

On behalf of Concerned Citizens of Sri Lanka
15/2B 2/1 Joseph Lane, Colombo 4, Sri Lanka

17 September, 2015

His Excellency Maithripala Sirisena,
President of Sri Lanka

Your Excellency,

We the undersigned, are very concerned about the mechanisms proposed in the Report of the UN High Commissioner for Human Rights (OHCHR) Investigation on Sri Lanka, which was presented to the UN Human Rights Council in Geneva by Prince Zeid Ra'ad al Hussein, the UN High Commissioner for Human Rights, on the 16th of September.

We are particular perturbed that the UNHRC conclusions had no opportunity to consider the rigorous legal & military analysis conducted by the international advisory council, that had on the 15th of August 2015 completed its task by issuing a report to the Government on the final phase of the war in Sri Lanka as stipulated in the 2nd Mandate of the Presidential Commission to Investigate into Complaints regarding Missing Persons, otherwise known as the "Paranagama Commission".

Thus, we would like to draw your attention to two separate paragraphs in UNHCR report, which itself laments the fact that the UN Human Rights Council members and especially the OHCHR team that undertook a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission (LLRC), were not privy to the report on the 2nd Mandate of the Paranagama Commission. The advanced unedited version of the report that was released on the 11th of September 2015 stated as follows:

" Following signals of engagement by the newly elected Government of Sri Lanka in January 2015, and the possibility that further information might become available for the investigation, the Human Rights Council accepted the High Commissioner's recommendation to defer consideration of the report until the 30th session."

"At time of writing there were indications that the Presidential Commission to Investigate into Complaints regarding Missing Persons appointed by the previous Government had received a further extension to complete its work, despite widespread concerns raised about its credibility and effectiveness. **The International Advisory Council appointed by the previous Government to support the Commission on the second, expanded mandate it had been given to investigate alleged violations in the final stages of the conflict has not been extended but is believed to have submitted its report.** In June 2015, two additional Commissioners were appointed to expedite the hearing of cases. In July 2015, the Government also announced the appointment of a special investigation team to expedite investigation into some cases, although its status is not known ."

It is clear from perusing the above paragraphs of the Geneva HRC's Report, (please draw your attention to the highlighted section) that the UN Human Rights Council was awaiting the release of the report done as per the 2nd mandate of the Paranagama Commission. It is also curious as to how the specific reference to the International Advisory Council, which was obviously referring to the expert panel assembled to carry out the 2nd mandate of the Paranagama Commission, had been omitted in the final version of the HRC Report that was released to the public on the 16th of September. We would urge your Excellency to investigate this matter, and find out as to who from the Ministry of External Affairs had advised the UN HRC to drop this reference from their report.

As your Excellency knows, this Commission was established by the previous Government of Sri Lanka in response to the calls by the international community to have a credible domestic investigation process, and had its mandate expanded on the 15th of July 2014, to inquire into the matters of war crimes and crimes against humanity, and thus secured the services of several leading internationally renowned legal and military experts like Sir Desmond De Silva Q.C. , Professor David Crane, Sir Geoffrey Nice Q.C. and Major General John Holmes, the former commander of the SAS, to provide assistance to the Commission with regard to international humanitarian law, international human rights law, customary international law and the laws of armed conflict generally.

The second mandate of the Paranagama Commission was thus expected to inquire into the facts and circumstances that resulted in the principle loss of civilian life in the final stages of the conflict in Sri Lanka and to issue a report on or before the 15th of August 2015. Sir Desmond De Silva Q.C. and Professor David Crane, were both chief prosecutors of an international criminal tribunal. They were both picked personally by the Secretary General of the United Nations to discharge those roles. In that role, they were both appointed at a level of an Under Secretary General of the United Nations. Sir Geoffrey Nice Q.C. was the lead prosecutor in the case against Slobodan Milosevic, the former President of Yugoslavia. In fact, all three of them, have each prosecuted a head of state. Sir Desmond prosecuted the former President of Liberia, Charles Taylor, and had him arrested and prosecuted for war crimes, for which he is now serving 50 years in prison.

It is imperative, that this first official report from the Government of Sri Lanka, prepared with assistance from independent international legal and military professionals, is tabled forthwith to the ongoing Human Rights Council in Geneva, so that it makes a meaningful impact. It is only right that the 47 voting member countries of the Human Rights Council have an opportunity to read and digest Sri Lanka's own independent report in order that they might make an informed judgement prior to the conclusions of the final deliberations on Sri Lanka by the HRC.

We are deeply concerned to learn from media reports and the statements issued by the Minister of External Affairs, that this vital report dealing with the 2nd mandate of the Paranagama Commission, which has been made available to your office over a month ago, has not as yet been presented to the members of the UN Human Rights Council, which commenced its sessions on the 14th September 2015.

It has been suggested that the present Government has been influenced by some lobbies to delay the release of this report until after the Geneva sessions are effectively over, so that the unverified allegations of up to 40,000 civilian deaths in the final months of the war contained in the Darusman Report remains unchallenged and intact.

The announcement made in Geneva by the Minister of External Affairs, Hon. Mangala Samaraweera, that the Paranagama Report would be presented to the Sri Lankan Parliament later this month suggests that

the Government of Sri Lanka has been misled into keeping this report from being considered by the UN Human Rights Council in Geneva. It is important that your Excellency is properly briefed on the Geneva process, and we would like to take the liberty to bring to your attention that although the OHCHR had given the Government of Sri Lanka 5 days to respond, and that deadline has already expired, the Government still has the right to table this report at the UNHRC, as the final resolution draft is still in circulation, and would only get finalized on the 24th of September 2015, and only be taken in for consideration on the 30th of September.

Therefore, in the interest of transparency and good governance, we are extremely concerned that this important Paranagama Report, prepared with the assistance of the aforementioned distinguished experts, that was expected to delve into the allegations made by the Darusman Panel, which the OHCHR was expecting has not been presented to the UN Human Rights Council in Geneva this week.

As Your Excellency is also aware, certain lobbies made an attempt to influence you against Sir Desmond De Silva, QC and the international advisory council that prepared this vital report for the Paranagama Commission, by submitting a petition to you on the 4th of August 2015, imploring on you to rescind his appointment and discontinue the panel just 10 days before they were expected to release their report!

Your Excellency would have noticed that the petition was also copied to Prince Zeid Ra'ad al Hussein, the UN High Commissioner for Human Rights and Mr. Pablo de Grieff, the United Nations Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence, in a deliberate attempt to discredit the Paranagama Report in advance of its release. The petition based its request on a complaint to the Bar Standards Board in England against Sir Desmond.

What was hidden from everyone's eyes, was that the organization making the complaint in the UK was the Sri Lanka Campaign for Peace & Justice, which has listed the co-author of the Darusman Report, Ms Yasmin Sooka, as its Executive Director!

The TNA M.P. Mr. M.A. Sumanthiran, led the campaign against Sir Desmond and the international panel in Sri Lanka, raising the matter in Parliament on the 17th of March 2015 and urged the government itself to forward a complaint against Sir Desmond de Silva to the Bar Standards Board in England. Fortunately better sense prevailed, and we commend your Government for ignoring Mr. Sumanthiran's request.

Having failed in his attempt to convince your Government to do this, Mr. Sumanthiran seemed to have secured Yasmin Sooka's assistance to lodge the complaint in the UK. That complaint was used by several local civil society groups as the basis to send you a petition, in a last minute attempt to sabotage the 2nd Mandate Report of the Paranagama Commission.

There seems to be a nexus between several individuals and groups, some of them separatist groups, based on their determination to tarnish the image of Sri Lanka with in particular the false allegation of "genocide" against Sri Lanka. Therefore, they are anxious to prevent the release of the aforementioned Paranagama Report to the UN Human Rights Council, as that has been prepared with inputs from an extremely credible and eminent panel of advisers.

Keeping reports unavailable to the public and international stakeholders is not consistent with the good governance principles. Transparency is essential, and it is the duty and obligation of the Government to keep the UN Human Rights Council fully informed at the earliest opportunity possible, as the reconciliation process in our country can only succeed if all communities are satisfied that our elected Government is acting impartially and with credibility.

We the undersigned, therefore, call upon Your Excellency to give instructions to the Minister of External Affairs of Sri Lanka to immediately table the report dealing with the 2nd mandate of the Paranagama Commission at the UN Human Rights Council and also the Udalagama Report and to make the best efforts to distribute copies of this report widely to not just the 47 members states of the HRC, but to all 193 member states of the UN represented in Geneva, and to all the NGO's and other international bodies attending the UN HRC sessions in Geneva, including members of the international media and think tank institutions.

We also urge Your Excellency to present this report yourself to the Secretary General of the United Nations, when you visit New York later this month to attend the UN General Assembly Sessions. Please also use that opportunity to distribute the report widely to all member countries of the UN, as the decisions in Geneva are influenced by the political policy decision taken at their respective capitals.

The citizens of Sri Lanka and the expatriate Sri Lankan community are awaiting a credible response from the Government of Sri Lanka in the wake of the Geneva OHCHR report. It is the citizens of Sri Lanka who are the ones who will be most affected by the decisions taken in Geneva, and thus to have an informed view of our contemporary history in their journey towards reconciliation is important.

Given the possible impact on the people of Sri Lanka of decisions that will be taken in Geneva, the release of these reports must be done immediately, and not after decisions are taken by the UN Human Rights Council.

Your Excellency, thank you for your consideration of our request.

Thank you.

Signatories to this petition

Hon. Veerasingham Anandasangaree, Sri Lanka

Former member of Parliament of Sri Lanka, and current Leader, Tamil United Liberation Front (TULF)

Prof Rajiva Wijesinghe, Colombo Sri Lanka

(Former member of Parliament of Sri Lanka and Head of the Peace Secretariat and delegate to UNHRC)

Dr. Dayan Jayetilleka, Colombo, Sri Lanka

(Former Ambassador/Permanent Representative to the UN in Geneva, Former Vice- President of UNHRC; former Ambassador to France and Permanent Delegate to UNESCO)

Tamara Kunanayagam, Paris, France

(Former Ambassador/Permanent Representative to the UN in Geneva)

Chris Dharmakirti, Colombo, Sri Lanka

(Former head of National Council for Economic Development (NCED) and Strategic Enterprise Management Agency (SEMA), and delegate to UNCLOS in New York)

Dr. Ranil Senanayake, Colombo, Sri Lanka

(Systems Ecologist, and delegate to UNEP)

Dr. N.P. Wijayananda

(Former Chairman of the Geological Survey & Mines Bureau and delegate to UNCLOS in New York)

Dr. Kumar Rupesinghe, Colombo Sri Lanka

(Human Rights Activist & Expert on Conflict Resolution)

Dr. T.L. Gunuruwan

(Former secretary to the Ministry of Transport & University Academic)

Manohara Silva, Colombo, Sri Lanka

(Constitutional Law Expert)

Major General Lalin Fernando, Colombo, Sri Lanka

(Retired Officer of the Army)

Col. Anil Amarasuriya, Homagama, Sri Lanka

(Retired Officer of the Army)

Chanaka Ellawala, Colombo, Sri Lanka

Dr. Ivan Amarasinghe, UK

Dr. Anula Wijesundera, Colombo, Sri Lanka

Sanja Jayatilleke, Colombo Sri Lanka

Hasina Leelarathna, Los Angeles, USA

H.L.D. Mahindapala, Australia

Asoka Weerasinghe, Ottawa, Canada

Ajantha Premarathna, Sri Lanka

L Wanasundera, Sri Lanka

Mal Munasinha, Ontario, Canada

Ranjith Soysa, Victoria, Australia

Mahinda Gunasekera, Toronto, Canada

Surein Raghvan, Toronto, Canada

Gamini Gunewardena, Sri Lanka

Mal Munasinha, Ontario, Canada

Charles Perera, Sri Lanka

David Blacker, Sri Lanka

CC:

Hon. Prime Minister Of Sri Lanka

Hon. Minister of External Affairs of Sri Lanka

Mr. Maxwell Paranagama, Chairman of the Presidential Commission on Missing Persons United Nations

Mr. Zeid Ra'ad al Hussein – UN High Commissioner for Human Rights

Mr. Pablo de Grieff - United Nations Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence

Yasmin Sooka, Executive Director, International Truth & Justice Project Sri Lanka

M.P. M Sumanthiran, Tamil National Alliance

47 members of the UN Human Rights Council:

Albania, Algeria, Argentina, Bangladesh, Bolivia, Botswana, Brazil, China, Congo, Côte d'Ivoire, Cuba, El Salvador, Estonia, Ethiopia, France, Gabon, Germany, Ghana, India, Indonesia, Ireland, Japan, Kazakhstan, Kenya, Latvia, Maldives, Mexico, Montenegro, Morocco, Namibia, Netherlands, Nigeria, Pakistan, Paraguay, Portugal, Qatar, South Korea, Russia, Saudi Arabia, Sierra Leone, South Africa, Macedonia, UAE, UK, USA, Venezuela and Vietnam.