

SUBMISSION ON REPRISALS AGAINST PERSONS COOPERATING WITH UNITED NATIONS HUMAN RIGHTS MECHANISMS

SRI LANKA

(Incidents reported between 16th June 2013 to 30th May 2014)

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Introduction:

Two key events that dominated the human rights discourse in Sri Lanka during this period was the visit of the UN High Commissioner for Human Rights to Sri Lanka in August 2013 and the passing of a resolution on accountability and reconciliation in Sri Lanka at the 25th session of the UN Human Rights Council (UNHRC) in March 2014. Those cooperating (and perceived as cooperating) with both processes and other UN mechanisms were arrested, threatened, interrogated and discredited in the state controlled, owned and supported media.

The High Commissioner herself was not spared and during the press conference she addressed before she left Sri Lanka, she said that “Some media, ministers, bloggers and various propagandists in Sri Lanka have, for several years now, on the basis of my Indian Tamil heritage, described me as a tool of the LTTE. They have claimed I was in their pay, the “Tamil Tigress in the UN.” This is not only wildly incorrect, it is deeply offensive. This type of abuse has reached an extraordinary crescendo during this past week, with at least three Government Ministers joining in”¹.

Less than 3 months later, the Sri Lankan government revoked already issued visas to first and present UN Special Rapporteurs on Independence of Judges & Lawyers, who were due to address a seminar on ‘*Making Commonwealth Values a Reality: the Rule of Law and the Independence of the Legal Profession*’, in Colombo, organized by the Human Rights Institution of the International Bar Association²

¹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673> (Last accessed 29th May 2014)

² <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=e71333ea-600a-4455-a1f9-56683df9b9f7> and <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=66663db3-fee1-4e2b-8195-71c2fb586780> (Last accessed 29th May 2014)

During the 66th Independence Day celebrations on 4th February 2014, President Mahinda Rajapaksha stated that it's people who don't like peace that are proposing a resolution at UN Human Rights Council in Geneva and that today in Sri Lanka, there has to be a fight between traitors and patriots.³ This has more or less been the approach of the Sri Lankan government and political and religious groups allied with the government, towards the UN and those cooperating with it.

Sri Lanka has not taken any progressive measure to address the past and ongoing human rights violations. Therefore victims their families and HRDs seek remedies from international human rights mechanisms, especially the UN. But precedence of animosity and continuing reprisals by the Sri Lankan government and pro-government media discourages HRDs, victims and their families from cooperating actively and openly with UN mechanisms, such as the Human Rights Council (UN HRC). High-level government officials in Sri Lanka, including the President, are reported as having made negative statements about the UN human rights mechanism and portraying those cooperating with the UN as "traitors," "terrorists" and being "against the country." Pro-government media reported and broadcasted a similar vein of thought in reference to those cooperating with the UN. While few HRDs and family members of victims went to Geneva during the 25th session of the HRC, several declined to travel to Geneva due to fear of reprisals and the general animosity by the government and pro- government media.

This submission is a compilation of relevant incidents directly reported by those who subject to reprisals as well as those incidents already published and reported in the media.

Permission have been obtained from those whose names and details mentioned, except in cases where such incidents have been publicly reported in the media.

A. Arrest & detention of those cooperating with UN Human Rights mechanisms

1. On 13th March 2014, Ms. Balendran Jeyakumari, was arrested at her house in the Kilinochchi district, Northern Sri Lanka by the Terrorist Investigation Department (TID) of the Police and is presently being held at the Boosa Detention Centre. She and her daughter has been participating in campaigns to find out truth about disappeared persons, including Jeyakumari's son, and both the mother and daughter had received much publicity in second half of 2013, due to their participation in an event with the UN High Commissioner for Human Rights on 30th August 2013. Jeyakumari's daughter, 13 year old Vibooshika, was one of the three children who welcomed the UN High Commissioner

³ <http://www.tbccuk.net/?p=28178> (Last accessed 29th May 2014)

for Human Rights for the event and her photo with the High Commissioner has been publicized. Jeyakumari claims that her son disappeared after she had surrendered him to the Army in 2009 and that the son's photo was included in a photo published in media, of a government detention facility⁴.

2. On the night of 16th March, in Killinochchi, the TID arrested Mr. Ruki Fernando, Advisor to the INFORM Human Rights Documentation Centre in Colombo and Rev. Fr. Praveen Mahesan, a Catholic Priest and the former Director of the Centre for Peace and Reconciliation in Jaffna. The two men had gone to North on a fact finding mission to look into the arrest of Ms. Jeyakumari (see above) and several others and reports of increased militarization. The reasons given for arrest were for aiding and abetting the reorganizing of the LTTE, causing discomfort to the government, causing disharmony amongst peoples and sending information abroad to earn money. However, Ruki Fernando told media that their arrest appeared to be linked to the process of the UNHRC resolution on Sri Lanka "I think what happened to us is very much linked to the resolution discussion," he said. "I was repeatedly asked who in Geneva, who outside Sri Lanka, was I sharing information with? It seemed very clear they took great care for other nations not to hear any alternative information or perspectives from within Sri Lanka"⁵. Ruki also said that the "government is particularly clear that no information should be provided to the UN Human Rights Council currently in session in Geneva"⁶. Ruki had been actively involved in advocacy with UN, and had been meeting and communicating with UN officials in Sri Lanka and Geneva, been involved in submitting individual complaints and other submissions to UN bodies and had travelled to Geneva to engage in lobby activities related to the UN resolution in February 2014 and December 2013, as well as numerous other occasions in last few years. Fr. Praveen had also been engaging with the UN, attended sessions of the UNHRC in previous years and had met the UN High Commissioner for Human Rights during her visit to Sri Lanka in August 2013.

B. Threats to arrest those cooperating with the UN – including those who had advocated for and who will cooperate with the UN Human Rights Council established investigation mechanism

3. According to a report in the "Ceylon Today" newspaper, the Minister of Mass Media, Mr. Keheliya Rambukwella had stated that legal actions would be taken against those who testify before the international investigation mechanism established by the UN Human

⁴<http://www.amnesty.org/en/library/asset/ASA37/006/2014/en/be93015f-1ea7-4a2b-bb36-2e8029f66737/asa370062014en.html> (Last accessed 29th May 2014)

⁵ <http://edition.cnn.com/2014/03/19/world/asia/sri-lanka-ruki-fernando-arrest/> (Last accessed 29th May 2014)

⁶ <http://njviehland.wordpress.com/2014/03/22/ruki-fernando-is-out-of-detention-but-hes-not-free/> (Last accessed 29th May 2014)

Rights Council, if evidence submitted is in violation of the country's constitution⁷. He further said that Members of the Parliament cannot testify before this mechanism, as it will be a violation of the sovereignty of the country. This statement appears to have been made in the context of several members of Members of Parliament and a Provincial Councilor from the Tamil National Alliance engaging proactively with UN mechanisms, and having lobbied heavily for the resolution on Sri Lanka adopted in March sessions of the UNHRC. The "Ceylon Today" newspaper report also quoted media reports that had reported that testifying before the "international committee" would be treason and that the government would initiate legal action against such individuals under the "State Secret Act" and that measures will be taken to debar such persons from making international calls and video conferences. Minister Rambukwella had refrained from commenting on a clampdown on communication.

4. Addressing a media conference on 10th April, Government Coalition party Jathika Hela Urumaya (JHU) Media Spokesman and Western Provincial Councilor Mr. Nishantha Sri Warnasinghe called for immediate arrest of Northern Provincial Council member Ms. Ananthy Shashidaran, two Members of Parliament of Mr. Suresh Premachandran and Mr. M.A. Sumanthiran. All three of them belong to the Tamil National Alliance. The JHU wants to arrest them for their participation of 25th session of UNHRC in March 2014 and campaigning for an international investigation on war crimes in Sri Lanka.⁸
5. Bodu Bala Sena (Buddhist army - a militant and extremist Buddhist group, supported by the government) challenged the Government to arrest the Catholic Bishop of Mannar, Rt. Rev. Dr. Rayappu Joseph. They alleged that the Bishop had supported the LTTE.⁹ But real reason, coming just after the adoption of a UNHRC resolution mandating an international investigation into allegations of war crimes, indicate that the threat is linked to the Bishop's consistent and strong advocacy for such a mechanism for a number of years. The Bishop, together with a group of more than 200 Tamil Christian Clergy had written an open letter

⁷ <http://www.ceylontoday.lk/51-61100-news-detail-govt-warns-against-testifying-before-unhrc-inquiry.html> (Last accessed 19th May 2014)

⁸ <http://www.hirunews.lk/81026/jhu-says-3-tna-members-should-be-arrested> (Last accessed 19th May 2014)

⁹ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=102041 (Last accessed 19th May 2014)

to the UN Human Rights Council in March 2014, calling for an international investigation into allegations of war crimes¹⁰. Similar letters had been dispatched by the Bishop and other Tamil Christian Clergy in 2012 and 2013 as well, for which they also faced reprisals.

C. Intimidation and discrediting of those cooperating with the UN Human Rights Council

6. During the 8pm prime time news on 6th of March 2014, the state owned and controlled TV station, Rupavahini, accused 24 civil society organizations of submitting false information to the UN Human Rights Council. During the news, photographs of 9 civil society leaders were shown in the back ground with names of the civil society organization they are associated with.¹¹ The names of the 9 individuals and their organizations is available at <http://srilankabrief.files.wordpress.com/2014/04/sri-lanka-slb-no-8-2-special-topic-reprisals-against-hrds.pdf> and the full memo submitted by the 24 organizations, with names of the organizations is also available at <http://www.rightsnow.net/wp-content/uploads/2014/03/CSO-memo-from-SL-FINAL-Nimalka.pdf>
7. On 14th of March, during the prime time news on the Independent Television Network (ITN), another stated owned and controlled TV station, the segment “Wimasuma” accused that international and local enemies against motherland had helped passed the resolution in Geneva, showing images of well-known Sri Lankan HRDs Mrs. Nimalka Fernando and Mr. Sunanda Deshapriya at the sessions of the UN Human Rights Council. While showing these images, the announcer expressed regret that people who are greedy for “Dollars” are sitting in the UN Human Rights Council¹².
8. The Sinhala daily “Divaina” newspaper published articles on 30th March 2014 and 6th April 2014, naming and portraying a number of opposition Tamil politicians, HRDs and

¹⁰ Letter is available at <http://srilankabrief.blogspot.ch/2014/03/tamil-christian-clergy-from-north-east.html> (last accessed 29th May 2014)

¹¹ <http://www.srilankabrief.org/2014/03/reprisals-against-hrds-in-sri-lanka.html#more> (Last accessed 29th May 2014)

¹² http://varunamultimedia.com/videos/btv/vmtube/wimasuma/wimasuma_-28-03-14/play.html?1 (Sinhalese) (Last accessed 29th May 2014)

journalists from Sri Lanka and in exile, and even the wife of a disappeared journalist as traitors and supporters of terrorism, due to their participation in sessions of the UN HRC¹³.

Amongst those named and targeted were:

- i. Ms. Sandya Ekneligoda, woman HRD and wife disappeared journalist from Colombo, Sri Lanka
- ii. Ms. Nimalka Fernando, woman HRD from Colombo, Sri Lanka
- iii. Mr. Guruparan, academic and Tamil civil society and political activist from Jaffna, Sri Lanka
- iv. Mr. Sunanda Deshapriya, exiled HRD and journalist from Sri Lanka
- v. Mr. Rohitha Bashana Abeywardena, exiled HRD and journalist from Sri Lanka
- vi. Rev. Fr. S. J. Emmanuel, exiled Sri Lankan Catholic Priest and President of the Global Tamil Forum
- vii. Dr. Vardarajah, a medical doctor who served people affected by the war during the last phase of the war and provided information to media about the situation, detained for several months and now exiled
- viii. Mr. Mavi Senathirajah, Member of Parliament from the Tamil National Alliance
- ix. Mr. Sritharan, Member of Parliament from the Tamil National Alliance
- x. Mr. Sumanthiran, Member of Parliament from the Tamil National Alliance
- xi. Ms. Ananthi Sasitharan, Northern Provincial Councilor from the Tamil National Alliance.
- xii. Mr. Gajendrakumar Ponnambalam, leader of the Tamil National People's Front
- xiii. Mr. Kajendran from the Tamil National People's Front
- xiv. Ms. Yasmin Sooka, member of the Panel of Experts of the UN Secretary General on accountability in Sri Lanka
- xv. Mr. Callum Macray, Director of the film "No Fire Zone" and several documentaries indicating war crimes in Sri Lanka
- xvi. Mr. David Whaly, former UN official who was been engaged in advocacy related to the resolution on Sri Lanka

¹³ <http://www.divaina.com/2014/04/06/defence.html> & <http://www.divaina.com/2014/03/30/defence.html> (Both in Sinhalese) (Last accessed 29th May 2014)

xvii. Dr. Paul Newman, an Indian activist who had been a longstanding supporter of rights of Tamils in Sri Lanka

xviii. Ms. Charu Lata Hogg, from Child Soldiers International

All the above had been present during the sessions of the UN Human Rights Council in March 2013 and many had spoken at “side events”, few had also made oral statements during the Council sessions and all had engaged in lobbying in favor the resolution that the Sri Lankan government opposed.

9. The article on 6th April in the “Divaina” newspaper published a photograph of Mrs. Sandya Eknaligoda with Rev. Fr. S.J. Emmanuel, the president of the Global Tamil Forum (GTF) inside the UN building and attacked her for talking to 'Tiger sympathizers'. GTF is among the organizations and individuals proscribed by the Sri Lankan government as terrorist outfits in first week of April 2014.¹⁴ Mrs. Eknaligoda is the wife of Prageeth Eknaligoda, a cartoonist / journalist who disappeared in January 2010. She has been a leading campaigner against disappearances and human rights in Sri Lanka. The same article also published photos of Sri Lankan HRDs, Ms. Nimalka Fernando and Mr. Sunanda Deshapriya, showing them as talking to terrorist supporters inside the UN building.
10. On the 13th of February 2014 Lanka C News web had published news depicting Chief Minister of the Northern Province, Justice C. V. Wignaswaran’s photo, with a heading “I am not going Geneva, but sending Tiger Elilan’s wife”. The news has revealed that Northern Provincial Councilor Mrs. Anandhi Sasthitharan will participate at the UN Human Rights Council sessions in Geneva. She is wife of former LTTE leader Elilan who has disappeared after surrendering to the government. She has also been an active and leading member of the thousands of Tamil families campaigning for truth and justice about their disappeared family members. Mrs. Sasitharan has also been actively advocating an international investigation to look into allegations of war crimes.¹⁵ She had engaged in

¹⁴ <http://www.divaina.com/2014/03/30/defence.html> (Sinhalese) (Last accessed 29th May 2014)

¹⁵ <http://lankacnews.com/sinhala/news/110229/> (Sinhalese) (Last accessed 29th May 2014)

lobbying in Geneva, in February 2014, in the lead up to the 25th session of the UN HRC and the resolution on Sri Lanka.

D. Intimidation, threats and discrediting of the Minister of Justice for cooperating with the UN

11. Amongst the victims for cooperating with the UN is the Minister of Justice and leader of the government coalition partner, Sri Lanka Muslim Congress (SLMC), Mr. Rauf Hakeem¹⁶. The primary reason has been the handing over of a report detailing attacks against Muslims in Sri Lanka to UN High Commissioner Human Rights. In cabinet meeting President Rajapaksha is reported to have shouted at Minister Hakeem over the report and asked him whether he and his party wanted to remain in the Government. The Jathikia Hela Urumaya, a Buddhist a constituent party of the government with a strong Buddhist orientation has stated that submitting an anti Sri Lanka report to the UNHCR stating that Muslims are denied their religious freedoms in Sri Lanka is a shameless and degrading policy and has requested the President to take stern action against the SLMC leader. Another government constituent party, the National Freedom Front (NFF) has alleged that Minister Hakeem had collaborated with those bent on subverting the country and that the SLMC leader had contributed to the UN's damaging report meant to justify international war crimes investigation over accountability issues. A close confidante of the President and Minister for Youth Affairs Dulles Alahapperuma, told media that *'Minister Hakeem had committed his treacherous act against the nation ... and " that there were several agreements signed between the Leader of the SLMC, Minister Rauff Hakeem and the Leader of the LTTE Velupillai Prabhakaran, during the war"*. The Minister for Public Relations, Mervyn Silva warned Mr. Hakeem that Prabhakaran's fate (death) awaits anyone resorting to treacherous activities against the country. Leader of the Bodu Bala Sena (Buddhist army, a militant and extremist Buddhist group) Ven. Galabodaatte Gnanasara Thero said Minister Hakeem is a "pariah" and vowed not to allow him to be active further.

¹⁶ See Sri Lanka Brief Briefing note 8/3 – 24 March 2014 <http://srilankabrief.wordpress.com/> (Last accessed 29th May 2014)

He said that the Minister had to apologize to the Sinhala community for sharing information with the UN, or face the consequences – which would include Muslims being denied access to 90% of the Sri Lankan market. Minister Hakeem had said that extremist groups like the Bodu Bala Sena, Ravana Balaya and Sinhala Ravaya has spun out of control and they should be kept on a tight leash by the government and the law should apply to all and sundry and containing those extremist groups would help stop attacks on places of religious worship. The SLMC leader had also said that the SLMC was not only disappointed with some actions taken by the government but also strongly condemned such actions.

E. Interrogation, harassment & threats to those who cooperated with the UN High Commissioner for Human Rights during her visit to Sri Lanka

12. The UN High Commissioner for Human Rights personally reported reprisals against those who met and planned to meet her during a visit to Sri Lanka in August 2013. According to her, “I would now like to turn to a disturbing aspect of the visit, namely the harassment and intimidation of a number of human rights defenders, at least two priests, journalists, and many ordinary citizens who met with me, or planned to meet with me. I have received reports that people in villages and settlements in the Mullaitivu area were visited by police or military officers both before and after I arrived there and in Trincomalee, several people I met were subsequently questioned about the content of our conversation”.¹⁷

¹⁷ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673> (Last accessed 29th May 2014)