none of them believed the LTTE to be behind the murder, which they attributed to paramilitary fighters tolerated by the security forces. The delegation was told in this respect that the IPG had had a long conversation with the suspect and that no one else had been given access to him. He had apparently been bandaged during the identification parade, and the attorney for the civil party had not been informed of the first magistrate hearing, which he had therefore been unable to attend. Moreover, the opposition parliamentarians found it ironic that Mr. Maheswaran's security detail had been reduced but that over 100 police officers had reportedly been posted to the hospital after his assassination.

5.2.4. *Mr. Dassanayake*

The delegation was given little information about Mr. Dassanayake's murder. The Defence Secretary told it that there was no clue as to who was responsible for the murder, apart from the suspicion that it was the work of the LTTE. President Rajapaksa believed that Mr. Dassanayake was killed because he travelled with security and was therefore a target. The note on the investigations conducted into the murders and other security-related crimes handed over to the delegation contains no information on the investigation into Mr. Dassanayake's murder.

¹² 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.

5.3. Investigations into death threats, attempts on the lives or harassment of the parliamentarians concerned

5.3.1. *Dr. Jayawardena*

(a) President Rajapaksa told the delegation that Dr. Jayawardena was able to go everywhere, even in the uncleared areas, and that he was safe. The issue for him was the back-up vehicle. In the past, he had misused it (it had been found parked on his estate) and the vehicle had therefore had to be withdrawn. Regarding the death threats against him, the Attorney General's Office stated that the CID had conducted a preliminary investigation and recorded a statement from Dr. Jayawardena during which he had been unable to name anyone who might have issued the threats. There was therefore insufficient material for the police to proceed. The threats against him were mere imagination and the current threat assessment reports did not reveal any threat. He now had eight security staff and two house guards. As to the offer he had made to maintain any back-up vehicle afforded to him, the IPG had informed the court that this offer could not be accepted. The authorities also pointed out that, unlike in the case of Mr. Ganesan, the Appeals Court had not issued an interim order to increase his security detail. As regards Dr. Jayawardena's questioning by the Terrorism Investigation Branch, the delegation was informed that this was in relation to a suspicion that he had given a vehicle to the LTTE.

(b) The note handed over to the delegation by Minister Samarasinghe states that Dr. Jayawardena was assigned more security personnel than the average member of parliament and that the actual number was based on a periodic threat assessment by the relevant police agency.

(c) Dr. Jayawardena stated that it was untrue that he had used a back-up vehicle for personal purposes. This accusation was based on the statement of a security officer. He had asked the IPG - so far in vain - to conduct an independent inquiry into the matter.

5.3.2. *Mr. Ponnambalam*

(a) According to the authorities, on 2 May 2006 at around 7 a.m., two unidentified persons with pistols had arrived on a motorcycle at Mr. Ponnambalam's house in Jaffna and inquired in Tamil from his servant, Margret, for one "Thangarajah", an employee working in Mr. Ponnambalam's office. When the servant had said that he was not present, they had accused her of lying, threatened her and left the premises. In her complaint, the servant had stated that the two, from their appearance and mode of expression, were neither armed forces nor police personnel. She had stressed that they spoke with a local accent in Tamil and were in civilian clothes. The motorcycle described was not of a make used by either the Armed Forces or the Police. The Jaffna police inquiries were still continuing.

(b) Mr. Ponnambalam, whom the delegation contacted after its return, discounted this version of events. He reiterated that Margret had said that the armed men coming to his house in Jaffna had asked for his whereabouts and that of other members of his official staff. They had then threatened her and had proceeded to search the house. When they had found no one, they had left. Mr. Ponnambalam further stated that, because of the threats to his security, particularly owing to his criticism of the Armed Forces and Police, he had had to leave the country. He said that in late November 2006, after a meeting of parliamentary group leaders in a high-security area (near the Indian High Commissioner's residence) with a police checkpoint every 100 metres, they had left in a convoy for Parliament. Despite this, a gunman riding a motorcycle was able to approach his car and threaten him with a gun.

5.3.3. *Mr. Kajendren*

(a) The information note handed over to the delegation by Minister Samarasinghe does not contain any particular new information. The report states that the Police were informed by an anonymous phone call on 13 May 2006 that a criminal fire had been set in the night of 12 May 2006 at Mr. Kajendren's office. The case had been reported to the Magistrates Court of Jaffna on 16 May 2006 (B192/06) and had been "laid by the Court" pending conclusion of investigations. Furthermore, the report confirms earlier information that there was no record of any evidence having been tendered before the Jaffna District Court by Mr. Kajendren's assistants, Mr. Kirisnapillai Prathipan and Ms. Manikavasagar Kones, who were in the office when armed forces elements allegedly set fire to it. The representative of the IGP stated that a separate investigation was being conducted into Mr. Prathipan's death. Lastly, the delegation was told that no complaints had been received that this attack had been the fifth on Mr. Kajendren's office and that he was receiving death threats from elements of the armed forces. As to the material loss caused by the fire, the IGP's representative stated that Mr. Kajendren had to file a civil complaint if he wanted to receive compensation. The police were unable to state the exact value of the loss, but doubted Mr. Kajendren's estimate of Rs. 6,000,000.

(b) Mr. Kajendren was not present at the meeting with the delegation. He had earlier provided the death certificate of Mr. Prathipan, showing that he had been shot in the head and chest.

5.3.4. *Mr. Jayanandamoorthy*

According to the information provided by the authorities, the grenade attack of 21 July 2006 on Mr. Jayanandamoorthy's house was still being investigated. The facts had been reported to the Batticaloa Magistrates Court and had been laid down by the Court pending conclusion of the investigation. The IGP's representative informed the delegation that the case was not periodically called, but that the investigation was continuing. He pointed out that the attack had occurred in the presence of security personnel outside and inside Mr. Jayanandamoorthy's house, that there were police checkpoints 700 to 900m away from the house, but no army checkpoints, and that the attackers could have used one of the many byroads leading to the house. When giving testimony about the attack, Mr. Jayanandamoorthy had reported that he had been receiving death threats for a long time, but had been unable to provide the police with details enabling it to conduct an investigation. He currently had a security detail of 10 persons and was afforded more security when going to the operational areas.

5.3.5. *Mr. Kishore*

The IGP's representative and the information note furnished to the delegation provided detailed information about the location of Mr. Kishore's house in Vavuniya, which is next to a restaurant/supermarket owned by a relative, St. Anthony's Church located opposite and two police checkpoints at both ends of the main road, 75m from the house. At the time of the grenade attack, security personnel were on duty and gave testimony. None of the policemen present at the checkpoints had seen anyone throwing the grenades. Mr. Kishore's suspicion that elements of PLOTE might be behind the attack had proved unfounded. The case had been reported to the Magistrates Court, Vavuniya, and investigations were continuing under judicial review. The next hearing had been set for 28 February 2008. Mr. Kishore currently had a security detail of 17 persons.

5.3.6. *Mr. Ganesan*

(a) Mr. Ganesan, co-founder along with Mr. Raviraj of the Civil Monitoring Committee, informed the delegation of the following sequence of events regarding him. On 11 December 2007, he had received the Freedom Defenders Award. On 16 December 2007, reports appeared in *Dinakara* describing him as "an arms supplier to the LTTE, drug trafficker and collaborator with underworld criminals". After his vote against the budget, on 18 December 2007, his security detail had been cut from ten to two officers and his back-up vehicle withdrawn. Having received a series of death threats after the assassination of Mr. Raviraj, Mr. Ganesan had had to leave the country temporarily. The Appeal Court had subsequently issued an interim order to restore his security. However, the back-up vehicle provided to him was useless, as it could go no faster than 40km/h (the speed limit in Colombo is 60km/h). The delegation raised this issue at the wrap-up meeting with Minister Samarasinghe and was promised that it would be dealt with. Mr. Ganesan also told the delegation that the lawsuit regarding his security detail had cost him 1.5 million Rs. As to the gratuitous allegations made against him in *Dinakara*, the IGP had informed him that he could not investigate those allegations. His attorney had now written to the newspaper editor.

(b) According to the information note provided by Minister Samarasinghe, Mr. Ganesan had not made any complaint about death threats. However, on a general remark to this effect, his security detail had been increased from two to four. Pursuant to the Appeal Court order of 14 February 2008, it had been increased by another four police personnel and a back-up vehicle. As regards the allegations made in the newspaper, the IGP's representative and the Deputy Solicitor General stated that Mr. Ganesan had to lodge a defamation complaint if he wanted the matter to be taken up in court.

5.3.7. *The death threats against Mr. Jayanandamoorthy, Mr. Kanagasabai, Ms. Pathmanathan, Ms. Kathiraman, Mr. Ariyanethran and Mr. Chandranehru*

Responding to the delegation's question about the investigation into the death threats which the parliamentarians had received on 19 November 2006, the IGP's representative stated that no complaint had been received. The delegation handed over to Minister Samarasinghe the official complaint the parliamentarians concerned had lodged with the Speaker and which contains details regarding the identity of the caller.

5.3.8. *Mr. Chandranehru*

According to the information note conveyed to the delegation by Minister Samarasinghe, Mr. Chandranehru's complaint regarding the death threat against him, reportedly by a member of the Karuna group, had been investigated and, although the police had interviewed 20 witnesses, none of the four witnesses who had corroborated Mr. Chandranehru's version of events had been able to identify the intimidator. The facts had been reported to the Magistrates Court, Akkaraipattu, and the case was to be called again on 14 March 2008. Moreover, the file had been forwarded to the Attorney General for advice. Mr. Chandranehru had a security detail of nine police officers.

7. The case of Mr. Dissanayake

The delegation raised this case only with President Rajapaksa since the IPU had appealed to him to grant Mr. Dissanayake a full pardon to enable him to recover his civil and political rights. President Rajapaksa informed the delegation that he had sought the opinion of the Attorney General on this matter. According to that opinion, none of the State branches had plenary power. Mr. Dissanayake had been convicted by the apex court and, what is more, not for the first time. Granting him a pardon might make it look as though he had not committed any offence. There were also precedents for pardons not being granted, as in the case of a former prime minister. The delegation was informed that Mr. Dissanayake had filed a fundamental human rights case with the Appeals Court regarding his disqualification. The Appeal Court dismissal of the case was now pending before the Supreme Court.

8. Reform of the parliamentary committee system

At the delegation's meeting with him, President Rajapaksa raised a proposal which the IPU had made earlier in the framework of its technical cooperation programme regarding the reform of the current parliamentary committee system. He stressed that Parliament should be strengthened and that this could be achieved through a parliamentary reform process, in particular the establishment of oversight committees. He expressed his support for such a project, to be worked out by Parliament with the assistance of the IPU.

E. CONCLUDING REMARKS

1. In general

1.1. The cease-fire agreement has been abrogated and Sri Lanka is to all intents and purposes at war. The Government is out to defeat the LTTE and retake control of the northern provinces, whereas the LTTE is fighting back and seeks to retain supremacy in areas under its control. While the fighting is largely confined to the northern part of the country, it is spilling over to other areas and there have been a number of terrorist attacks all over the country, including in the capital. It appears to the delegation that this state of affairs colours all politics in the country. One clear result is that the Government and the opposition have entirely different and seemingly irreconcilable perceptions of events, and it casts a pale over the authorities' efforts to maintain order and ensure respect for the rule of law.

1.2. All cases being investigated by the IPU delegation have remained unpunished to date. That includes the murder of several parliamentarians, the attempts on their lives, and the death threats and harassment directed against them (especially the abduction of family members before the vote on the Appropriation Bill in December 2007). The investigations conducted so far have led to the arrest of a suspected perpetrator in the case of Mr. Maheswaran only. Apart from that particular case, little or no new information was provided to the delegation on the investigations in question. In the majority of cases, no progress had been made.

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. In the view of the delegation, this means that the competent Sri Lankan authorities are also committed, insofar as they have not gathered sufficient evidence enabling them to identify a suspect, to investigate all leads, including information provided by those who have reason to believe that the murders and crimes in question have been committed by specific actors.

1.4. The delegation is therefore concerned that the authorities systematically seem to attribute responsibility to the LTTE for the crimes that have been committed, even in the absence of any convincing evidence to this effect. The delegation notes that the authorities seem to exclude any possibility that others, for example paramilitary groups – whose responsibility has been evoked by all non-governmental interlocutors - may be involved in those crimes. The delegation is concerned that this attitude may lead the competent authorities to neglect investigations on the grounds that the suspects have fled to areas of the country which are not under government control.

1.5. The delegation points out that 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.

1.6. The delegation is concerned at the way in which many of the people it saw tended to put the TNA and the LTTE in the same basket. There can be no doubt whatsoever that the TNA is part of the political process in Sri Lanka and that its members, as the authorities themselves have recognized, have not been and are not involved in any violence. The delegation believes it is imperative that everybody stop insinuating that members of the TNA work for, or are under the control of, the LTTE. Such insinuations expose TNA members to increased risks to their lives and security, prevent them from carrying out their parliamentary mandate and hence from representing their electorate, and have a negative impact on the entire democratic process. Moreover, the delegation is firmly of the opinion that the authorities, in particular the parliamentary authorities, must make every effort to prevent State agents from discriminating against certain members of parliament because of their political affiliation.

1.7. The security of members of parliament is of particular importance in the current armed conflict in Sri Lanka. As the recent increase in assassinations of parliamentarians demonstrates, members of the opposition and the majority are both vulnerable to attempts on their lives. However, the delegation noted considerable differences in the security detail afforded to members belonging to the opposition and majority members. This is because almost all majority members have been given a government portfolio and are therefore also provided with substantially increased protection.

1.8. The delegation is not convinced that the present system for assessing risks and assigning security details can function in an entirely impartial and objective manner. There are far too many elements indicating that withholding protection is used as a means of exerting political pressure on outspoken critics of the Government. The mere fact that opposition parliamentarians believe this to be the case automatically has a chilling effect on their freedom of expression and their ability to exercise their parliamentary mandate. Moreover, in the absence of the long overdue implementation of the 17th Amendment, it is not an independent police commission that is in charge of carrying out risk assessments.

1.9. The delegation is puzzled by the absence of any real involvement of the parliamentary Privileges Committee on matters relating to the security of members of parliament referred to it. A passive role ultimately denotes a lack of concern for the security of all members of parliament and is hard to explain in the current context. Moreover, the delegation questions whether it is appropriate for this committee to be chaired by the Prime Minister (or any minister), because of the potential conflict of interests.

1.10. In view of the above, the delegation recommends that the competent authorities, working closely with the parliamentary authorities, undertake an urgent review of the current system with a view to recommending improvements for an impartial and politically neutral system, possibly operating under the direct authority of the Speaker of Parliament.

1.11. In conclusion, however, 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 who are responsible for assassinations and other crimes are identified, apprehended and brought to justice.

1.12. The delegation welcomes the commitment expressed by the Government at the highest level to strengthen Parliament through a system of oversight committees. It proposes that such a system be implemented and that a first committee be established on human rights.

2. On individual cases

2.1. The delegation wishes first of all to stress that in such high-profile cases as the murder of parliamentarians, a transparent investigation, perceived by everyone to be conducted in an independent and impartial manner, is of the essence. Each time this transparency is called into question, such as in the case of Mr. Maheswaran, the authorities should take the necessary action to restore or build confidence in the investigation.

2.2. The delegation is aware 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. It is perplexed at the divergent information provided to it as to whether or not the name of a possible suspect or suspects was given to President Rajapaksa. It notes, however, that the authorities are now aware of the name of the person in question and can therefore take the necessary action.

2.3. In the case of Mr. Raviraj, the delegation regrets the absence of information on any investigative action taken during the entire past year. It is also not clear about the identity of the assailants and the evidence that led investigators to identify them.

2.4. The delegation points out that in the case of the six parliamentarians who received death threats on 19 November 2006, the name of the caller is known since he identified himself and the authorities would have had ample time to investigate the matter since it was publicly raised in Parliament and brought to the attention of the Speaker. Now that a copy of the complaint in question has been conveyed to the Minister for Disaster Management and Human Rights, the necessary action can be taken without further delay.

2.5. The delegation notes also that there are clear indications that the TMVP is responsible for abducting the relatives of the TNA parliamentarians. Since the TMVP is receiving support from the Government with a view to integrating it into the political process, the delegation believes that it is all the more in the interest of the authorities to find out whether elements of this group are indeed behind those criminal acts and to ensure that they are identified and brought to justice. It urges in particular the Speaker to ensure that the truth regarding these abductions is revealed without further delay, since any act aimed at pressuring members of parliament to vote in a specific way is alarming and should be of the utmost concern to him.

2.6. The delegation recalls that the power to grant pardons is usually vested in the Head of the State in constitutions based on the separation of powers. It is a prerogative of the Head of State that is designed to serve various purposes, among them to temper justice with mercy in appropriate cases. The delegation is therefore not convinced by the argument put forward by the authorities to justify the failure to grant Mr. Dissanayake a pardon.

2.7. The delegation notes with satisfaction that the authorities have undertaken to provide Mr. Ganesan with a functioning back-up vehicle. .

2.8. No progress has been made in the investigations regarding the attacks on the property and/or lives of Mr. Ponnambalam, Mr. Jayanandamoorthy, Mr. Kishore and Mr. Chandranehru, and the delegation regrets that the authorities did not convey a sense of urgency to elucidate those crimes. The delegation also notes that members of parliament have not always lodged official complaints regarding death threats and other criminal acts directed against them. While it understands that it may sometimes be difficult to lodge complaints, it stresses that this must be done if justice is to take its course.

2.9. The delegation is pleased to note that the parliamentary authorities consider favourably the establishment of a parliamentary committee to follow the cases in question, and encourages them to set up such a committee, ensuring that it includes both majority and opposition parliamentarians.

F. DEVELOPMENTS FOLLOWING THE MISSION

1. On 6 March 2008, Mr. K. Sivanesan, a TNA member of parliament representing Jaffna, was killed in a claymore mine attack. While the Government claims that the LTTE is responsible for the murder, the TNA and others assert that Mr. Sivanesan was killed by the Deep Penetration Unit of the Sri Lanka Army.

2. On 7 April 2008, Mr. J. Fernandopulle, Minister and Chief Government Whip, was killed by a LTTE suicide bomber, while giving the starting signal for a marathon race near Colombo.

3. At the meeting held with the Committee during its 121st session (May 2008), the Minister for Disaster Management and Human Rights reported that Mr. Ganesan had been provided with a proper back-up vehicle.

G. OBSERVATIONS OF THE AUTHORITIES ON THE REPORT

1. Observations supplied by Prof. Rajiva Wijesinha, Secretary General of the Secretariat for Co-ordinating the Peace Process in a letter addressed to the Secretary General of the IPU (30 May 2008)

[...] I see that an attempt has been made to ensure balance in what is obviously a very polarized situation, but there are a few inaccuracies that contribute to what seem increasingly biased perceptions of the current situation in Sri Lanka. Some points of clarification should also be made to make it clear that, while most individuals are part of the polarized process, exceptions to this indicate that the government is less subject to partisan considerations.

In this context it should perhaps be made clear that the Speaker is a member of the UNP, elected with a one-vote majority against the government candidate.

In Section 6, your first para. reiterates the opposition characterization of the situation, whereas hostilities continued throughout the CFA period, in the form of massive violations by the LTTE as ruled by the SLMM. Hopes were dashed in fact when the LTTE withdrew from talks in April 2003, though others claim they were dashed when the President dismissed the government that had signed the CFA and won an overwhelming majority for a different government in April 2004.

In para. 2, the meeting scheduled for April did not take place because the LTTE refused to appear. They did go for talks in June, but again refused to appear. The collapse of the CFA occurred in fact in August with two full-scale attacks by the LTTE in the East and the North. Despite this they did appear for talks in October 2006, only to withdraw after one day.

In section D, 1.1.2, it is not opposition politicians alone who stress the failure of successive governments. It should also be noted that no government since 1987 was prepared to fully implement the 13th amendment, in part because of the opposition to this of the LTTE, aided and abetted in the late 90s by the then Sri Lankan government. Unfortunately, the myth that the LTTE was the sole representative of the Tamil people was fuelled by this, and it was only after the abrogation of the CFA in January this year that the government could respond to the requests of other Tamils, who had accepted the 13th amendment in 1987 and came into (or remained) in the democratic process, that the 13th amendment be given a chance.

Your description of the local elections in Batticaloa, in ensuring balance, does not give enough weight to facts, in particular the actual killing of TMVP candidates. You also do not note that the independent election monitoring group PAFREL was positive about the election at the time. It gave it a reasonably clean bill of health afterwards, though this did not come within the scope of your review, and later the two leading opposition parties, which had boycotted these elections, took part in the Provincial Council election that followed in May.

Your description of the departure of Mr. Samaraweera from the government is both inaccurate and misleading. It is not clear how the killings in January 2006 can be seen as evidence of his no longer enjoying great support six months into the new government - since that government took office in November 2005. He was not sacked as Foreign Minister, he was asked in the reshuffle which took place early in 2007 which portfolio he preferred, and he gave up the Foreign Ministry to retain Shipping and Aviation. He was dismissed from that position only subsequently, along with two other Ministers, for political reasons that had nothing to do with human rights questions.

Your introduction of the Mawbima Case and the Mr. Alles seems irrelevant, and I cannot understand why you met him. The description of what happened is certainly biased. Mawbima, which had been set up earlier to support the President's campaign for election, turned against him in a very crude way in the course of 2006. To venture into anecdote, which is what this paragraph is about, I had been asked by Mr. Samaraweera's sister to write for the related English paper the Standard, but when the paper turned

against the government, and took on a CEO who was closely associated with the UNP leader, my column was stopped. I should add that payment I was owed was also stopped until Mr. Alles kindly intervened and ensured that I was paid at least part of what was due.

Your description of the demands for security of Mr. Seneviratne and Mr. Hakeem fail to take into account that Mr. Hakeem resigned from his Cabinet post, so that his security entitlement naturally was reduced. This happened long after the Pottuvi massacre. It should be noted that no Sinhala member of the opposition has suffered any injury. Mr. Gajanayake made an application to court, which granted bail, but he has since been arrested again.

You claim that the Government was pressuring opposition members into joining it. It may be worth noting that the crossover only occurred after Mr. Jayasuriya, leader of the group that crossed over, had been stripped of his post of Deputy Leader of the UNP, and that the UNP constitution allows its Leader to continue for life, and to appoint all other officials. The Supreme Court ruling refers to an earlier case, and the UNP has often failed to establish that expulsions were in order, but this does not preclude them in the future from expelling members and thus ensuring they lose their seats if they do so in accordance with judicial requirements. It is also not clear how the powers of the President had been extended by various Supreme Court rulings.

With regard to the Constitutional Council, as you note I believe it should be set up as quickly as possible. It is not correct that it makes recommendations for particular positions, it is only required to approve nominations for such positions by the President - it initiates names only for various Commissions. You do look at the reasons it was not set up earlier, though you do not mention the legal opinion that precluded the appointments being made until all nominations had been received. You also do not note that, if a position is incompatible with the membership of the Council, there is a question as to whether, regardless of a commitment to resign, he should be appointed before resigning - admittedly a difficult decision given doubts about how soon the appointments would take place. Expediting the report of the Select Committee may also be worth recommending, since clearly the current legislation has lacunae, as exemplified by failure to appoint by previous dispensations too, soon after the 17th amendment was passed.

The section on security makes it clear that we operate in a context of extreme suspicion, often unconnected with reality as far as actual threats to life and limb go. The situation is obviously compounded by the fact that some people see security as a perk, or as connected with prestige. The idea of independent assessments is obviously a good one, but it is a moot point whether anything would be recognized as such, since as you might have noticed recommendations from the same source are either cited approvingly or dismissed according to personal predilections. The best recourse would of course be to eradicate terrorism altogether.

With regard to the abductions in connection with the budget, as your report indicates, different conclusions can be reached. The incident with regard to Mr. Ratnayake suggests some relish about the situation, since it is unlikely that anyone would think Mr. Ratnayake would not attend Parliament as a consequence of such an incident.

Your item 3.2 is very diffuse, though it does not ignore the fact that security checks are essential, and should not be treated as evidence of discrimination. The last two sentences of that section are strange, in that the reason the government is now trying to recruit minorities specifically is precisely because the previous policy - not altered by any previous government - of recruiting on a general basis had led to the low figures for the minorities that you note. It is bizarre that a party that did nothing about this while in power is now critical of a government that, faced with the consequences of that neglect, has already begun to take affirmative action.

While I cannot comment on the points you make with regard to the Parliament Privileges Committee, presumably it is up to parliamentarians to make it work, and the Leader of the Opposition should be able, in consultation with the Speaker, who belongs to his party, to suggest ways of improving its effectiveness.

Your 3.4. tries to be balanced but ignores the fact that the TNA still talk of the LTTE as being the sole representatives of the Tamils, and that they have never contested the claim made by the LTTE supporters that their election is evidence that the people of the North and East support the LTTE. Indeed Mr. Sampanthan has claimed publicly that over 90% of the people of the North and East support the LTTE on the strength of the 2004 election results. When he was challenged given that the TNA only received about a third of the votes in the East, he claimed that the population had been skewed by colonization.

Such support for claims that would justify the ethnic cleansing the LTTE engaged in in 1990 does not help to establish the independence of the TNA. All this contributes to the miasma of suspicion that pervades Sri Lanka, but a government that has lost so many of its members to terrorism is naturally wary of what seems encouragement of this - especially in a context in which current TNA members have not even criticized the killing of their former leaders, and the demonization of their group leader until 2004, simply because he refused to accept the hegemony of the LTTE.

With regard to responsibility for murders, your first sentence is not accurate. As you may have noticed, the authorities worked initially on the assumption that members of the armed forces may have been responsible for Mr. Parajasingham's killing, and certainly no one has dismissed the possibility of involvement of such individuals or individuals connected to the various other Tamil groups. Indeed I mentioned the manner in which these last had been decimated during the CFA, and the resentment about this which may have motivated reactions that, though they cannot be justified, are understandable. With regard to Mr. Maheswaran, while the evidence as adduced suggested the LTTE was responsible, my point was that a massive outburst of protests about the government, apparently orchestrated by the LTTE, died down the moment it was known that the marksman had been apprehended. The fact that Mr. Maheswaran had lucrative contracts with the government, and that the family continues with the business now, has never been denied.

With regard to the claim that names of suspects with regard to the killing of Mr. Pararajasingham had been forwarded to the government, it is clear that nothing had ever been put in writing except by the IPU itself. I should note that I did not (as claimed in 5.2.1 [e]) send anything to the head of the investigation, I mentioned that I had followed up on your claim that you had sent a letter some time previously to Minister Samarasinghe, and I found that the Ministry had sent that letter to the head of the investigation - a Tamil officer who happened to be related to Mr. Pararajasingham - who did not seem to have followed up on this. I would certainly agree that specific references to what was done in this connection is desirable

With regard to your 5.3, I believe you would note the absurdity of the enormous energy expended on the issue of a back up vehicle, and the general paucity of information given when complaints were made. This does however highlight the need for prompt action, and swift follow up, in the one or two instances when something concrete was brought to the attention of the police or other authorities. You will also note in one or two instances that justice has not been served by involving the IPU in a manner that puts pressure on law enforcement authorities.

With regard to reform of the Parliamentary Committee System, it should be noted that some agencies objecting to government action - or inaction - in the sphere of human rights have suggested that the government simply appoints increasing numbers of committees to go into matters, without taking action. It is also worth noting what the Leader of the Opposition said about the Privileges Committee.

I have dealt with the issues above, so do not need to comment in detail on the conclusions. However I must commend your identification of polarization of perceptions as adversely affecting issues and I believe you should use the good offices of the IPU to repair this problem. The situation might be improved if you could help with reform of the electoral system, which has led to deep insecurity after every election, fuelled by the propensity of the opposition to believe in can topple the government between elections.

[....]

2. Interim response of the Government of Sri Lanka to the Committee's report forwarded by the Permanent Mission of Sri Lanka to the United Nations Office in Geneva (16 July 2008)

Part C, paragraph 3: The joint UNHCR/GoSL figures for IDPs figures for IDPs are 274,000 IDPs displaced before April 2006 (some of whom have been displaced for over 15 years). Until recently this figure was stated at approximately 314,000 due to double counting of 40,000 IDPs. The current case load of IDPs displaced after April 2006 and as at May 2008 is 182,802. The total number of persons resettled is approximately 180,000 (as at May-June 2008).

Part D, para. 1.2.1: In relation to the passport issued to the person known as Karuna, investigations are proceeding as to how Karuna obtained a travel document under a different name.

Part D, para. 1.3.1: Release funds for the Mawbima newspaper. The Supreme Court ordered funds to be released to cover the cost of staff salaries and other expenses. Minister Samarasinghe did not inform the delegation of this, but it was said by a member of the Sri Lankan team who had met the delegation.

Part D, para. 1.3.1: Mr. Hakeem's security - this was responded to by the Secretary-General of the Peace Secretariat and later when Mr. Hakeem resigned from Parliament, the Police enhanced his security on the basis of his being a party leader.

Part D, para. 1.4.3: The report states that the president has not nominated his appointee to the Constitutional Council. This is correct. There was a delay in recommending the member representing the small parties. Because of the delay, Parliament voted to appoint a Select Committee - the report of which is awaited. It is only when the Constitutional Council is to be constituted that His Excellency the President will take steps to appoint his nominee together with the other six members to be appointed (as three members are appointed *ex officio*). However, as explained to the delegation, the President has decided to await the outcome of the deliberations of the Parliamentary Select Committee on the 17th Amendment which will prescribe certain further amendments to correct the deficiencies in that Amendment.

Part D, para. 3.4.1: On the question of linkages between LTTE and TNA, the Secretary General of the Peace Secretariat, has explained the position. This also has a bearing on the comment made in E para. 6.

Part E, para. 1.1: The statement to the effect that "The CFA has been abrogated in Sri Lanka is ... at war" must be viewed in light of the fact that even when the CFA was in effect the Sri Lankan Monitoring Mission recorded over 3,800 violations by the LTTE as against 351 for the Government (between February 2002 and April 2007): over 90% of the violations being committed by the LTTE. The Sri Lankan Security Forces are engaged in a fight against terrorism with atrocities regularly being committed by the LTTE against civilians - most recently 4 days ago when 4 civilians were killed and 26 wounded when cadres of the terrorist group opened fire on a public bus in the south of the country.

Part E, para 1.2: The killer of Mr. Maheswaran who is an LTTE cadre has been indicted and trial before the High Court is pending.

The IPU delegation was informed of progress made in relation to the cases under its purview. Reasons for the lack of progress in some cases were also shared with the delegation. The withdrawal of some charges against a UNP MP Mr. Johnston Fernando and the provision of enhanced security to WPF MP Mr. Mano Ganesan were undertaken and the delegation was briefed as to measures relating to the provision of security to another MP - Dr. Jayalath Jayawardena. The enhanced security requested by Mr. Rauf Hakeem has also been provided by the Police. This increase in security personnel and other supplementary facilities was in accordance with the agreement reached before the Courts. The MPs have no cause to be dissatisfied with the present arrangement.

The MP for Jaffna belonging to the Tamil National Alliance, Mr. Kiddinan Sivanesan, was killed in a claymore mine attack in Mallavi in the Mullativu District on 6 March 2008. This incident occurred in an area unlawfully occupied by the LTTE to which Police investigators have no access. The LTTE is known to heavily mine areas under its control. Therefore, any assertion as to the alleged killing of the MP by the so-called deep penetration units of the Sri Lankan military is an assumption. The killing has not been reported to the Sri Lankan police, possibly due to fear of reprisals by the LTTE.

In light of the foregoing, the statement "In the majority of cases, no progress has been made" in Part E para. 1 (2) is somewhat misleading and could be amended to reflect the true position.

Part E, para. 2.2: An assertion is made in relation to supposed inaction in response to the name of the person identified as the killer of Mr. Pararajasingham, MP being provided. Inquiries made by the Police in the Batticaloa District to trace an individual known by the name of Kaluthavalai Rivai (as per IPU decision of January 2008) and Kommathurai Ravi (as per IPU delegation's mission report) have proved futile as no address has been provided by the TNA members who have provided this information to the IPU. Similarly, attempts to trace individuals named Kalai and Sitha alias Pradeep in the Batticaloa area also proved futile in the absence of full names and addresses. It should also be noted that names such as Ravi and Pradeep are very commonly used by many Sri Lankans. It must also be stressed that investigations are not discontinued and are continuing. The Police would welcome any fresh information that could assist them in their inquiries to identify the perpetrators. However, such information must be sufficiently complete and detailed in a manner to enable investigators to pursue any leads provided. Any such information must be provided

through appropriate modes of communication, and should be in accordance with the law, so that it may be made use of in a criminal proceeding.

Part E, para. 2.3: Relating to the statement that no action in the past year on the Nadarajah Raviraj case, this statement is incorrect. Inquiries by the Police have continued without interruption. These investigations have resulted in the identification of two principal suspects in addition to two other suspects who have aided and abetted in the commission of the offence. All these four suspects are presently at large and strongly suspected that they have gone to areas occupied by the LTTE. Significantly, investigations have revealed that Mr. Raviraj gave an interview to the Asian Tribune (a web-based newspaper) a few days prior to his assassination in which he had been highly critical of LTTE leader Prabhakaran. This could have provided retaliation from the LTTE. Furthermore, two other suspects who were arrested and detained in connection with the same case have now been enlarged on bail by Court. Inquiries are to be continued under judicial review and this is to be called again in the Magistrate's Court of Colombo on 16 September 2008.

Para E, para. 2.4: Death threats to six parliamentarians - the copy of a complaint to the Speaker was handed over in Cape Town, South Africa. Action has been taken to request the Police to contact the six MPs concerned and to obtain information such as the telephone number of the alleged caller, if available, and any other clues to his identity with a view to furthering investigations. Such allegations are investigated as usual but the lack of precise information has been noted in this instance making identification difficult.

Part E, para. 2.5: Relating to the abduction of MPs' relatives allegedly by TMVP, the position of the Government is that any abduction must be reported to the authorities and that such complaints will be investigated in accordance with the law. The Police conducted inquiries promptly where complaints by the Hon MPs or the abductees were made. Neither the victims nor the complainants were able to give a coherent reason to establish a motive for the abductions. Therefore, the conclusion, arrived at several months later, to the effect that the alleged abductions were directed at preventing voting in Parliament cannot be substantiated.