



High Commissioner

Democratic Socialist Republic of Sri Lanka

15 March 2010

Rt. Hon. Gareth Thomas
Minister of State for International Development
Department for International Development
1 Palace Street
London SW1E 5HE

Your Excellency

A copy of a letter addressed to Hon. Fiona Mactaggart MP, has been referred to me, since presumably it has reference to Sri Lanka, and as High Commissioner, I crave Your Excellency's indulgence, to put in perspective some of the matters raised by your goodself in the said letter, I thought they need clarification.

Firstly, it says that "the UK was fully supportive of the EU's decision to withdraw the GSP+ trade preferences from Sri Lanka and has always been clear that in order to continue benefiting from the GSP+ scheme, must meet its human rights obligations." The implication that Sri Lanka has been guilty of human rights violations is not an accurate statement of fact. The fundamental freedoms embodied in the UN Declaration of Human Rights are enshrined in the Constitution of Sri Lanka. They are provided in Chapter III of the Constitution in Articles 1-17. Article 17 provides that 'every person shall be entitled to apply to the Supreme Court, as provided by Article 126 in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter'. You would see that any infringement of any of the Articles is justiciable by the highest Tribunal in Sri Lanka. On a personal note, I must state that I had the privilege of sitting on the Supreme Court for a period of over 5 years where Rights Applications were heard and disposed of. Additionally the Court of Appeal, where I sat for another 6 years is possessed of jurisdiction to hear and determine prerogative Writs, one of which is applications for Habeas Corpus, where a subject is detained illegally. When Your Excellency refers that Sri Lanka must meet its human rights obligations, it sends out the wrong signal that in Sri Lanka, violations are routine.

Secondly, there is a Human Rights Commission presided over by eminent persons and the present Commission is presided over by a former Judge of the Supreme Court, who himself is a Tamil.

High Commission of Sri Lanka, 13, Hyde Park Gardens, London W2 2LU

Tel: 020 7262 1841 Fax: 020 7262 7970 E-mail: mail@slhc-london.co.uk

In Sri Lanka, there are a number of Non Governmental Organisations, both local and international, funded by various Western governments, who are engaged in the area of human rights. Additionally there are Sri Lankan Lawyers who are human rights activists, who cast a watchful eye on what goes on and it is almost impossible for any violator to escape the attention and scrutiny of such activists. I must say in Sri Lanka no one has been targeted because of ethnicity or religion.

Might I assure Your Excellency that any violations brought to the attention of the Supreme Court or Human Rights Commission, such allegations would be investigated thoroughly and scrupulously. It is somewhat disturbing that the GSP+ has been withdrawn on the allegation of human rights record of Sri Lanka. Your Excellency had mentioned that you "understand the importance of the GSP+ to the Sri Lankan economy." The GSP+ more than it benefits the Sri Lankan government, it benefits the poorest of the poor. It affects 2 million people or 10% of the Sri Lankan population, where the breadwinners are women. To ask the Sri Lankan government to respect its human rights obligations and then support the withdrawal of the GSP+, to my mind is a contradiction which is inexplicable.

Your Excellency has stated that "recent events during the Presidential Campaign and following the elections, give further reasons for concern." Presumably you are referring to the arrest of General Sarath Fonseka, who ran for the Presidency against H.E. Mahinda Rajapaksa. I can assure you that General Fonseka was not arrested for the reason he ran against the President. He has been brought before a Court Martial for alleged violations of the military law, while he was the Commander of the Sri Lanka Army. Any order made by the Tribunal can be challenged in the Court of Appeal by way of Writ, and in the Supreme Court by way of Appeal on the findings of the Court of Appeal. General Fonseka has now filed Application for Writ of Habeas Corpus, for illegal detention. An application invoking the jurisdiction of the Supreme Court has also been filed alleging illegal arrest and notice has been issued on the respondents. These matters are dealt with transparency and in the full public glare.

You have also mentioned about national reconciliation. I want to impress upon your goodself that Tamil and Sinhala people live in amity and brotherhood and the term reconciliation is superfluous. You have also mentioned about a political process to address underlying causes of the conflict between the Government and the LTTE. I want to state that the conflict had all the hallmarks of a political nature and nothing to do with ethnicity or rights. It is the arrogance of a few individuals who were bent on establishing a homeland for Tamils that has brought about the conflict and it is not the seeking of the Tamil people. However, a Constitutional Amendment is now in place for devolution of power to the regions and there is an elected Provincial Council currently operational in the East. The Constitutional Amendment in the form of the 13th Amendment promulgated in 1987 could not be implemented while the LTTE were unleashing terror.

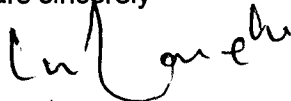
You have also mentioned that approximately 100,000 people remain in Menik Farm. We have been telling the international community that the plight of the Tamil people in the camps have not been our seeking. They were driven into the LTTE controlled areas to be used as human shields and when the LTTE was in retrogradation, they escaped and the Government accommodated them in the camps. The remaining inmates of the camps will be resettled in their habitats once the demining of 255 sq. kms infested with landmines placed by the LTTE, are cleared. While the refugees are in those camps, the

Government has provided them with shelter, food, clothing and other needs. They are also free to leave and live elsewhere. There are 20,000 who are refusing to leave.

I was at pains to place on record at the expense of rhetoric that there have been a number of misconceptions entertained in the Western world about the prevailing situation in Sri Lanka. It is said that there are over 2000 Tamil doctors working in this country and all of them are beneficiaries of free education that is available in Sri Lanka. The Tamil people have from historical times been holding positions of authority. There are over 30 Tamil members sitting in Parliament, both in the Government and Opposition. There have been Chief Justices, Supreme Court Judges, Permanent Secretaries, High Commissioners, Ambassadors, Heads of Government Departments, Inspector General of Police etc. They have all got there on merit in a system which is inclusive and transparent.

I trust this letter will help at least in some way to dispel certain misconceptions that have taken root in this country that has caused serious distress to my Government and its people.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nihal Jayasinghe', written in a cursive style.

Justice Nihal Jayasinghe
High Commissioner