

Briefing Notes



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15 February Colombo, Police use water cannons against protesters

POST-**LLRC** HUMAN RIGHTS VIOLATIONS IN SRI LANKA

LLRC – LESSONS LEARNT AND RECONCILIATION COMMISSION



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see <http://www.srilankabrief.org/>*



The Chronology

19 May 2009: The three decade old war between the government of Sri Lanka and Liberation Tigers of Tamil Eelam came to an end. LTTE was defeated and its armed struggle aimed at establishing a separate country too came to an end,

25 May 2009: Visiting UN secretary General and President of Sri Lanka signed a communiqué in Colombo which stated that the *"Sri Lanka reiterated its strongest commitment to the promotion and protection of human rights, in keeping with international human rights standards and Sri Lanka's international obligations. The Secretary-General underlined the importance of an accountability process for addressing violations of international humanitarian and human rights law. The Government will take measures to address those grievances."*

25 May 2009: European led resolution was presented to the UNHRC on the lines of the joint communiqué requesting independent international investigation in to the alleged human rights violation that has taken place in Sri Lanka. Resolution failed and Sri Lanka led resolution was passed at the council there by blocking any independent investigation on the alleged crimes against humanity in Sri Lanka.

15 May 2010: GOSL appointed the commission of the inquiry on Lessons Learned and Reconciliation (LLRC). The final report was presented to the parliament on 16th December 2011. The report cleared the GOSL and security forces of any war crimes but contains far reaching recommendation on reestablishing rule of law.

22 June 2010: United Nations Secretary General appointed a panel of experts to advise him on how to pursue accountability for reported war crimes and other human rights abuses committed by both the government forces and the opposition Tamil Tigers during Sri Lanka's civil war. The Expert committee report was made public in April 2010. According to the report the panel has found "credible allegations" against the Sri Lankan military/government and the Tamil Tigers for committing crimes against humanity.

September 2011: The report of the UNSG expert panel was transmitted to the UNHRC. Sri Lanka opposed any interactive dialogue on the report recommendations and it only remains as report posted on OHCHR website.

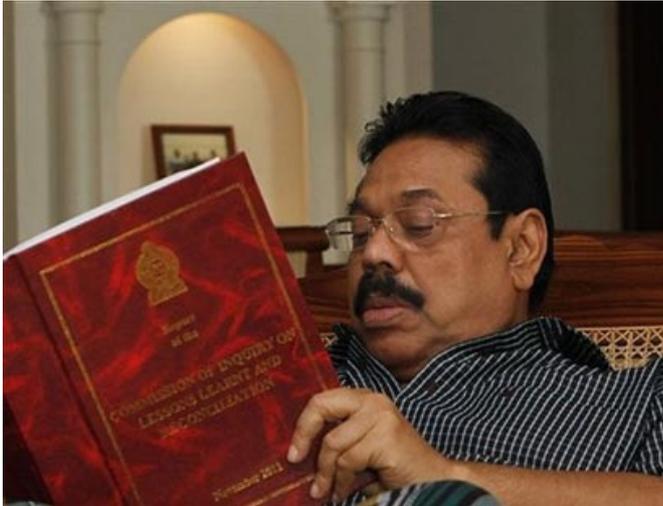
11 Dec 2011: presenting the LLRC report to the parliament Minister Nimal Siripala said that "The government seeks the support of all members of this House, rising above Party affiliation, to carry forward the task of implementation with the energy that is called for at this crucial time." LLRC recommendations on governance and rule of law were hailed as a harbinger of a new era by political parties, civil society organizations and media.

27 Feb 2012: USA mission in Geneva circulated a draft of proposed resolution requesting Government of Sri Lanka to provide a road map to the 20th session of UNHRC for the implementation of LLRC recommendations.

Odds with the reality

" At another level, the government's claim that it will implement the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) continues to be at odds with reality. ...However, the trend of events post the LLRC report all speaks to the complete absence of sincerity on the part of the government in carrying out its frequently voiced reassurances that it will implement its recommendations."

Kishali Pinto Jayewardene, Lawyer, Human rights advocate
and columnist of Sunday Times (Feb 2012)



President Rajapaksha studying the LLRC report

The Sri Lankan Lessons Learnt and Reconciliation Commission

A Short Commentary

Following the end of the war in Sri Lanka in May 2009, a joint statement by the Government of Sri Lanka and the United Nations Secretary General, committed to a process of accountability for violations of international humanitarian and human rights law and to take measures to address those grievances. The eventual outcome of that commitment was the “Lessons Learnt and Reconciliation Commission” (LLRC) appointed by the President of Sri Lanka one year later. Its final report was made public in December 2011.

1. The LLRC report highlighted some important findings and recommendations:

- Identification of the root causes of the conflict;
- Recognition of joint responsibility by GoSL and LTTE for civilian casualties;
- Recognition that significant numbers of civilians were killed;
- Unacceptable control of the media and attacks on freedom of expression;
- De-militarisation of the Northern Province;
- The adoption of a non-participatory approach to the reconstruction and development of the former war zones;
- The lack of implementation of recommendations made by earlier domestic investigations into disappearances and political killings.
- Recommendations for investigations into on-going human rights violations,
- Recommendations on land, governance and devolution of significant powers to the north and east.

For many observers the most notable outcome was the many thousands of witnesses, in particular women, who came forward to provide their personal testimonies to the LLRC despite the obvious risks to their security. This provides a clear message that many Sri Lankans, particular Tamils who lived through the conflict, need truth and accountability to be able to move on and for any meaningful reconciliation to take place.

2. The LLRC report fell far short of international standards:

- The LLRC was appointed by the President without public consultation;
- It was composed largely of former government officials, some of whom had been entrusted with responsibility for defending the conduct of the war;
- There was limited Tamil representation;
- There was under-representation of women;
- A lack of victim centred approach;
- Lack of witness protection;
- Witnesses subjected to hostile treatment by LLRC;
- By contrast, the LLRC accepted with little critical questioning the reports of those witnesses representing the government and the armed forces;
- No sign the LLRC requested or received from the GOSL the full range of information and evidence in its possession: e.g., video of the warzone by unmanned drone vehicles, etc.
- No sign the LLRC requested or received from UN and other international agencies the full range of information and evidence in its possession (e.g., UN data on civilian deaths, UN and other Satellite images...



3. On accountability the LLRC report is deeply flawed:

- There is no serious investigation of serious allegations;
- All GoSL actions are presented as a necessary response to LTTE;
- Food and medical shortages are put down to logistics problems when in fact there is evidence in the public domain of deliberate attempts to limit delivery of essential items to the north;
- There is no review of the conditions in the camps;
- Any misconduct by government agents is dismissed as accidental, with the possible exception of a few isolated incidents of individual misbehaviour.

4. Credibility of the proposed actions:

- There has been no progress towards accountability over three years, despite the systematic urging of the UN SG, senior UN officials, international governmental and diplomatic visitors etc.
- The LLRC interim recommendations made in September 2010 have not been implemented despite the establishment of an Inter Agency Advisory Committee being mandated to take a lead;
- No mechanism is proposed to undertake an exhaustive independent domestic investigation to deal with accountability for war-time conduct;
- For political reasons even the more minimal recommendations of the LLRC are unlikely to be heeded.
- There is a long history of failed, ignored and/or politicised commissions of inquiry;
- There is an established history of interference in commissions of inquiry by the Attorney General's Department (c.f. IIGEP experience);
- The proposed Special Commission of Investigation of Disappearances does not cover killings;
- The mandate, composition and performance of the National Human Rights Commission are not considered adequate for it to assume responsibility for independent domestic monitoring;
- All actions remain at the behest of the Executive in law and in practice;

*This is an abridged version of a document prepared by the IWG.
Responsibility for editing is with SLB.*

Very Unfortunate

'It is unfortunate that the President failed to take the opportunity presented by Independence Day to show the nation and the international community that it had already begun to implement the LLRC recommendations, and make a break with the past. The LLRC itself thought fit to mention in its final report that its interim recommendations made about a year earlier had yet to be implemented''.

Jehan Perera, Executive Director, National Peace Council
<http://www.srilankabrief.org/2012/02/president-rajapaksa-failed-to-utilise.html>



New wave of abductions and dead bodies in Sri Lanka

In the past 5 months – October 2011 to February 2012 – there has been a disturbing rise in the number of abductions, especially in and around the capital, Colombo. Out of 29 abductions and 3 missing persons reported in media, most have not returned to their homes and families, rendering them 'disappeared' persons.

The manner of these abductions has sent alarm bells ringing within the Sri Lankan human rights community, recalling the twin phenomena of the 'white van' and the unidentified gunman' which plagued the country in the period from 1987/1989, and which prompted two visits to the island by the UN Working Group on Enforced and Involuntary Disappearances in 1991 and 1992.

Among those abducted have been social activists, businessmen and those identified by the Police as criminals and 'underworld' characters. Labeling abducted persons as belonging to the underworld points to a disturbing new element of 'social cleansing', which is being used to garner public support for these killings and to divert attention from the fact that these abductions are an expression of the collapse of the rule of law in Sri Lanka.

The abduction and killing of individuals from the so-called underworld can be in some way linked to the public altercation between ruling party MP Duminda Silva and Presidential Advisor and former MP Bharatha Lakshman Premachandra, in which the latter was shot and killed.

Amongst others who have been abducted are those who have in any way challenged the authorities on issues of impunity and on-going human rights violations. Lalith Kumar Weeraraj and 'Kugan' Muruganandan, two political activists, were abducted in Jaffna on December 9, while engaged in preparations for celebrating Human Rights Day. On February 11, Ramasamy Prabakaran, a Tamil businessman was abducted in Colombo, two days before a fundamental rights case filed by him against the Police was due to be heard. Mr Prabakaran, who was released from prison in September 2011 after two years in detention without any charges being filed against him, was challenging this arbitrary detention and torture while in custody; he had received threats asking him to withdraw the case. On February 12, Chandrapala alias Mervyn, who had been brought to Colombo's court complex in Hulftsdorf for a bail application, was abducted in the vicinity of the Courts while being accompanied by Prison Guards. A full list of



Vigil for disappeared journalist Prageeth Eknaligoda

the 32 abductions which have been reported in media is attached.

Most of the abductions have taken place in broad daylight, in the capital, Colombo, and in its suburbs. 4 are from Gampaha district, close to Colombo. All 3 missing cases and 3 of the abductions have taken place in the North, with 5 in Jaffna. Of the 32 abducted and gone missing. 7 bodies were found in public places; most of them bore marks of execution. One body was found on the east coast following abduction from the Western province. 5 persons have returned home. In many cases the Police investigations are inconclusive and pending. Out of the 32, one has been identified as a woman, two are not clear and 29 have been identified as men.

by Watchdog (edited by SLB)
<http://www.srilankabrief.org/2012/02/new-wave-of-abductions-and-dead-bodies.html#more>



Abductions since October 2011

27 February 2012 (based on media reports)

27 Feb 2012: Kosala Ekanayake (29) ,son of the former UNP organizer for Mawathagama Kumari Ekanayake was taken way by several men had arrived at the home of in a black-coloured dolphin van , saying the police wanted to obtain a statement from him.

14 Feb 2012: A 42 year old businessman allegedly belonging to an underworld gang was abducted by group of armed men in a van from Dehiwala, suburb of Colombo.
http://www.ceylontoday.lk/news-etail.php?news_id=2636&news_category_id=16

12 Feb 2012: Melhias Chandrapala aliasm Mervin, resident of Dutugamunu Mawatha, Piliyandala was abducted by a group of six men who had come in a white van while he had been escorted by prison officers to the prison bus just out side outside High court premise Colombo. The men had had automatic guns with them. The victim had come to the high court to sign bail papers. <http://www.ceylontoday.lk/e-paper.php>

11 Feb 2012: Ramasamy Prabakaran, businessmen who had filed a court case against torture by Police was abducted by a group in a white van. There had been around seven men all armed with pistols and shot guns in the van. Abduction too place at outside his residence in Wellawatte, Colombo. <http://dbsjeyaraj.com/dbsj/archives/4199>

02 Feb 2012: Sajith Sandaruwan (2d year Jayawardenapura University student) Abducted while walking to his lodgings from the University (Colombo district) After abducting, he was assaulted and dumped on the road and fled.
http://www.lankatruth.com/english/index.php?option=com_content&view=article&id=1399:j-pura-student-abducted-by-white-van&catid=42:smartphones&Itemid=74

02 Feb 2012: Janaka Prabath (Kolonnawa Urban Council Chairman's brother), Abducted near the Meethotamulla garbage dump in Wellampitiya (Colombo district).
<http://www.srilankamirror.com/english/the-news/10733-yet-another-white-van-abduction>

02 Feb 2012: Muthusami Anandarasa, (suspected to be Jaffna district), went missing and found dead. Body was recovered by the Chunnagam police from a toilet pit on 4th Feb (in Jaffna district). <http://www.lankasrinews.net/view.php?20VFMF20edgUO4ebdBs1cbdGdZYddc6172ac42tD4e43sXg2023ONS32>

08 Jan 2012: Panadura Donald alias Maligawatte Donald (male) Abducted in Moratuwa while traveling to Colombo from Panadura (Colombo district). One of Minister Mervyn Silva's coordinating secretaries. Later released and left the country.
<http://www.lankajournal.com/2012/01/mervyn%E2%80%99s-donald-abducted/>

03 Jan 2012: Buddhika Dinesh. Resident of Ferguson road, Thotanlanga, abducted by a group of men in a white van. Body was found near the Kelaniya river on the 4th of Jan. shot in the head
<http://www.lankajournal.com/2012/01/man-abducted-by-white-van-found-dead-in-grand-pass/>

02 Jan 2012: S Mohamed Nisthar, Owner of a centre rehabilitating drug addicts, Abducted while he was on his way to a filling station (Puttalam district) Later found dead, whit a shot in the head.
<http://www.srilankamirror.com/english/the-news/9971-another-white-van-abductee-found-dead>

29 Dec 2011: Heenatiyana Madawala Indika Dinesh Chandrasiri Silva, (Govt member of Minuwangoda Pradeshiya Sabha) was abducted in Kotadeniyawa, (Gampaha district), Dead body found. <http://www.srilankamirror.com/english/the-news/9843-ps-members-dead-body-found-under-a-bridge>

28 Dec 2011: Rajendran Muralitharan (Fish Trader) Abducted while he was driving his trishaw at S B Fernando Mawatha, Modara (Colombo district); later dead body found
<http://www.dailymirror.lk/news/15790-fish-trader-found-dead-after-being-abducted.html>



25 Dec 2011: Thillainadarasa Kandasami, Between Mankulam (Mullativu district) and Colombo, Went missing while travelling to Colombo from Mankulan for business purposes.

<http://www.lankasrinews.com/view.php?20SAMA20eTIOK4eadBmecadB5YUddc4Y52ac4YmB3e42mOI2023QMK32>

13 Dec 2011: Amal Rodrigo (close associate of Minister Mervyn Silva) abducted by 10 men in a white van near a restaurant in Pita Kotte, (Colombo district).

<http://slnews.lk/index.php/component/content/article/1415>

09 Dec 2011: Lalith Kumar Weeraraja (Human rights defender) abducted near the Atthiyar Government school and an abandoned glass factory – Nirveli, Jaffna district); Kugan Muruganandan (Human right defender) Also abducted along with Lalith Kumar.

<http://groundviews.org/2011/12/19/disappearance-of-human-rights-defenders-political-activists-lalith-kumar-weeraraj-and-kugan-murugan-on-9th-december-2011/>

08 Dec 2011: Thalavathugoda Sudda (believed to be underworld leader) abducted by a group of men in a car near Athurugiriya area (Colombo district).

<http://www.srilankamirror.com/english/the-news/9290-underworld-operative-kidnapped>

05 Dec 2011: Christopher Fernando (businessman) and uncle of a Govt member of the Colombo Municipal Council abducted near Jampetta Street Kotahena (Colombo district) he was abducted by 5 men carrying T 56 weapon.

<http://www.thesundayleader.lk/2012/01/22/defence-ministry-probing-kotahena-abduction/>

30 Nov 2011: Mohamed Jaleel Mohamed Feroze alias Feroze, reported as a drug trafficker and a murderer & closest ally of slain underworld leader Olcott. Abducted in Nugambo, (Gampaha district) while he was returning home along with some of his friends.

http://www.srilankamirror.com/english/index.php?option=com_content&view=article&id=9105:negombo-underworld-leader-feroz-kidnapped&catid=1:latest-news&Itemid=50

12 Nov 2011: Dematagoda Aja, an underworld gangster, drug trafficker who had a pending court case was abducted by armed men in a white van near Dematagoda Junction (Colombo district).

<http://www.srilankamirror.com/english/the-news/8698-fate-unknown-of-abducted-underworld-gangster>

11 Nov 2011: Kapila Bandara abducted while returning home after closing his bookshop in Nugegoda. Released on the 13th after telling him that he was the wrong person.

<http://www.thesundayleader.lk/2011/11/20/criminals-posing-as-the-cid/>

10 Nov 2011: Gayantha Perera abducted while he was at his girlfriend's place in Gonawala having received a call from a person working in the state intelligence asking him to come to the junction. (Gampaha district) And when he went, was pushed into a white van.

<http://www.thesundayleader.lk/2011/11/20/criminals-posing-as-the-cid/>

03 Nov 2011: Ruwan Chandimal Depp alias Navy Ruwan, abducted at Warakapola, Uduvana Elmandeniya area (Kegalle district). <http://adaderana.lk/news.php?nid=16002>

21 Nov 2011: Unknown (Fish salesman from Orugodawatta), was abducted by 4 persons disguised in Army uniforms travelling in a white van. Returned home around on 22nd Nov.

http://sundaytimes.lk/111127/News/nws_06.html

27 Oct 2011: Mr. Mohamed Niyazalias LokuSeeya, At a lonely place at Kerawalapitiya. (Gampaha district) Grabbed by four men in a white van while returning home from his devale. Body found 10 days later on a beach head at Akkaraipattu. http://sundaytimes.lk/111211/News/nws_11.html

22 Oct 2011: Mr. G K Dhammika Pradeep alias Karate Dhammika, Abducted by an unidentified group in a white van at Walpola in Rambukkana, while he was in hiding at a friend's (Kegalle district). http://sundaytimes.lk/111211/News/nws_11.html

17 Oct 2011: Mr. Priyantha Galaboda (Suspect of the killing of former MP Baratha Lakshman Premachandra), Abducted by a group of unidentified men who had come in a white van at Kaduwela (Colombo district). http://sundaytimes.lk/111211/News/nws_11.html



Key Findings on Accountability in Sri Lanka

January 2012

Eight students from the University of Virginia School of Law* visited Sri Lanka from January 1 to January 16, 2012 as part of the Cowan Fellows Human Rights Study Project, an independent student organization. They conducted interviews in Colombo, Kandy, and the Vanni region with Government officials, activists, NGOs, journalists, IDPs, ex-detainees and other individuals about the current status of human rights in Sri Lanka. Based on those interviews and their own experiences in the country, the students have compiled the following findings, which reflect the dearth of effective accountability mechanisms in Sri Lanka for human rights violations committed both during and after the war.

1. We were told that people who testified before the LLRC were harassed by the Government afterwards. Many Government officials with whom we spoke emphasized the need for Sri Lanka to focus on the future and to put the war behind it.
2. The LLRC report appears not to have been widely disseminated in the North. Many Tamils with whom we spoke had not heard of the LLRC or its report and never had the opportunity to submit information or testify before the LLRC. The lack of awareness about the LLRC in the North limits the effectiveness of the LLRC report in fostering reconciliation.
3. Most interviewees think the judiciary is highly politicized and cannot be used to hold the Government accountable for wrongdoings committed during or after the war. Many activists have stopped filing human rights cases because the pro-Government outcome is predictable.
4. Interviewees complained that Government investigations of human rights violations, such as disappearances, assassinations, and beatings, are frequently superficial and non-transparent. Many investigations have been ongoing for years and have not resulted in a prosecution. Activists and attorneys told us that their requests for updates on the status of investigations are often rebuffed by the Government, and that the Government refuses to reveal its evidence and findings.
5. Nearly every journalist and editor interviewed agreed that the media in Sri Lanka self-censors, leading to limited public discussion of the war and accountability. Many said that the media does not publish anything critical of President Rajapakse, his brothers, his sons, the Ministry of Defense, or the military.
6. Interviewees suggested that because of media self-censorship, Government propaganda, and a desire to focus on the future rather than the past, people living in the South are unaware of the full extent of human rights violations that occurred during the war and the current conditions in the North.
7. Interviews with ex-LTTE cadres, including people who were forcibly conscripted, indicate that individuals who were sent to rehabilitation on account of association with the LTTE continue to be closely monitored and harassed by military officials, despite never having been charged with any crime. These "surrendered," classified by the government as anyone who spent any amount of time with the LTTE, lack political representation and would benefit from the protections that international monitoring in Sri Lanka would bring. In particular, surrendered currently have no avenue to report arbitrary detentions or harassment by the military.
8. Many families still do not know the fate of relatives who went missing during or after the war. We spoke with several families who had last seen their relative in military custody, but the Government denies any knowledge of them. The lack of public records concerning detainees enables these disappearances, and families reported extreme delays and lack of government cooperation when they attempted to inquire about a detainee. Families of the disappeared and society at large would benefit from an independent investigation into the cases of missing persons, particularly those last seen in Government custody.

(Continued on page 10)



Militarization of the country — Jaffna

9. Surrenderedees currently in detention have been restricted in their access to counsel. Interviews with surrenderedees about the process of surrendering to the military indicate that very few were informed of their legal rights, including the right to challenge their detention. Sri Lankan attorneys told us that families and attorneys are rarely notified of transfers within the prison system, causing many detainees to become “lost” for periods of time. Attorneys are not optimistic about the potential for successfully challenging arbitrary detention, as they are concerned that the courts are biased. Courts are also required to defer to the Executive branch on many decisions under the Prevention of Terrorism Act.

10. We spoke with internally displaced people (IDPs) living in Government camps who were frustrated by the Government’s failure to

explain why they still cannot return to their property. They have no avenues to lodge complaints challenging the delays and requesting explanations. Many believe that their land is being used by the military for private gain, and they cited reports of the construction of hotels and shops on IDP lands. Others have received reports that their homes have been looted during the military’s post-war occupation.

11. The North is heavily militarized, with many armed checkpoints where people are required to provide their name, travel destination and the purpose of their visit. Interviewees said that the Army frequently breaks up meetings and assemblies in the North. We experienced this ourselves. Plain clothes officers were present at a memorial service we attended commemorating a human rights activist killed in the early stages of the war, and they questioned all of the speakers and organizers immediately after the memorial. The heavy militarization in the North restricts citizens’ freedom of association and speech, making it difficult if not impossible to share information and to gather to protest or otherwise express their views to the Government.

For more information about these findings, please contact
Calleigh McRaith (cmcraith@gmail.com) and
Clare Boronow (cboronow@gmail.com).

This is a slightly edited version of the original report.

Politically Constipated Wait

In a way, what the LLRC seems to say is, leave the MoD out of politics and civil life and provide an opportunity for the Tamil people to pick their lives from where the war concluded, by giving them enough elected power in their provinces through improved PCs. Can or will this regime ever have the political intellect to carry through the recommendations? . A wait for this regime to implement these LLRC recommendations could be a politically constipated wait.

Kusal Perera, Political Analyst

<http://www.srilankabrief.org/2011/12/llrc-recommendations-can-rajapaksa.html>



2012: Attacks on dissent in Sri Lanka

February 2012

2012 has seen a sustained campaign Sri Lankan against human rights defenders with a special focus on any engagement with UN processes, including the 19th session of the UN Human Rights Council beginning in February in Geneva.

Press freedom activists and organizations, human rights defenders and political activists are being accused of helping the revival of the Liberation Tigers of Tamil Eelam (LTTE) and of being part of a conspiracy against the motherland by bringing the on-going violations of human rights in the country to the attention of the international community.

Obstruction and threats in relation to “Black January” protest



Pro government supporters some armed with poles, having displaced the media activists from their 'Black January' protest, demonstrating in front of the Fort Railway Station. (Photo Sunday Times)

In January, the Alliance of Media Organizations in Sri Lanka, which is a broad front of 6 independent media organizations, organized a campaign titled “Black January”, to commemorate killings and abductions of journalists that have taken place in January over the years, and to call for media freedom, the freedom of expression and an end to impunity for attacks on press freedom. A demonstration was scheduled to take place on 25th January at 2 p.m. in front of the main railway station in Colombo, which is a popular venue for public protest actions. Wide publicity was given for this campaign. The Police tried to obstruct this by requesting a court order prohibiting the demonstration. Amongst those who expressed concern about this is well known constitutional and human rights lawyer Mr. J. C. Weliamuna, who referred to this as “unlawful restraint of lawful assemblies and meetings”.¹ After the court allowed the protest to go ahead with some restrictions, government supporters organized a counter-protest, bringing protesters armed with poles and sticks who chanted slogans against the Free Media Movement (FMM), which took the lead in organizing the campaign, and exiled press freedom activists² in particular. They occupied the space where the 'Black January' demonstration was supposed to take place, violating conditions of the court order, while Police watched by. The “Black January” protest was shifted to another venue to avoid any confrontation.

Use of state media to threaten, intimidate and discredit press freedom activists

On 10 Jan 2012, media reported the Government of accusing leaders of the FMM of carrying out a campaign against the GSP+ tariff concession granted to Sri Lanka by the EU by sending more than 700 petitions, of using FMM funds for this and of gathering information with opposition politicians.³ The FMM denied this and asserted that they campaigned for retaining GSP+ and had urged the Sri Lanka government to respect human rights obligations.⁴

(Continued on page 12)



Throughout January 2012, the state controlled Independent Television Network (ITN) repeatedly broadcasted visuals of press freedom activists (living in Sri Lanka and in exile) participating in protest campaigns in Sri Lanka and events during the September 2011 UN Human Rights Council sessions.⁵ Accusations were made that implied that these activists were LTTE supporters and paid by other LTTE supporters. The tone and contents of these broadcasts appeared to make indirect death threats.⁶

Media Minister Keheliya Rambukwella has been engaged in a sustained campaign of false and unsubstantiated accusations against press freedom activists and organizations, compelling Sunanda Deshapriya, a well known press freedom activist now in exile to write an open letter to the Minister insisting that he was not a terrorist.⁷ Referring to statements broadcast on the "Athulanthaya" (Inside Story) program on ITN, Mr. Deshapriya questioned whether the Minister was taking information that would not stand scrutiny in a court of law into the public arena to build a hate campaign against him in the minds of the people.

On 26 Jan 2012, Minister Rambukwella was quoted as saying that that some journalists who fled overseas are joining hands with NGOs and foreign media to tarnish the good image of the country and also sacrifice local journalists in exchange for "dollars and personal benefits"; he threatened that journalists who are unfaithful to the country and tarnish the country's good image will not be forgiven by the country.⁸

On 27 Jan 2012, Minister Rambukwella was quoted as saying that "certain journalists in the country are funded by the defeated LTTE and foreign Non-Governmental Organizations. The government did not have the necessary legal provision to take action against them. These journalists are working to tarnish the image of the country and I have a list of names of such journalists."⁹ On 26th January, the newspaper reported the Minister saying "We have a list of journalists and those who have been working against the state. But unfortunately there is no legal action we could take against them."¹⁰ The same news report quoted the Minister saying "their (organizers of Black January protest) actions have been suspect as to whose agendas they are trying to fulfill".

False accusations and mud slinging at press freedom watchdog

On 03 Feb 2012, The state run Sinhalese daily "Dinamina" carried a news report accusing FMM and the main Tamil political party, the Tamil National Alliance (TNA)¹¹ of planning to discredit the Government by making allegations and reported that 6 members of the FMM and some members of the TNA had already gone to Geneva.¹² It reported that FMM members in Sri Lanka were collecting information to sling mud at the Government and that exiled journalists supportive of the LTTE would present this information in Geneva. The news report went so far as to attack the wife of a press freedom activist.¹³

On 07 Feb 2012, "Dinamina" carried a news item that reiterated the above allegations.¹⁴ It didn't carry the FMM's strong denial of the above news item nor did it carry the "Dinamina" response to the challenge posed to prove accusations.¹⁵

On the same day, "Dinamina" carried another news item accusing the FMM of sending photographs to an exhibition against the motherland organized by LTTE supporters in London that "misinterpret even actions carried out by the security forces of our country with good intentions".¹⁶

On 08 Feb 2012, In its editorial, "Dinamina" accused several organizations of obstructing freedom and democracy and placing barriers on progress and unitary nature of the country and of having as friends, organizations and individuals that support and encourage separatism and terrorism. It accuses the FMM of having been on the side of the "Tigers" during the war and having worked to support the LTTE and doing innumerable despicable things against the country. The concluding line that "The people will recognize the fraudsters whose actions are driven by this hatred and on that day Sunil Jayasekera and all the so-called media freedom groups will not have anything left to say" appears to be an open incitement for violent attacks against the FMM and it's convener, Mr. Sunil Jayasekera.¹⁷



On 11 Feb 2012, a news item in the “Dinamina” titled “information about the relationship between FMM and the LTTE is exposed” accused senior members of the FMM of having relationships with the LTTE and after the defeat of the LTTE, of still maintaining relationships with LTTE’s international network and working to bring the government into disrepute.¹⁸

Accusations of preparing for armed struggle in order to suppress HR campaigns

On 13 Jan 2012, the “Island” English newspaper published a report portraying organizations campaigning on disappearances, arbitrary detention etc., linked with a faction of the Janatha Vimukthi Peramuna (JVP) as working against the government, including at the UN Human Rights Council.¹⁹ They were accused of “relentlessly campaigning against the government” and “pushing for a political front against the government which could accommodate those supportive of the LTTE’s eelam project” and that “those engaged in the ongoing protests were planning to step up their campaign in the run-up to the UN Human Rights Council sessions in Geneva.”

In a meeting at the University of Jaffna, the Minister for Higher Education, S. B. Dissanayake was reported as accusing student groups of preparing to launch an armed struggle with youth who were formerly affiliated with the LTTE.²⁰

On 11 Jan 2012, In the state run “Daily News” English newspaper, Minister of Health, Maithripala Siripala accused a JVP faction of getting ready to launch another insurgency.²¹ The “Daily News” also reported Higher Education Ministry Secretary Dr. Sunil Jayantha Navarathna accusing a JVP faction of hampering the university system through strikes on advice of LTTE supporters, putting into practice LTTE’s hidden agenda and receiving LTTE funds in return for destroying and hampering the university system and having connections with LTTE supporters.²²

Attacks, threats and discrediting human rights defenders

In January, in his speech delivered at the induction ceremony of the Organisation of Professional Associations the Defence Secretary (and brother of President Mahinda Rajapakse) Gotabaya Rajapakse was reported as saying “There are ex-LTTE cadre, pro-LTTE activists and LTTE sympathisers operating in various guises. ... Others claim to be rights activists ... certain human rights organisations also seem to have been co-opted by radical elements.²⁶ He was also quoted as saying “LTTE cadre, activists and sympathisers efforts to portray a bleak picture about Sri Lanka to discredit Sri Lanka’s progress are sometimes helped by individuals and groups within Sri Lanka”.

On 17 Jan 2012, a large group of activists travelling to Jaffna in 12 buses, to protest against disappearances in the North were repeatedly harassed and intimidated by police and military and prevented from proceeding to Jaffna.²³

On 20 Jan 2012, the Daily News quoted President Mahinda Rajapakse as saying “Though we have created a peaceful atmosphere, there are certain elements, trying to ruin this peaceful situation”.²⁴

On 23 Jan 2012, the office of Viliuthu, an NGO working primarily in North East was broken into.²⁵

In early February, several people who met a visiting US government delegation while they were in the North of the country, as well as the priest who hosted the meeting, were questioned by the Police and Military.

On 09 Feb 2012, a human rights defender in Kandy was questioned by the Terrorist Investigation Department (TID) and warned of further actions, after being accused of working to revive the LTTE in the hill country.

On 11 Feb 2012, yet again the perils of seeking legal redress for torture and lack of victim protection was amply demonstrated, when Mr. Ramasamy Prabakaran was abducted, after having received threats to withdraw a fundamental rights case he had filed against senior Police officers in relation to severe torture suffered while in detention.²⁷



On 16 Feb 2012, a businessman who filed an anti-corruption complaint against the police, and who has faced threats and attacks since 2007, was abducted in a white van and severely beaten and threatened with death if he took any further action or made any complaints against the police.

Several media activists who were attacked in the State media and organized the black January protest were followed on several occasions in January/February

Attacks on protests



On 17 Feb 2012, a thousands strong opposition protest was disrupted and attacked by the police in Colombo.

On 10 Feb 2012, as the Movement for People's Struggle (also known as People's Struggle Movement) was conducting a leaflet campaign in Colombo, armed security personnel had warned them not to engage in distribute anti-government activities and photographed them.²⁸

On 14 Feb 2012, Police had beaten the family members and others protesting the abduction of a man near the main court complex in Colombo²⁹, prompting lawyers to launch a protest against the abduction and police beating.³⁰

On 15 Feb 2012, a fisherman was killed and several others injured as the Special Task Forces fired at a protest against fuel price hike in Chilaw in the North Western Province.³¹ The Police had imposed restrictions on the funeral of the slain fisherman, obtaining a court order to prevent any protests at the funeral.³²

On 16 Feb 2012, in Maligawatte, a protest organized by an opposition party, The Janatha Vimukthi Peramuna (JVP) was also subjected to tear gas attack by Police, and several people including a parliamentarian were reported as injured.³³

On 17 Feb 2012, in Colombo, an opposition parliamentarian, several protesters and passers-by were injured and affected by tear gas attack by Police on a protest organized by the main opposition party, the United National Party.³⁴

On 17 Feb 2012, it was reported that "The security forces have started to uncover bombs, suicide kits and other explosives from various parts of the island soon after the opposition political parties have decided to commence an island wide anti-government protest campaign."³⁵

By Watchdog

Source: <http://transcurrents.com/news-views/archives/8602>



On the implementation of the LLRC recommendations

On Detention

LLRC Interim recommendation (Sep 2010)

"b) A major concern raised before the Commission was the fact that many people did not know the whereabouts of family members in detention as they were being shifted from camp to camp.

Accordingly, the Commission recommends an independent unit being established e.g. Ministry of Justice, to address the following issues-

- 1. Publishing a list of names of those in detention;*
- 2. When a person is discharged a certificate be issued so that the same person is not taken in to custody again, unless new evidence is discovered against him for being linked with the LTTE;*
- 3. To look in to the general issue of laws delays (To expedite prosecution or discharge detainees)."*

The critique

In fact, even the LLRC observed that its own interim recommendations which were issued in September 2010, such as publishing a list of detainees and disarming paramilitary groups, have not been implemented. This consistent record of non-implementation by the government, and its refusal to take steps towards creating a social and political environment of positive peace and justice remains the most serious problem for the Tamil people in Sri Lanka. (see TNA leader S. Sambanthan's letter to Members of the UNHRC, Geneva)

On the National Police Commission

LLRC recommendation



"(b) The Police Department is a civilian institution which is entrusted with the maintenance of Law and Order. Therefore, it is desirable that the Police Department be de-linked from the institutions dealing with the armed forces which are responsible for the security of the State;

(c) An independent permanent Police Commission is a pre-requisite to guarantee the effective function of the Police and to generate public confidence."

(Paragraphs 9.214 and 9.215)

The critique

A farcical Commission will make situation worse

The Government announced this week (19.02.12) that a National Police Commission has been appointed. Let us be very clear on this. A farcical Commission unable to change the status quo in regard to the complete breakdown of law and order in the face of overpowering politicization of the police, will only make the situation worse.

Under the 18th Amendment, there is no possibility of an independent Commission being allowed to function. ...Sarcasm aside, what the LLRC recommended was firstly, a de-linking of the Department of the Police from the Ministry of Defence and secondly, an independent permanent Police Commission. These two requirements cannot be satisfied by putting into place a Police Commission under the 18th Amendment. The matter is as simple as that.

The previous Police Commission, (which was unconstitutionally appointed with the disregarding of the 17th Amendment), could not do anything concrete to bring about discipline in the police force since even their meekest directive was countermanded by politicians. Ironically a key point focused on by the LLRC that police officers should be punished for their failure to record complaints and take action, was already contained in the Public Complaints Procedures that were gazetted during this period. These Procedures had been drafted by the first Police Commission constitutionally appointed under the 17th Amendment by the then President with the assistance of independent lawyers and civil society. However, they were brought into law only years later. Even then, the Procedures failed to have any impact whatsoever on the practical functioning of the police.

As the LLRC quite correctly observed, the Department of the Police is a civilian institution and cannot justifiably be linked to the military. This de-linking is essential. For that too, one does not need

(Continued on page 16)



a roadmap or a time frame. Immediate action can be taken. In the absence thereof, even the last shred of credibility that clung to this Government's repeated protests that it will abide by the recommendations of its own homegrown inquiry commission, is stripped away.

By **Kishaly Pinto Jayewardene**

Excerpts from <http://www.sundaytimes.lk/120219/Columns/focus.html>

On the "Channel 4 Video": Sri Lanka Killing Fields

LLRC recommendation



"The "Channel 4 Video" which has generated much discussion and controversy was also considered by the Commission. The Channel 4 video aired by a British TV broadcaster containing scenes claimed to be from a conflict zone, images of alleged summary executions and alleged sexual violence. Based on the available material and taking into account the above considerations, the Commission wishes to recommend that the Government initiate an independent investigation into this matter to establish the truth or otherwise of the allegations arising from the video footage."
(Paragraphs 4.361/4.377)

The critique

A military court was appointed by the Army Commander to conduct an inquiry into the authenticity of the Channel 4 videos that raised allegations of war crimes during the last weeks of the war in 2009. This is in response to the LLRC recommendation that an independent investigation into this matter be held.

"The members of the army court of inquiry were appointed by Lt. Gen. Jagath Jayasuriya, who was commander of the security forces in the Vanni, the main battle zone of the conflict, during the last few years of the war. Jayasuriya was "actively engaged in the overall military planning and operations in the Vanni," according to the army's official website. An inquiry appointed by the commander who oversaw and was a colleague of senior officers who might themselves have been implicated in serious abuses cannot possibly be expected to be an independent and impartial finder of facts, Human Rights Watch said."

<http://www.hrw.org/news/2012/02/15/sri-lanka-army-inquiry-delaying-tactic>

On the de-militarization of the North

LLRC recommendation

"It is important that the Northern Province reverts to civilian administration in matters relating to the day-to-day life of the people, and in particular with regard to matters pertaining to economic activities such as agriculture, fisheries land etc. The military presence must progressively recede to the background to enable the people to return to normal civilian life and enjoy the benefits of peace." (paragraph 8.211)

GoSL response

There is no militarization

Asked about the complaints that the army presence in the north was overwhelming — Tamils complained that they were present even during private family functions — he shot back, "We have minimum army presence there. There are military cantonments even in Kashmir, in Tamil Nadu.

<http://www.srilankabrief.org/2012/02/gotabaya-denies-north-lanka-is.html>

On the investigation of paramilitary leader, Iniya Bharethi

LLRC recommendation

"There were allegations made that one Bhareti is alleged to have committed several offences of abduction, extortion, robbery etc. in the Eastern Province. This matter was brought to the notice of the relevant authorities by the Commission. The Commission regrets to note that no meaningful action has been taken against the alleged wrongdoer, although many representers have referred to



the participation of the said Bhareti in connection with the offences referred to above.” (paragraph 8.187)

GoSL response

Iniya Bharethi remains as the coordinator for Ampara district of President Mahinda Rajapaksa and recently given a state award by the President himself.

On the investigation of EPDP

LLRC recommendation

“e. Several representers complained about acts of extortion that were being committed by members of the Eelam Peoples’ Democratic Party. When the leader of the EPDP was questioned he stated that, “after the rains there is wetness.” The Commission regrets to note that this approach by the EPDP leader does not augur well in fostering respect for the Rule of Law. The Commission is of the view that since there are several complaints against the EPDP there should be a full investigation regarding these allegations. Absence of an investigation would create a sense of impunity.” (paragraph 8.187)

GoSL response

EPDP leader Minister Devananda is a member of GoSL delegation to the 19th session of the UNHRC.

LLRC regrets non-implementation

“In this regard the Commission reiterates the importance of giving full effect to all of its Interim Recommendations concerning illegal armed groups.” (paragraph 8.189)

“The Commission regrets that full effect has not yet been given to its Interim Recommendations. Delay in taking effective remedial action would only result in a breakdown of law and order and the consequent erosion of the Rule of Law and the confidence of the people in the reconciliation process.” (paragraph 8.190)

Social and Political Freedom of Tamil People is jeopardized - TNA

The state of human rights protection and human security in Sri Lanka continues to cause great distress to us. The spate of killings and abductions, even in the last few months; the intrusive presence of the military in governance, on the streets, in trade and business as well as in the day to day lives of citizens; the negation of effective civilian administration in the North; the expropriation of private lands; the arbitrary utilization of state lands for sectarian purposes; and the erection of massive military cantonments in areas where people should have been allowed to resettle; are all manifestations of how the social and political freedom of the Tamil people in the North and East of Sri Lanka is being severely jeopardized. The worst affected victims of this intense militarization are women and children, where widows and orphans are rendered particularly vulnerable to systematic exploitation and violence. Former women LTTE cadres and other vulnerable women are coerced into playing the role of comfort women. Furthermore, paramilitary groups acting in consort with the military are known to be involved in incidents of rape and abuse, as well as human trafficking and organized prostitution.

R. Sampanthan, Leader, Tamil National Alliance
Letter to members of the UNHRC council members, 27. 02.2012



Some forgotten recommendations from the LLRC report

- The Commission was also reminded that despite the lapse of two years since the ending of the conflict, the violence, suspicion and sense of discrimination are still prevalent in social and political life. Delay in the implementation of a clearly focused post conflict peace building agenda may have contributed to this situation.
- The Commission takes the view that the root cause of the ethnic conflict in Sri Lanka lies in the failure of successive Governments to address the genuine grievances of the Tamil people.
- Along with an independent Judiciary and a transparent legal process a strict adherence to the Rule of Law is a *sine qua non* for peace and stability which is of the essence. A democracy must assure a fair system of governance under the Rule of Law rather than the rule of men.
- Respect for the rights and freedoms of the citizens of a country is the very essence of the concept of the Rule of Law. It was stated that lack of good governance, and non-observance of the Rule of Law coupled with a lack of meaningful devolution were causes for creating tension between communities.
- Failure on the part of the law enforcement officers to investigate offences and bring offenders to book, where the offences are committed by persons with political connections.
- Over a period of time there has been a weakening of public institutions vital to the functioning of democracy thereby eroding the sovereignty of the people.
- An alarming phenomenon that was brought to the notice of the Commission was the high level of interference by politicians of the ruling party with regard to appointments, transfers etc of public officials. This is the very antithesis of good governance.
- The political culture of the country has made the general public powerless and helpless to a point that they have become dependent on politicians to obtain many services and amenities they are entitled to.
- The politicians and the political elite exercise the power of the State to the detriment of others. This has led to a high degree of corruption undermining the rights of the citizens. This naturally has had an impact on minority grievances, which would ultimately affect the process of reconciliation.
- Therefore, the Commission recommends that the Government should establish an independent institution to address the grievances of all citizens, in particular the minorities, arising from the abuse of power of public officials and other individuals involved in the governance of the country. This mechanism should be invested with a strong investigative arm in order to enable it to effectively discharge its functions.
- The Commission strongly recommends the establishment of an Independent Public Service Commission without delay to ensure that there is no political interference in the public service and that recruitment and promotions in the public service are in conformity with the equality provisions in the Constitution.

... and pending country visits by Special Procedures Mandate Holders

SR on Independence of Judges and Lawyers (requested)
 SR on torture (requested in 2005)
 IE on minority issues (requested in 2007 and 2009)
 WG on enforced or involuntary disappearances (requested in 2006, 2007 and 2008, reminders in 2009 and on 20 July 2011)
 SR on human rights defenders (requested in 2008)
 SR on freedom of expression (requested in 2009)
 SR on enforced, summary or arbitrary executions (requested on 28 Aug 2009, reminder on 15 Dec 2010)
 SR on freedom of association and assembly (requested on 6 Sept 2011)

Endnotes

pages 11—14:

- ¹ For full analysis see <http://groundviews.org/2012/02/12/judicial-intervention-to-control-lawful-rallies-subverting-democratic-rights/>
- ² Specific names mentioned includes Sunanda Deshapriya and Poddala Jayantha, two prominent press freedom activists, both of whom are in exile due to treats and attacks
- ³ See http://www.colombopage.com/archive_12/Jan11_1326226327CH.php
- ⁴ See http://www.bbc.co.uk/sinhala/news/story/2012/01/120111_fmm.shtml
- ⁵ See for example “Vimasuma” program broadcasted on the ITN channel on 11th, 20th and 23rd h Jan. 2012
- ⁶ For example, the “Vimasuma” program of 11th Jan. said “ Those who betrayed the motherland for gold and titles even killed in time of kings. Their decedents live on today” and predicts that “They do no good to this country, some day they will also face no good.”
- ⁷ See Sunanda Deshapriya’s open letter to Minister Keheliya Rambukwella, available at <http://groundviews.org/2012/02/05/mr-minister-my-name-is-sunanda-deshapriya-i-am-not-a-terrorist/>
- ⁸ See Dinmina, English newspaper at http://www.dinamina.lk/2012/01/26/_art.asp?fn=p1201261 and an English media report on this at <http://www.srilankamirror.com/english/the-news/10544-journalists-in-exile-conspiring>
- ⁹ See Ceylon Today, English newspaper, available at http://www.ceylontoday.lk/archives-online-details-more.php?news_id=2030&news_category_id=16&cal_date=27&dateSelect=2012-01-01
- ¹⁰ See http://www.ceylontoday.lk/news-detail.php?news_id=2001&news_category_id=16
- ¹¹ TNA is a the leading Tamil political party, and have won comprehensive victories at both Parliamentary and Local Government elections for Tamil dominated North and East provinces in 2010 and 2011
- ¹² See original news in Sinhalese at http://www.dinamina.lk/2012/02/03/_art.asp?fn=u1202031
- ¹³ From the description, it appeared to refer to the wife of the present convener of the Freed Media Movement, Mr. Sunil Jayasekera
- ¹⁴ See original news item in Sinhalese at http://www.dinamina.lk/2012/02/07/_art.asp?fn=n1202079 and English translation at <http://nfrsrilanka.wordpress.com/>
- ¹⁵ See FMM response at <http://sunandadeshapriya.wordpress.com/2012/02/07/fmm-challenges-ancl-editor-dinamina/>
- ¹⁶ See original news item in Sinhalese at http://www.dinamina.lk/2012/02/07/_art.asp?fn=n1202074 and English translation at <http://nfrsrilanka.wordpress.com/>
- ¹⁷ See original news item in Sinhalese at http://www.dinamina.lk/2012/02/08/_art.asp?fn=e120208 and English translation at <http://nfrsrilanka.wordpress.com/>
- ¹⁸ See original news item in Sinhalese at http://www.dinamina.lk/2012/02/11/_art.asp?fn=u1202111
- ¹⁹ See http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=43131
- ²⁰ See http://www.colombopage.com/archive_12/Jan11_1326295466JR.php
- ²¹ See <http://www.dailynews.lk/2012/01/11/news02.asp>
- ²² See <http://www.dailynews.lk/2012/01/11/news04.asp>
- ²³ See eyewitness account at <http://transcurrents.com/news-views/archives/7430>
- ²⁴ See <http://www.dailynews.lk/2012/01/20/news20.asp>
- ²⁵ See <http://nfrsrilanka.wordpress.com/2012/01/24/sri-lanka-viluthu-a-tamil-advocacy-institution-in-colombo-attacked-and-ransacked-nfr/>
- ²⁶ See <http://www.srilankabrief.org/2012/01/ex-ltte-cadres-pro-ltte-activists-and.html>
- ²⁷ For initial report see <http://dbsjeyaraj.com/dbsj/archives/4199>
- ²⁸ See <http://www.srilankamirror.com/english/the-news/10954-movement-for-peoples-struggle-awareness-programme-disrupted>
- ²⁹ See <http://www.srilankamirror.com/english/the-news/11070-police-beat-up-protestors-demanding-abducted-mervyn>
- ³⁰ See <http://ceylon-ananda.blogspot.com/2012/02/lawyers-protest-abduction-of-remand.html>
- ³¹ See <http://dbsjeyaraj.com/dbsj/archives/4247> and <http://www.wsws.org/articles/2012/feb2012/sril-f16.shtml> and also
- ³² See http://www.ceylontoday.lk/news-detail.php?news_id=2712&news_category_id=16
- ³³ See <http://www.ft.lk/2012/02/16/jvps-fuel-hike-protest-thwarted-with-tear-gas/>
- ³⁴ See <http://www.ft.lk/2012/02/18/unp-fumes-over-tear-gas-attack-on-protest/>
- ³⁵ See <http://www.srilankabrief.org/2012/02/bomb-scare-to-prevent-anti-government.html#more>

Complete indifference to Governance

The regime has failed to improve governance structures and, in fact, it has shown complete indifference to governance. If we have a quick look at its governance record, almost all the public institutions including regulatory institutions and law enforcement agencies were politicized. The constitutional guarantees available for protection against politicization were removed with the 18th Amendment to the Constitution. None of the assassinations of journalists and attacks on media institutions were seriously investigated. All the cronies of the government and their families are above the law. It has never taken steps to eliminate impunity. In my view, these are well planned strategies of the regime - for a clear purpose of tightening the political hold. If the governance related recommendations are implemented, then the Rajapaksa regime will lose its political grip and a fair political equilibrium will emerge. In my view, that is not a risk the regime will take.

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<http://www.srilankabrief.org/2012/02/can-gosl-implement-lirc-recommendations.html>