



Inter-Parliamentary Union

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Sri Lanka

SRI/49 - Joseph Pararajasingham
SRI/53 - Nadarajah Raviraj
SRI/61 - Thiyagarajah Maheswaran
SRI/63 - D.M. Dassanayake

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 152nd session (Geneva, 23 January to 3 February 2017)

The Committee,

Referring to the cases of the four above-mentioned parliamentarians, who were all assassinated between December 2005 and January 2008, and to the decision adopted by the IPU Governing Council at its 197th session (October 2015),

Taking into account the communications from the Chief Parliamentary Protocol Officer, dated 25 January 2017 and 29 February 2016, forwarding reports from the Criminal Investigation Department, Colombo, and the information regularly provided by the complainants,

Recalling the following information on file with regard to Mr. Pararajasingham:

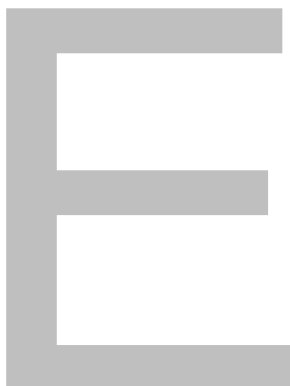
- Mr. Pararajasingham, a member of the Tamil National Alliance (TNA), was shot dead on 24 December 2005 during the Christmas Eve mass at St. Mary's Cathedral in Batticaloa, which was located in a high-security zone between two military checkpoints; the murder took place at a time when additional security forces were on duty;
- The complainants have always affirmed that Mr. Pararajasingham was killed by the Sri Lankan Government with the help of the Tamil Makkal Viduthalai Pulikal (TMVP, also known as the "Karuna group"), a faction led by Mr. V. Muralitharan (alias "Karuna"), which split from the Liberation Tigers of Tamil Eelam (LTTE) in 2004 over grievances that the LTTE gave priority to the situation of the Tamils in the north and disregarded the Tamils in the east; during that time, the Karuna group reportedly asked Mr. Pararajasingham to support the split; his refusal to do so became a problem, given that the Government had wanted the Tamils to divide over the north and east,

Recalling the following information on file with regard to Mr. Raviraj:

- Mr. Raviraj, a member of the TNA, was shot dead on 10 November 2006, along with his security officer, while travelling along a main road in Colombo, the gunman escaping on a motorcycle; the complainants refer to information that shows that the circumstances of the murder point to State responsibility and that the immediate purpose of Mr. Raviraj's killing was to silence the Civil Monitoring Committee, which he had set up, and whose reports on abductions, killings and extortions had created significant commotion,

Recalling the following information on file with regard to Mr. Maheswaran:

- The complainant in this case has from the outset emphasized that Mr. Maheswaran voted against the budget on 14 December 2007 and that, soon after the vote, the number of security guards assigned to him was cut from 18 to two; Mr. Maheswaran had openly made statements to the effect that the



reduction of his security detail put his life seriously at risk and repeatedly requested the Government to enhance his security, but to no avail; on 1 January 2008, he was shot and died soon after; according to the complainant, the attack came after Mr. Maheswaran had said in a television interview that, when parliamentary sittings resumed on 8 January 2008, he would describe in detail the terror campaign that the Government was pursuing in Jaffna, particularly how abductions and killings were managed;

- In the months following the murder, the authorities arrested Mr. Johnson Collin Valentino, from Jaffna, who was identified as the gunman on the basis of a DNA analysis; the investigators concluded that he was an LTTE activist who had been trained and sent to Colombo to kill Mr. Maheswaran; Mr. Valentino confessed to the crime and was found guilty on 27 August 2012 and sentenced to death,

Recalling the following information on file with regard to Mr. D.M. Dassanayake:

- Mr. Dassanayake was killed on 8 January 2008; the arrest of a key LTTE suspect operating in Colombo led to the arrest of other suspects; one of the suspects, Mr. Hayazinth Fernando, pleaded guilty and was sentenced on 1 August 2011 to two years' rigorous imprisonment, a 10-year suspension and the payment of a fine of Rs. 30,000 for refusing to provide information to the investigators; the legal proceedings against Mr. Fernando had been completed; two other accused, namely Mr. Sunderam Sathisha Kumaran and Mr. Kulathunga Hettiarachchige Malcom Tyron, stood indicted in the High Court of Negombo on nine counts; these counts included conspiracy to commit murder and abetment to commit murder; however, Mr. Sunderam Sathisha Kumaran fell sick in remand prison and died in hospital on 14 May 2015, whereas the case against the other was still ongoing,

Recalling that, on 16 September 2015, the United Nations High Commissioner for Human Rights released his report (A/HRC/30/CRP.2) on his office's (OHCHR) comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties (that is, the Government and related institutions, on the one hand, and the LTTE on the other) in Sri Lanka between 2002 and 2011; the report concludes that:

- There are reasonable grounds to believe that gross violations of international human rights law and serious violations of international humanitarian law were committed by all parties during the period under review;
- There are reasonable grounds to believe the Sri Lankan security forces and paramilitary groups associated with them were implicated in widespread and unlawful killings of civilians and other protected persons; Tamil politicians, humanitarian workers and journalists were particularly targeted; the LTTE also unlawfully killed civilians perceived to hold sympathies contrary to the LTTE, or suspected of being informers, as well as rival Tamil political figures, public officials and academics;
- The sheer number of allegations, their gravity and recurrence and the similarities in their modus operandi, as well as the consistent pattern of conduct they show, all point to systematic crimes, which cannot be treated as ordinary crimes;
- Sri Lanka's criminal justice system is not currently equipped to conduct an independent and credible investigation into allegations of this breadth and magnitude, or to hold accountable those responsible for such violations;
- It is therefore necessary to establish an ad hoc hybrid special court, which would include international judges, prosecutors, lawyers and investigators, mandated to try notably war crimes and crimes against humanity, with its own independent investigative and prosecuting organ, defence office and witness and victim protection programme,

Considering that, on 1 October 2015, the United Nations Human Rights Council adopted a resolution, supported by Sri Lanka, in which the Council: (i) welcomed the recognition by the Government of Sri Lanka that accountability is essential to uphold the rule of law and to build the confidence of the people of all communities of Sri Lanka in the justice system; (ii) notes with appreciation the proposal of the Government of Sri Lanka to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, as applicable; (iii) affirms that a credible justice process should include independent

judicial and prosecutorial institutions led by individuals known for their integrity and impartiality; and (iv) affirms in this regard the importance of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators participating in Sri Lankan judicial mechanisms, including working with the special counsel's office,

Recalling that the current President of Sri Lanka, along with other high-ranking government officials, have repeatedly emphasized the need for reconciliation and accountability in Sri Lanka,

Considering that, on 18 December 2015, the Cabinet of Ministers formed the Secretariat for Coordinating Reconciliation Mechanisms tasked, under the Prime Minister's Office, with the design and implementation of the following reconciliation mechanisms: the Office of Missing Persons; Truth, Justice, Reconciliation and Non-Recurrence Commission; Judicial Mechanism; and Office of Reparations; on 3 January 2017, the Sri Lankan Consultations Task Force on Reconciliation Mechanisms released its final report recommending the appointment of a hybrid court composed of local and international judges to oversee the adjudication of allegations of war crimes committed during the country's civil war; the international presence in the court would be phased out once trust between the court and the public was re-established,

Considering the latest new information contained in the reports of the Criminal Investigation Department of Sri Lanka, as well as the information contained in the United Nations High Commissioner's report, with regard to the four murder cases:

- **The case of Mr. Pararajasingham:** On 4 October 2015, four suspects, including the former Chief Minister of the Eastern Provincial Council, the Tamil leader Makkal Viduthalai Pulikal (TMVP), were arrested; the involvement of four others, all members of the TMVP, had also been established, two of whom were said to be in Dubai and India respectively, namely Mr. Gunasinghe Arachchige Tharindu Madushanka and an individual named "Menam", whose true identity has yet to be established; one of the other two of this group of four had been identified as the person who had fired the shots but had in turn been shot dead in the Kaththankudi police area in 2008; the Attorney General filed indictments, under Batticaloa High Court case No. 3057/17, against the four in detention and the three others at large; the case had been fixed for the purpose of serving indictments on 8 March 2017; as regards the motive, the United Nations report stated that Mr. Pararajasingham had declined to support Karuna after his split from the LTTE and had previously been threatened by members of the Karuna group; family members of the victim suffered further threats after the attack and fled the country; the UN investigators considered that, based on the information obtained, "*there are reasonable grounds to believe that the Karuna group killed Joseph Pararajasingham, and that it was aided and abetted by security and army personnel*";
- **The case of Mr. Raviraj:** Eight persons had been arrested, five of whom in March and October 2015, including two lieutenant commanders of the Sri Lankan Navy and two other navy and police officers; four of the suspects, namely the three arrested in 2006 and one of the lieutenant commanders arrested in March 2015, were subsequently discharged by the court on the advice of the Attorney General, whereas the others were released on bail; the investigation has also pointed to the complicity in the crime of Mr. Sivakanthan Vivekanandan (alias "Charan"), Mr. Fabian Roiston Christopher (alias "Thusain") and Mr. Palanisamy Suresh (alias "Saamy"); "Charan" is reported to have been a TMVP member and to have migrated to Switzerland, and is yet to be arrested; "Thusain" was formerly an intelligence officer attached to the state intelligence service and is believed to be currently living in an unknown foreign country; he is also yet to be arrested; the whereabouts of "Saamy" is yet to be established; the court has issued arrest warrants against three of them and the process to have "Charan" extradited from Switzerland has been initiated; Interpol Red Notices have been secured against "Charan" and "Thusain"; the Sri Lankan authorities also made a mutual legal assistance request to the United Kingdom authorities to enlist the support of the Metropolitan Police Service (MPS), New Scotland Yard, of the United Kingdom, which had developed DNA profiles and fingerprints from the exhibits found at the murder scene and which they had taken back to the United Kingdom for examination at the time; results of the DNA comparisons were considered very crucial and investigators were very hopeful that the proposed DNA

comparisons would yield the much needed evidence to prove complicity of any suspect(s) in the murder; nevertheless, the Attorney General initiated non-summary proceedings against three of the suspects arrested and released on bail in 2015 and against "Charan", "Thusain" and "Saamy", while using the remaining fourth suspect arrested and released in 2015 as a "state witness"; non-summary proceedings against them were instituted in Colombo, under case No. NS 7439/2006 on 23 November 2015, after which the case was committed to Colombo High Court No. 1 on 17 March 2016; the Attorney General indicted all the accused under case No. 8331/16, having cited 32 witnesses; the accused were served with indictments on 21 July 2016 and remanded in custody until such time the trial was concluded by the High Court, which on 24 December 2016 decided to discharge all suspects; an appeal has been filed by the Attorney General against the judgment; the United Nations report stated that Mr. Raviraj was widely known for his moderate views and critical statements of both the LTTE and the Government, particularly in the weeks leading up to his murder; along with other parliamentarians, he had set up the Civilian Monitoring Committee, which alleged the Government was responsible for abductions, enforced disappearances and unlawful killings; the UN report also points to the fact that, the day before he was killed, Mr. Raviraj and other TNA parliamentarians had taken part in a demonstration in front of the United Nations offices in Colombo to protest against the killing of Tamil civilians by the military in the east and the increasing abductions and extrajudicial killings;

- **The case of Mr. Maheshwaran:** An appeal regarding the sentence against Mr. Johnson Collin Valentino is pending;
- **The case of Mr. Dassanayake:** Seven persons, including four navy and army officers, were arrested in November 2016 and March 2015 respectively; four of them, including an army and navy officer, were released on bail, whereas the others are currently in remand detention; during the investigation, the complicity in the crime of Mr. Sivakanthan Vivekanandan (alias "Charan") was also established and a formal extradition request to the Swiss authorities, as in the case of Mr. Raviraj, was initiated; the Sri Lankan authorities also made a mutual legal assistance request to the United Kingdom authorities to enlist the support of the Metropolitan Police Service (MPS), New Scotland Yard, of the United Kingdom, which had developed DNA profiles and fingerprints from the exhibits found at the murder scene and which they had taken back to the United Kingdom for examination at the time, as it had become necessary to solicit further assistance for investigation purposes, particularly for DNA comparisons of the suspects in custody,

Recalling also that the Sri Lankan Prime Minister was intent on setting up a parliamentary select committee to monitor the investigations into the assassinations of parliamentarians, but that no further information has been forthcoming regarding its establishment,

1. *Thanks* the parliamentary authorities for their cooperation and the extensive information they provided;
2. *Notes with satisfaction* that steady progress has been made in the pursuit of justice in the case of Mr. Pararajasingham; *wishes* to be kept informed of developments in the legal proceedings against those who will be indicted and to receive, when available, information on the motives and modus operandi for the crime; *also wishes* to be informed of progress in the efforts made to locate and extradite the suspects who are abroad;
3. *Regrets*, however, that the significant progress made since 2015 in the investigation into the assassination of Mr. Raviraj has not ultimately led to accountability for this crime; *fails to understand* how this matter came to trial at a time when several of the suspects had yet to be apprehended, including one located in Switzerland and who might have been able to provide critical information on the case at hand; *trusts* that, despite the setback in court, the relevant authorities will continue to do everything possible to shed full light on this assassination and bring those responsible to justice; *wishes* to receive confirmation on this point and to receive a copy of the court ruling discharging the suspects;

4. *Reaffirms its view* that the Sri Lankan authorities stand much to gain from cooperating with the international community and making use of relevant international expertise and advice to shed full light on past human rights violations; *takes note with satisfaction* in this regard of the recommendation made by the Sri Lankan Consultations Task Force on Reconciliation Mechanisms that a hybrid court be set up to oversee the adjudication of allegations of war crimes committed during the country's civil war; *considers* that the establishment of such a court could give additional impetus to the pursuit of justice in the case of Mr. Raviraj; *sincerely hopes*, therefore, that the authorities will give favourable consideration to this recommendation; *wishes* to be kept informed in this regard and to know how the authorities aim to strengthen the Victim and Witness Protection Act to offer the best protection for witnesses in and outside of Sri Lanka;
5. *Reiterates* its wish to receive a copy of the verdict against the culprit in the case of Mr. Maheswaran, in particular so as to know if it sheds light on whether the timing of his killing and the reduction of his security detail was taken into account;
6. *Takes note with interest* of the extensive developments in the pursuit of justice in the case of Mr. Dassanayake; *is unclear*, however, as to how they fit in with the official information previously provided on the legal proceedings initiated against three other suspects; *wishes* to receive clarification on this point;
7. *Is convinced* that the previously mentioned parliamentary select committee to monitor the investigations into the assassinations of former members of parliament could ensure sustained parliamentary oversight in these matters; *wishes* to know if any steps have been taken recently to set up this committee;
8. *Requests* the Secretary General to convey this decision and the request for information to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
9. *Decides* to continue examining this case.