



INTERNATIONAL CENTRE FOR PREVENTION AND PROSECUTION OF GENOCIDE

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## PRESS RELEASE

- FOR IMMEDIATE RELEASE -

07 December 2019

### **Brigadier Priyanka Fernando found Guilty and Convicted by British Courts**

**London:** On the 6<sup>th</sup> December 2019 Brigadier Priyanka Fernando has been found guilty and convicted under Section 4A (1) and (5) of the Public Order Act 1986 which states:

*1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he—  
a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or  
b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,  
thereby causing that or another person harassment, alarm or distress*

*5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both.*

Brigadier Fernando had been charged for committing criminal offences under the British law, by threatening with a throat slashing gesture to the Tamil People who demonstrated waving the Tamil national flag in front of the Sri Lankan Embassy in London on 4<sup>th</sup> February 2018 which marked the 70<sup>th</sup> Independence Day of Sri Lanka and 70 years of Genocide of Tamils. Prior to him making this gesture, Brigadier Fernando filmed protestors from outside the embassy before returning inside.

Following this incident, The International Centre for Prevention and Prosecution of Genocide (ICPPG) initiated a high-level diplomatic campaign urging UK Government and the FCO to convict the Sri Lankan Military Attaché. Despite the British Police refusing the arrest Brigadier Fernando, on account of his diplomatic immunity, the ICPPG assisted the victims to seek legal advice and open a private prosecution under the guidance of our legal advisor Geeth Kulasegaram.

Given the Brigadier Fernando choose to ignore the summons issued by the Westminster Magistrates Court, the Court had to hear the trial in his absence and found him found guilty. An Arrest Warrant was also issued. However, the Warrant was later withdrawn following intervention of the FCO who contacted the Court upon the pressure from the Sri Lankan government who claimed that Brigadier Fernando was immune from prosecution. As a result, the case was reopened and listed for a retrial. At the first stage of the hearing, the arguments on diplomatic immunity were heard by Emma Arbuthnot, Senior District Judge (Chief Magistrate) and it was decided that Brigadier Fernando is not entitled to claim diplomatic immunity as issuing death threat is not part of his official duties. The evidence was heard on 18<sup>th</sup> October 2019 and 19<sup>th</sup> November 2019 and the Judgment was reserved.

On 06<sup>th</sup> December 2019, the Chief Magistrate Arbuthnot handed down the landmark Judgment in an open hearing at the Westminster Magistrate Court. In which she has stated that the cut-throat gestures were made by Brigadier Fernando whilst uniformed, that Brigadier Fernando has intended to cause alarm with



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these 'purposeful gestures' whilst starting at the protesters. Arbuthnot also states that Brigadier Fernando's body language appeared 'to be arrogant and intimidating' and that Brigadier Fernando had known that his gestures would cause alarm. Arbuthnot also stated that alarm was caused to the victims in this case. Accordingly, Brigadier Fernando was found guilty and convicted. A copy of the Judgement enclosed.

In sentencing the Judge made the following remarks:

*"I note the authority held by Brigadier Fernando. He was working as a senior diplomat at the time of his behavior. He had brought disrepute and embarrassment to Sri Lanka and the army bearing in mind the seniority of his position."*

*"After these events, the Foreign Minister had had to write to the High Commissioner raising the actions of the Brigadier Fernando. I note that he had been recalled to Sri Lanka, I assumed in disgrace"*

Brigadier Fernando is also ordered to pay a total of £4,344.00 in total including a fine of £2,000.00, a Surcharge of £170.00, Compensation of £350.00 for the prosecutors and a cost of £1,824.00

**Geeth Kulasegaram** who is instrumental in this case, says *"In spite of this case being adjourned and delayed multiple times by the Defense in a desperate attempt to force us to drop the case, it has finally come to a conclusion and the ICPPG is proud to have brought justice to the victims in this matter. This also helped in restoring trust in the British Legal system"*.

The ICPPG wishes to thank the Prosecutors **Majuran Sathananthan, Palliya Guruge Vinoth Priyantha Perera** and **Gokulakrishnan Narayanasamy** and the key witnesses **Sabeshraj Sathiyamoorthy** and **Sockalingam Yogalingam**, MP of TGTE for their braveness in bringing this case and their tireless effort in continuing the case to this point.

On behalf of the Tamil Community, the ICPPG also takes this opportunity to extend our sincere gratitude to the legal team including counsel, **Peter Carter QC** leading **Shanthi Sivakumaran** and instructed solicitors **Paul Heron** and **Helen Mowatt** of the Public Interest Law Centre for their excellent and dedicated service in achieving this landmark victory. The ICPPG acknowledges the invaluable contribution of **Geeth Kulasegaram** for his support and guidance for making this prosecution possible and successful. We also thank all other lawyers and other activists who continue to support in various ways in taking this further.

## For Further Information Contact;

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**Geeth Kulasegaram** at [V.A.K.Geeth@gmail.com](mailto:V.A.K.Geeth@gmail.com) or on 07930236698 (ICPPG)



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### **About the ICPPG:**

The formation of the International Centre for the Prevention and Prosecution of Genocide (ICPPG) in London was initiated by Transnational Government of Tamil Eelam (TGTE). The ICPPG, however operates as an independent body, serving all people who have been affected by or threatened with genocide. Its immediate focus remains the genocide that occurred in Sri Lanka. The ICPPG remains as an International Non-Governmental Organisation and an Independent Legal Body and one of our primary objectives is to collect evidence against perpetrators of genocide and work towards justice, peace and reconciliation<sup>1</sup>.

We operate under the guidance of Professor Muthucumaraswamy Sornarajah LLB (Ceylon), LL.M (Yale), LL.M, PhD, LLD (London) is CJ Koh Professor at the Faculty of Law of the National University of Singapore. He is Visiting Professor at the Centre for Human Rights, London School of Economics. He was the Tunku Abdul Rahman Professor of International Law at the University of Malaya at Kuala Lumpur. He was Head of the Law School of the University of Tasmania, Australia. He studied law at the University of Ceylon, the London School of Economics, King's College, London and the Yale Law School.

We began assisting the Nations Human Rights Council (UNHRC) investigations on Sri Lanka by submitting testimonies and organising victim interviews in 2014. In its resolution [A/HRC/25/1](#) adopted in March 2014 on "Promoting reconciliation, accountability and human rights in Sri Lanka", the UNHRC requested the UN High Commissioner for Human Rights to "*undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission (LLRC), and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures mandate holders*". The Council requested the High Commissioner to present an oral update at its twenty-seventh session and a comprehensive report on the investigations at its twenty-eighth session. In accordance with this mandate, the UN High Commissioner for Human Rights established the OHCHR Investigation on Sri Lanka (OISL), based in Geneva<sup>2</sup>. The final report of the OISL commission was published in September 2015 confirming the serious violations, abuses of human rights and war crimes committed by the Sri Lankan authorities<sup>3</sup>. In the basis of this report, we continue to work with international prosecutors with a view to bringing criminal and civil prosecutions.

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<sup>1</sup> <http://icppg.org/about/>

<sup>2</sup> <https://www.ohchr.org/en/hrbodies/hrc/pages/oisl.aspx>

<sup>3</sup> [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/.../A.HRC.30.CRP.2\\_E.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/.../A.HRC.30.CRP.2_E.docx)