

Brian Senewiratne

MA (Cantab), MBBChir (Cantab), MBBS Hons(Lond)
MD(Lond), FRCP(Lond) FRACP
Consultant Physician

292 Pine Mt Rd
Mt Gravatt
Australia 4122
Tel +61 7 33496118
+61 419335334
bsenewiratne@gmail.com

4th March 2013

Hon Navanetham Pillay
UN High Commissioner for Human Rights
Palais Wilson
52 rue des Paquis
CH- 1201
Geneva
Switzerland

**Sri Lanka: The ongoing violation of Human Rights of the Tamil people
for the
22nd Session of the UN Human Rights Council meeting (March 2013)**

Hon High Commissioner,

I am a Sinhalese from the majority community in Sri Lanka. who has campaigned for six *decades* (since 1948) for the right of the Tamil people to live with equality, dignity, safety, and now to live at all, in the country of their birth and the historical homelands of the Tamils (the North and East).

I felt that as a Sinhalese, a cousin of the former President Chandrika Kumaratunga, and someone who has left Sri Lanka and has nothing to gain from getting involved, it is important that I should express my concerns about the gross (and progressive) violations of human rights, particularly of the Tamil people, and the dismantling of democracy and the establishment of a Totalitarian regime under President Mahinda Rajapaksa and his family.

I am a doctor of Medicine, not a politician. I am a member of several organisations and while it would not have been difficult to get permission from them to send you this letter under their letter-head, I have opted not to do so but to send it as an individual – someone who at a personal level is deeply concerned with what is going on behind the closed and censored doors of Sri Lanka.

Your Report

Before I set out my concerns, I must express my gratitude to you and your staff for the outstanding Submission made to the UN General Assembly, on 11 February, 2013:

“Report of the Office of the United Nations High Commissioner for Human Rights on advise and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka”.

This is the most comprehensive and balanced Report I have ever read. It is abundantly clear that you and your Office have a clear appreciation of the human rights (and other issues) in Sri Lanka. The closing paragraph is particularly important:

"The High Commissionerreaffirms her long-standing call for an independent and credible investigation into alleged violations of international human rights and humanitarian law, which could also monitor any domestic accountability process".

Immediate admission of AI, HRW, ICG

The only recommendation that I would have strongly suggested is for the immediate admission of internationally credible human rights organisations – Amnesty International (AI), Human Rights Watch (HRW), and the Brussels-based International Crisis Group (ICG). If, as the Government of Sri Lanka (GoSL) and its President Mahinda Rajapaksa claim, that the Tamil people in the North and East have been 'rescued' and 'successfully rehabilitated', there can be no justification for the continuing exclusion of these internationally credible organisations (one of them a Nobel Laureate), from the North and East, indeed from the entire country. The GoSL cannot have it both ways.

Half-truths, untruths and downright lies

One of the problems with the GoSL, including their Ambassadors, is that what they say are half-truths, untruths or blatant lies. This was stated in diplomatic language by even the *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka* (31 March 2011) (UNSG's Panel):

"The Panel's determination of credible allegations reveals a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka. The Government says it pursued a "humanitarian rescue operation" with a policy of "zero civilian casualties." In stark contrast, the Panel found credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law....."

Roads have been opened, development is occurring, houses are being built and business is booming. There is no doubt about that. The question is *"Who are the beneficiaries?" "What is the human rights situation of the people in the area – the Tamils and Muslims?"*

The answer (which will not be forthcoming from the GoSL) is that the beneficiaries are the Sri Lankan military, the Government, big business in the Sinhalese South and foreign investors, and President Rajapaksa's friends and family.

As for the people in the area, the legitimate residents, their human rights situation is worse than it has ever been. They have lost their land, homes, jobs, and above all, their security. Their basic human rights have been violated *and are being violated* as never before.

The UNSG's Panel uses the word *"Extermination"* (p 68). They go on to justify this.

"Under the ICC Statute, extermination includes "intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population" (Art. 7(2)(b)). The part of the population subject to extermination has to be "numerically significant".

The Article referred to:

"The credible allegations support a finding of the crime against humanity of extermination insofar as the 127 ICC Statute states that "for the purposes of this State or organizational policy to commit such attack." The element of a state policy is generally not required in customary international law, although, in the case of Sri Lanka, the allegations are of such a nature to be able to infer a State or organizational policy.

If "extermination" is what has gone on (and from Reports from the area, is going on today), then there is an absolute requirement for the application of the "UN Responsibility to Protect" (R2P) because people are not being protected. If it is not, then R2P becomes a farce, mere words with no meaning.

The Reports from the area I refer to are from Church leaders, people of standing, elected representatives of the Tamil people and internationally credible human rights groups, among them a Nobel Prize winner.

The outstanding and outspoken Bishop of Mannar, the Most Rev Dr Rayappu Joseph and his clergy have stated that if the GoSL is allowed more time (which it was by the UNHRC meeting in March 2012), to do what it is doing, the Tamils *"will cease to exist as a people"*.

The crucial question

The crucial question that the GoSL must be asked, and for which an answer demanded is, *"If the Tamil people have been 'rescued from terrorism', and have been 'successfully rehabilitated', what is the justification for continuing to exclude AI, HRW and ICG, from the area?"*

The answer, which will not come from the GoSL, is that if these veteran human rights organisations are allowed into the area, they will report on the serious and continuing violation of human rights of the civilians, which has now reached crisis levels.

Negotiating with the Rajapaksa regime

It is abundantly clear that it is simply not possible to negotiate with the Rajapaksa regime. They, in particular President Mahinda Rajapaksa and his all powerful brother, Gotabaya Rajapaksa, have decided that Sri Lanka will be a Sinhala-Buddhist country. Everything they have done since being elected to power in November 2005 has confirmed this. This is not going to change in the foreseeable future unless, as the Christian clergy have put it in a letter to the UN HRC on 18th February 2013, there is *"a strong and action-orientated resolution on Sri Lanka at the 22nd session of the UN Human Rights Council"*.

History has repeatedly shown that it is not possible to negotiate with tyrants and Totalitarian regimes. This is even more so today when such regimes are backed by superpowers, China, and even India (Delhi), in the case of the Sri Lankan regime.

This is not an opinion to be debated but a fact to be faced and addressed. It is a fact confirmed by overwhelming evidence, not least from the UN Secretary General's Panel of Experts Report, and several Reports from internationally credible organisations such as AI, HRW, ICG, and by those on the ground in the Tamil North and East, in particular, the Most Rev Dr Rayappu Joseph, the Catholic Bishop of

Mannar in the Tamil North East, (Tamil) Civil Society and the Commission for Justice and Peace of the Catholic Diocese of Jaffna (Patron - the Bishop of Jaffna).

If the UN Human Rights Council (UN HRC) wants to address this serious problem which is of national and international concern, this fact – that it is not possible to negotiate with a Totalitarian regime – it will have to be based on this fact. To do otherwise is to become part of the problem rather than part of the solution. It will not only damage the UN HRC but also Sri Lanka, in general, the Tamils in particular.

Of serious concern is that if Sri Lanka is allowed to get away with it (as has happened so far), ruthless regimes in other countries will take this as a 'role model' and do likewise. Unfortunately, this is already happening, mainly because there are no penalties when even gross violation of human rights, human rights and humanitarian law, and international law, have occurred *and are still occurring*. There is evidence that this is already happening.

I am therefore urging the UN HRC to act, rather than pass Resolutions which will be treated with absolute contempt by the GoSL. The violation of these Resolutions must carry deterrent penalties. Every major human rights body, AI in particular, has repeatedly stressed the absolute need for this. Professor Francis Boyle, Professor of International Law, University of Illinois College of Law in the USA, who has a impressive record in addressing problems such as the one in Sri Lanka, has made his concerns known for years. Geoffrey Robertson QC, London, a world authority on Human Rights and Crimes against Humanity, has just called for firm action to be taken against Sri Lanka.

Robertson, a former Australian and now a leading a leading barrister in London, wants Australia and other Commonwealth countries to boycott a Commonwealth Heads of Government meeting in the Sri Lankan capital, Colombo, in November 2013. In a written Report to England's Bar Human Rights Committee, he stated:

"Governments which respect the rule of law should not attend. Nor should the Queen or any royal family member provide a photo-opportunity for President Mahinda Rajapaksa. Royal seals of approval serve the propaganda interests of people like this and no-shows by powerful nations would signal the unacceptability of their behaviour".

Speaking at the Report's launch, Mr Robertson said the "*fabricated charges*" against the Chief Justice were heard by government ministers in a secret star chamber with witnesses bullied and brow beaten.

He wants the 117 MPs who voted for impeachment and the seven ministers who declared the Chief Justice guilty, banned from visiting Britain or any other Commonwealth countries, and their foreign bank accounts frozen.

"These identifiable people are collectively responsible for the unlawful attack on the rule of law and unless made to suffer for it, others will do the same dirty work"

Having met and discussed the human rights situation in Sri Lanka with Archbishop Desmond Tutu, a Nobel Prize winner, I know that he too is deeply concerned, a concern which he has publicly expressed many times on several occasions.

The UN HRC and its members simply cannot ignore these mounting concerns of internationally credible organisations and people. To do so would be to seriously compromise the standing of the UN HRC and make it a meaningless organisation.

The voice of the Tamil people

There is overwhelming evidence that what the GoSL claims as to what is going on in post-war Sri Lanka is simply untrue. The 'Technical Mission' sent from your office that visited Sri Lanka (13-21 September, 2012) and met with a wide range of people in different parts of the country, confirmed this.

It is a matter of considerable regret that the one person who could have apprised the Technical Mission of the serious humanitarian problems facing the Tamil people, the Most Rev Dr Rayappu Joseph, Bishop of Mannar, was not visited. Indeed, of all the areas visited, Mannar, an important place that should have been visited, was not.

This serious omission has been partially corrected by the Most Rev Dr Rayappu Joseph and 132 men and women Christian clergy from different churches in the North and East of Sri Lanka sending a letter (18th February 2013) to The President and all members of the UN Human Rights Council:-

"Call for a strong and action-orientated resolution on Sri Lanka at the 22nd session of the UN Human Rights Council".

Impressive as it is, with some 133 Christian clergy signing this letter, there would have been more. Two sentences are particularly worrying, and clearly show the level of intimidation in Sri Lanka:-

"In the last year, those criticising and challenging the government in peaceful ways including by engagement with the UN, have been assaulted, questioned, arrested, threatened, discredited and intimidated by government ministers, officials, military and police. Victims include some of us and fellow clergy who are not signing this letter due to fear of reprisals".

This, with the attached letter sent by the Bishop of Mannar to President Rajapaksa (20th August 2012):

"Reconciliation, human rights and humanitarian concerns in the Mannar Diocese (Mannar and Vavuniya districts)"

which deals with the ground situation in detail, and makes some very constructive actions that could be taken to address the current concerns and problems, is more powerful than anything that has come out of Sri Lanka. The members of the UN Human Rights Council cannot say that they are unaware of what is going on in the Tamil areas.

While this letter by the Bishop of Mannar to the Sri Lankan President deals with the Mannar Diocese, I am well-aware that it applies to the entire Tamil North and East. This is confirmed by a letter from the ***Commission for Justice and Peace of the Catholic Diocese of Jaffna***, (10.01.2013) sent to The President and Members, Catholic Bishops' Conference of Sri Lanka who went to the North to find out the situation there, and to see for themselves the real difficulties and anxieties of the people there.

It was written by the Director/ Chairman Rev Fr S.V.B. Mangalarajah (the Patron being Rt Rev Dr Thomas Savundranayagam, th Roman Catholic Bishop of Jaffna), and sent from Bishop's House, Jaffna.

It confirms what the Most Rev Dr Rayappu Joseph said about the Diocese of Mannar.

All of these Church leaders cannot be lying or painting a picture that is inaccurate or untrue. It is much more likely that it is the GoSL which is not known for its honesty (eg the absurd claim made to this day that *"Not a single civilian was killed"*). This is despite overwhelming evidence to the contrary, not least in the 200 page Report of three internationally credible lawyers appointed by the UN Secretary General, Ban Ki-moon, which I have already cited. With claims such as this made by the GoSL, there are serious issues with the credibility of its claims.

It is this complete lack of credibility that makes an international independent investigation into war crimes mandatory. So also is the absolute need for the immediate admission of internationally credible human rights groups into the Tamil areas.

I am certain that you are well-aware of all this but the question is whether the rest of the UN Human Rights Council members appreciate (or want to appreciate) this, and more importantly, whether any of this will make the slightest difference to the way they deal with Sri Lanka – by passing *"a strong and action-orientated resolution on Sri Lanka at the 22nd session"*. If it does not, the credibility of the UN Human Rights Council will decrease even further, in addition to the Tamil people ceasing to exist as a people.

The UN HRC

I am seriously concerned as to what will happen at the 22nd session of the Human Rights Council in March 2013. I am as concerned as I was before the 19th sessions a year ago, and the pathetically weak resolution that was passed which gave the GoSL time to go on doing what it has done to the Tamil people in the North and East since the end of the armed conflict. The humanitarian situation is, if anything, worse. Two comments made by the Christian clergy in their letter of 18th February 2013 which I have quoted, are most certainly true:

- 1) Referring to the weak resolution adopted at the 19th session of the Council (March 2012) : *"....we have seen.....a total lack of political will on the part of the government to implement recommendations therein, such as the call for investigations into allegations of international law during the final stages of the conflict and cooperation with the UN Special Procedures, as evident by the lack of response to requests for country visits by 8 thematic UN Special Procedures for a number of years.*
- 2) *"We fear that at the pace these oppressive methods are carried out after the war, our identity as a people will be destroyed in the near future"*. I would say that that is genocide of the Tamil people. I use this term after careful thought and in accordance with definition of Genocide in the UN Genocide Convention.

LLRC

I am not going to deal with so-called "Lessons Learnt and Reconciliation Commission" because your Report has done so. However, in view of the extremely worrying trust that the UN HRC seems to have in this farce, giving the GoSL more and more time to implement even the minimally constructive suggestions made in the LLRC report. All I will do is to say that it is obvious that the GoSL will not implement

this, and expecting it to do so is to simply give more time to continue the slow killing of the Tamils and making them non-people.

The GoSL has not learnt any 'Lessons'. Alarming, the 'Lessons Learnt' is that it is possible for a Government to get away with mass murder and its Armed Forces to behave like an Army of occupation and treat the people in the area (Tamils) as the spoils of war.

As for 'Reconciliation', this will not happen with the triumphalism of the GoSL, and the determination of the Rajapaksa junta to make Sri Lanka into a Sinhala-Buddhist nation where there is no place for non-Sinhalese and non-Buddhists – whatever the rhetoric.

In an attempt to give this farcical LLRC credibility, the GoSL invited AI, HRW and ICG to appear before it. They refused to do so and gave the reasons for their refusal. They said that it does not meet the minimal international standards for Commissions of inquiry:-

“There is little to be gained by appearing before such a fundamentally flawed commission. Accountability for war crimes in Sri Lanka demands an independent international investigation. Thousands of civilians were killed in the last few months of the war as a result of gross violations of international law.....The Commission is nothing more than a cynical attempt by Sri Lanka to avoid serious inquiry that would bring genuine accountability”

AI went further:-

“Amnesty International urges the international community not to be deceived that the LLRC – the latest of a series of a long line of failed domestic mechanisms in Sri Lanka – will deliver justice, truth and reparations”.

AI called on the UN to immediately establish an independent, international investigation and went on to state why this was needed.

Despite this clear statement by a Nobel Prize winning organisation, nothing has been done.

The current situation

I have no doubt that you know full well what is going on. The question is whether others who are in the UN Human Rights Council, who will vote, do so (or even want to know). Nonetheless, I will set this out in the briefest outline.

The agenda of the Sri Lankan government

The agenda of the Rajapaksa regime is to make Sri Lanka into a Sinhala-Buddhist country, to destroy the reality of a Tamil North and East, change the demography of the country so that the Tamils are a minority even in the North and East (the homeland of the Tamils), prohibit any questioning of what is going on, muzzle the media, intimidate the judiciary, manipulate the Constitution, legally or illegally, sell the country to China, India and the International Monetary Fund, and anyone else who wants to buy large areas of the country, especially in the Tamil areas, and to remain in power forever.

If this means rigging elections, bribing, buying, banning or murdering political opponents, or civil society, including human rights activists, or making them 'disappear', the regime is more than willing to do so. If this means turning the guns on opponents, be they Tamil, Sinhalese or Muslims, they are ready to do so.

The GoSL believes that the international community, the UN, UN HRC, and other international organization or human rights organizations can be ignored. There are no consequences, should why should they worry? That is a failure of the UN and the UNHRC which must be addressed, given the arrogance of these murderous regimes.

Those who oppose what the Rajapaksa junta is doing are called traitors, and dealt with as such. Those outside Sri Lanka are labeled either 'Tamil Tiger terrorists' (irrespective of their ethnicity) or are accused of 'ganging up' to 'punish' Sri Lanka and destroy the 'remarkable progress' made by the GoSL.

A country with two Presidents

It is important to realize that Sri Lanka effectively has two Presidents. Mahinda Rajapaksa, the elected *de jure* President, and his brother Gotabaya Rajapaksa, the so-called 'Defense Secretary', who is the *de facto* President, an unelected man who is certainly the most powerful and feared man in Sri Lanka – not without reason.

A single example (of many) will suffice. With mounting international pressure to devolve some power to the Tamil areas, 'President' Mahinda Rajapaksa initiated the All Party Representative Conference (APRC) to look into constitutional political reform,

The APRC limped on from 2006-2009 and submitted a Report. It was never published. It was buried.

With increasing pressure, particularly from India (Delhi pressured by Tamil Nadu), 'President' Rajapaksa initiated yet another Committee – to look into a constitutional settlement (that had just been done by the APRC).

In stepped the *de facto* President, Gotabaya Rajapaksa. On 16 August 2012, in an interview to India's *Headlines Today* TV, he said, "*The existing Constitution is more than enoughDevolution-wise I think we have done enough. I don't think there is a necessity to go beyond that*". The devolution promised by 'President' Mahinda Rajapaksa stopped right there.

It is clearly important for international bodies including the UNHRC to realize this since whatever promises that 'President' Rajapaksa makes, are meaningless. If it is opposed by the so-called 'Defence Secretary', it cannot and will not be delivered. This unelected man, a former military officer who left Sri Lanka for greener pastures in the USA (and became a US citizen) returned to Sri Lanka when his brother was up for election as President. He was appointed "Defence Secretary" but is effectively running the country and has more power and less accountability than anyone else in Sri Lanka. He can block or veto anything that the 'President', the Government or Parliament decides. This is the reality which if not appreciated by the outside world, including the UN HRC, nonsense decisions will be made and Resolutions passed, which achieve nothing.

Recently Gotabaya Rajapaksa called the Editor-in-Chief of a major newspaper "*a pig who eats shit! Shit! Shit! A f.....g shit*". He went on to call for her murder, "*People hate you. They will kill you*". Wisely she fled the country and did not wait for the

inevitable – the murder in broad daylight of her predecessor, Lasantha Wickrematunga, owner-editor of the paper who was murdered in broad daylight in a suburban street in Colombo when he was on his way to work.

As for the language used by Gotabaya Rajapaksa, there has never been such vituperative and obscene language in interaction between a public servant and a member of the public or a journalist. Public servants are bound by an Establishment Code which contains norms and standards of conduct set by the Public Service Commission. They are required by an oath of office to confirm and abide by the Constitution of the country. Violation of these calls for disciplinary action, interdiction, resignation or termination. None of this applies to the 'Defence Secretary' – the *de facto* President.

Is all this relevant? Yes it is, very much so. If this man, the so-called "Defence Secretary" decides that there will be no devolution of power to the Tamils or any change in the treatment of Tamils in the North and East, it will not happen – UN HRC Resolutions or not. That is how things happen in Sri Lanka under the Rajapaksa regime.

The Agenda of the Rajapaksa junta

There is a clear agenda which is not even thinly disguised. The junta does not think it necessary to do so. It is:

1. To establish a Sinhalese-Buddhist country
2. To establish a Totalitarian regime under one family – the Rajapkasas.

It is a regime that tolerates no dissent. The opposing voice has been silenced. There is violence unleash against even those who *question* what is going on, let alone do anything about it. The Media are the mouth-piece of the regime, and those who do not do so are silenced. Since President Rajapaksa was elected (November 2005) some 35 media workers have been killed or have 'disappeared'. Scores have (wisely) fled the country. 'Reporters without Borders' has stated that Sri Lanka is one of the most dangerous countries for independent journalists.

There is rampant bribery and corruption all the way to the highest in the land and his siblings and numerous relatives and stooges.

There is a collapse of governance with hoodlums and thugs being part of the delivery of governance.

The legal system has collapsed. The Chief Justice has been interdicted and replaced by a Rajapaksa 'yes-man'.

The Central Bank is under another. If despite overwhelming evidence to the contrary, the economy is going very well (President Rajapaksa is the Minister of Finance, among several other Ministries).

The Police are the most corrupt in the world. Much of this has been documented by AI.

3. To remain in power for ever.

If this means altering the Constitution (for example, the 18th Amendment which gives the President even more power than the sweeping power he already has, it will be done – and has been). The 18th Amendment was rushed through the Courts and Parliament as an ‘Urgent Bill’. MPs did not even have the time to read the Bill, let alone debate it.

The notorious ‘Prevention of Terrorism’(PTA) continues, indeed has been enhanced, despite the Government’s claim that ‘terrorism’ has been crushed. The PTA is used to take into custody and hold incommunicado for whatever time in undisclosed places. The PTA over-rides the Constitution and the Laws of the land. The PTA gives the power to the government and the armed forces to do what they want to whomever they want with no restraints, consequences or accountability.

It is Government Terrorism, rather than a Prevention of Terrorism.

Anyone who questions this is a ‘traitor’ and, almost by definition, a Tamil Tiger ‘Terrorist’, irrespective of his ethnicity.

I will briefly deal with some of these dangerous and serious actions.

1) To make multiethnic, multicultural, multilingual, multireligious Sri Lanka, into a Sinhalese-Buddhist country.

The question is, “ What does one do with the Tamils – some 18% of the country, most of whom are Hindu or Christian”. There are four options: –

- i) Drive them out of the country. More than a million have already been, and more are leaving as asylum seekers and refugees.
- ii) Make them ‘non-people’. More than 250,000 Tamils in the North and East are ‘non-people’. They do not count.
- iii) Make them ‘disappear’ or jail them without charge or trial at undisclosed locations for ever.

Sri Lanka has the highest rate of ‘involuntary disappearances’ in the world. In 2008, Human Rights Watch published a 221-page Report, “Sri Lanka, “Disappearances” by the Security Forces, A National Crisis. *‘Recurring Nightmare: State Responsibility for ‘Disappearances and Abductions’*”.

The situation has got worse. Amnesty International, 2012, Submission to the UN Universal Periodic Review (UPR), October-November 2012. *Sri Lanka. Reconciliation at a crossroads: Continuing impunity, detentions, torture and enforced disappearances*”.

Here is what the Submission said: “*Despite commitments made by Sri Lanka during its first UPR to prevent, investigate, prosecute and punish cases of enforced disappearances, Amnesty International continues to receive reports of enforced disappearances, including of activists protesting human rights violations by the authorities*”.

Asian Human Rights Commission on 30 August 2012 (International Day of the victims of Enforced Disappearances), published a report “*Sri Lanka: Enforced*

Disappearances have become a permanent weapon in the arsenal of suppression of dissent”.

Sri Lanka now has the highest number of unresolved disappearances reported to the UN Working Group on Enforced and Involuntary ‘disappearances.

Repeated requests (over many years) for the UN Special Rapporteur to visit Sri Lanka have been ignored.

The 2012 Annual Report of the Red Cross (ICRC) stated that ICRC was trying to trace 15,780 people (up to 30 December 2011). The vast majority were males. 1,404 were children, 754 women. Of them, only 136 (0.8%) have been found.

The Sri Lankan government says that no one has ‘disappeared’. They have ‘left the country’. As such, there is no problem.

Amnesty International in a Submission to the “Convention against Torture, other Cruel, Inhuman or Degrading Treatment or Punishment”: *Sri Lanka: Briefing to Committee Against Torture*”(October 2011) stated:

“Perhaps the most shocking aspect of the criminal justice system is the overwhelmingly large number of charges which are fabricated by the police on a daily basis”.

Asylum-seekers from Sri Lanka who have been refused entry to other countries and have been deported back to Sri Lanka have been tortured, killed, have ‘disappeared’, or harassed. The Bishop of Mannar, the Most Rev Dr Rayappu Joseph in a recent appeal urged Australian authorities not to send asylum seekers from Sri Lanka back to Sri Lanka, because of what happens to them. The Australian government boasts that in just the past six months, some 800 asylum seekers from Sri Lanka (the vast majority Tamil males), have been sent back, many of them without any proper assessment, which is a violation of the UN Refugee Convention, signed and ratified by Australia. The same is true of the UK.

iv) Kill them. That is Genocide – defined in the UN Convention on the Prevention and Punishment of the Crime of Genocide, as “*An act committed with intent to destroy in whole or in part, a national, ethnic, racial or religious group*”. In Sri Lanka, the ‘part’ is the Tamils who live in the North and East.

Bombing and shooting are not the only ways to kill. The people (Tamils) are being prevented from ‘survival activities’ – agriculture and fishing, their homes, businesses, markets, hospitals and schools that had been destroyed are not being rebuilt, and are simply being excluded from the work force. All of these are occurring in the Tamil North and East, run by the (Sinhalese) Armed Forces, which runs the area like an ‘Army of Occupation’, and does what it wants with no accountability.

The “*mass killing*” of the Tamils prior to May 2009 (acute genocide), has now been replaced by “*slow killing*” (gradual genocide), or to use the word of the UN Secretary General’s Panel of Experts, “*Extermination*”. Both acute genocide and gradual genocide are being conducted by the GoSL without international witnesses. This is why it is imperative and urgent to admit AI, HRW and ICG into the Tamil North and East.

It must also be recognized that there are different types of Genocide. In addition to the generally recognized ‘Physical genocide’, there is Educational genocide, Cultural

genocide, Economic genocide and Religious genocide, which I would define as “*The intentional, backed by the act, of destroying in whole or in part the education, culture, economy and religion, of an ethnic group – the Tamils*”. The GoSL is guilty of all of them, and has not been held accountable.

2) To establish a Totalitarian State under one family – a family autocracy.

This is a gradually deteriorating situation. A ‘Democracy’ (of sorts) has been taken to a Presidential Dictatorship (the 1978 Constitution), to a Politico-Military Fascist State after President Rajapaksa was elected in November 2005, and now to a Totalitarian State under him, his brothers, family and stooges. It is the Rajapaksas who matter, no one else does.

3) To rule for ever.

The clearest example was the replacement of the 17th Amendment to the Constitution by the 18th Amendment, rushed through the Law Courts and Parliament, which gave the President even more powers than the sweeping powers that he already had. One of the President’s brothers, Basil Rajapaksa, has openly talked of ‘a family dynasty’.

The Tamil people and their human rights

I am concerned that there will be few in the UN HRC meeting in Geneva (March 2013) to set out the suffering of the Tamil people and challenge the downright lies of the Sri Lankan government. There is certainly the possibility of verbal, and even physical violence, being unleashed by the massive Sri Lankan government delegation – one of the largest, if not *the* largest from any country. You, Hon High Commissioner, were witness to some of this at the 19th session a year ago, and issued a warning that those who attended the meeting were not to be harassed on their return to Sri Lanka.

However, this warning was ignored and treated with absolute contempt. One of the President’s Ministers threatened to ‘break the bones’ of those who attended the UN HRC meeting and did not fly the Sri Lankan flag, and support the blatant lies that were being peddled by the GoSL delegation. No action was taken against him by the President or by anyone else.

The realities on the ground

1. The Tamil North and East is under military control. The military are everywhere and involved in *all* activities – civilian, commercial, administrative, educational, religious, domestic, land issues – the lot. Nothing can be done without military approval. This will not change, whatever the rhetoric of the GoSL.

The violation of human rights involves intimidation, abuse, including rape, of the Tamils, illegal detention at undisclosed places, detention without charge or trial, eviction from their lands, and land grabs by the military, the government and its (Sinhalese) supporters.

‘Resettlement’ of the Tamils is a farce, as many, especially the Christian clergy in the North and East have extensively documented.

The Tamil people have no voice. Their political representatives, with few exceptions, have gone silent, as so often happens in a Totalitarian State/Dictatorship.

2. The Tamils are the 'spoils of war'. The attitude of the Sinhalese military and Police is "*We can do what we want with them and their land. They have no say.*" This attitude is endorsed by the GoSL. There is no reason why it should change since there are no penalties, nationally or internationally.
3. 'Sinhalaisation' of the Tamil areas – replacing the Tamils with Sinhalese (many of them ex-military). There will be no Tamil homeland. This is a demographic change that is being implemented by the GoSL which cannot be reversed. The more time the GoSL is given, the more complete will be this serious change which will make the Tamils a minority even in the area of their historical habitat.
4. 'Buddhistisation' of this (Hindu and Christian) area. Buddhism will be forced down their throats whether they want it or not. Buddhist temples are now springing up everywhere, in areas where there are no Buddhists. There is even a move to make conversion to Christianity illegal. The "*Prevention of Forcible Conversion Bill*" is being considered, and will probably be passed. In a country where 70% are Buddhists, Christianity is such a threat that it has to basically be outlawed. Who defines what 'forcible' is?

Hundreds of Hindu temples and Christian churches that have been destroyed by the government forces are not being repaired. They are being replaced by Buddhist temples and Buddhist statues.

This is now spreading to Muslim mosques which are being dismantled by bigots among the Buddhist monks. The GoSL has done nothing about this religious intolerance.

International games, geopolitics and trade

Hon High Commissioner, I am sure you know all this. I am setting it out for those who are campaigning for the human rights of the Tamil people so that they realize what forces are lined up against them. It is not just the Rajapaksa regime, there is an international dimension.

As I have stated in numerous publications, addresses, interviews and dvd recordings, there are two wars in Sri Lanka.

- 1) A war by the Sri Lankan government against the Tamils. It is wrongly claimed that this is (or was) a war to crush the Liberation Tigers of Tamil Eelam (LTTE). The LTTE was not the cause of the problem but the result. The cause was Sinhala-Buddhist ethno-religious chauvinism and Sinhalese political opportunism to get the electoral support of the Sinhalese-Buddhist majority (70% of the country) to get elected to power or remain in power. It is political opportunism by a succession of Sinhalese politicians since 1956 (and even before). This fanaticism has ended in mass murder after President Rajapaksa got into office.

Crushing the LTTE (with the military support of China, India and several other countries) was presented to the world as nothing more than support for

George Bush's 'War on Terrorism'. It is a war against the Tamil people to crush them into accepting Sri Lanka as a Sinhala-Buddhist country.

- 2) An international war – China against India against USA – for the control of the Indian Ocean. US Admiral Alfred Mahan, said a hundred years ago, "Whoever controls the Indian Ocean, dominates Asia". There is no better geographical location to do this than Sri Lanka, astride the Indian Ocean.

Then there is China's "String of Pearls". This is China's access to ports and airfields, develop special diplomatic relationships, and modernize military forces that extend from the South China Sea through the Strait of Malacca, across the Indian Ocean, and on to the oil supply in the Persian Gulf.

Sri Lanka is one of these "Pearls". Hence China's physical, military and economic hold of Sri Lanka. The Rajapaksa regime is more than happy to allow China to do as she wants, in exchange for protection by China at the UN (and elsewhere) of any investigation into war crimes against Sri Lanka.

The US does not want China to control the Indian Ocean, India wants neither. All are happy to take no action to 'upset' the Rajapaksa regime. These countries cooperate with each other to keep the Rajapaksa regime happy, and compete with each other to get a foothold in Sri Lanka. A new word will have to be coined for this 'cooperation and competition' – "Co-petition".

They could not care about the human rights of the Tamils.

This is what enables the GoSL to do what it wants nationally and internationally, and why nothing has been done to act against a barbaric, murderous regime, guilty of crimes against humanity and even genocide.

UN HRC must make sure that this geopolitical agenda of these international powers, in particular, China, does not triumph over the human rights of the Tamil people, and over the crushing of democracy and the rule of law in Sri Lanka by a totalitarian regime determined to stay in power, legally or illegally, by military force if necessary.

My position

I would, despite my age, 81, have been prepared to come to Geneva to voice the plight of a voiceless people – the Tamils - and the brutally oppressive Government and its Armed Forces that have no accountability, and do what they want to whoever they want. Financial constraints have prevented me from coming to Geneva.

My own contribution has been minimal. There is little I can do for the suffering people of Sri Lanka, especially the Tamil people in the North and East, who are under the heel of a brutal, repressive and murderous (Sinhalese) Military and Police. All I can do is to address the massive disinformation campaign of the GoSL. To this end I have recorded a dozen dvds, the last of which is particularly important: ***Sri Lanka: Genocide, Crimes against Humanity, Violation of International Law***". A copy of this has already been sent to your office.

I am just about to release a booklet which I know will be of concern to you, given your past record: ***An Epidemic of Rape of Tamil Women and Girls by the Sri Lankan Armed Forces and Police in the Tamil North and East.***

Your role and the UN HRC

I hope that the few remaining voices for Human Rights – Amnesty International, Human Rights Watch, International Crisis Group, and last, but not least, yourself, will see justice delivered where brutality and injustice prevails, and see an end to the escalating human rights violations in Sri Lanka and the drift to a Totalitarian State.

That said, I am well-aware that given the structure and function of the UN Human Rights Council, to say nothing of the United Nations itself, this might be impossible.

Here is what Geoffrey Robertson QC said in an interview in London, when questioned about what action the UN Human Rights Council will take on Sri Lanka:

“The Human Rights Council is a highly politicised body. It is made up not of experts on human rights, but of paltering diplomats. Europe only has seven seats ... We have countries like Russia and China obviously concerned to keep their own internal problems down and away from international oversight.”

As someone who has been to the UN Human Rights Council and seen how it works, I think Mr Robertson's comments are justified. It is now up to you to change this.

Yours sincerely

Brian Senewiratne