

IN THE PROSCRIBED ORGANISATION APPEAL COMMISSION

Appeal No: PC/04/2019

BETWEEN:

ARUMUGAM & OTHERS

APPELLANT

-and-

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

Response to the Report of Neville Hewage, Ph.D, Canada, Jayaraj Paliawadana, LLB, Solicitor, U.K. on the open Judgment in relation to Liberation Tigers of Tamil Eelam (LTTE) Proscription in the U.K. Under Terrorism Act, 2000

We, the Freedom Hunters for Tamils, are a newly established group with the primary objective of unearthing hidden human rights violations against innocent citizens of Sri Lanka. This is a human rights group which has been set up by five individuals with a view to seeking to unearth the continuous Human Rights violations of the Sri Lankan government since the weapons were silenced in May 2009 in Sri Lanka. Our vision for lasting peace and security is through a permanent political settlement to the Tamil national question by recognising the Tamil people's right to self-determination and self-rule in their Homeland in the North-East of the island of Sri Lanka.

We respectfully request that you grant us permission to intervene in this matter as we strongly feel that evidence has been submitted in Court in order to frustrate impartiality and also to mislead the Court with regard to the core issue to be considered.

We have had the opportunity of considering the report written by Neville Hewage, Ph.D. Canada and Jayaraj Paliawadana, LLB, Solicitor U.K and this constitutes Freedom Hunters For Tamils' response to that report.

In the first instance, we have strong concerns about the credibility of Mr Jeyarajah Palihawadena and his trustworthiness to testify in relation to matters on which he has expressed his opinion. Mr Jeyarajah Palihawadena is the secretary of the Organisation called Global Sri Lankan Forum whose prime objective is to work on behalf of the Sri Lankan government with regard to issues concerning ethnic problems. It is of note that its membership is exclusively limited to members who have alliance with the propaganda mission of the Sinhala government against Tamils in general and in particular against the LTTE.

Mr Jayaraj Palihawadena is a director and secretary (<https://find-and-update.company-information.service.gov.uk/officers/kX9gDhmo87ESrAvnLkNr59exXec/appointments>) of Global Sri Lanka forum (<https://globalsrilankanforum.org/>) which has been registered in the UK. The objective of this organisation is clearly stated to be based on the belief that Sri Lankan identity is based on the Sinhala language and Buddhist moral values should be protected. The structure of the organisation is focussed on protecting the Sinhala heritage and their culture. This begs the question how this writer can be impartial and provide impartial opinion when the entire focus of this organisation is upon protection of one interest of the community against the others. We have further evidence (<https://www.facebook.com/GLOBALSRILANKANFORUMUK>) that this particular individual has held himself out as a prime patriot of the Sinhala nation among the diaspora community by being involved in a mudslinging exercise of propaganda against Sri Lankan Tamils under the pretext of the LTTE.

Secondly, we have considerable concerns that the report, for the most part, is based upon claims that are not evidenced. We would refer, by way of example, to paragraph 84 of the report which raises considerable concerns. It states *“fifty-two former Tamil Terrorist fighters gained entry to the U.K. and Europe with forged documents after the armed conflict ended on May 19, 2009. These individuals refused to surrender but fought until the end. They attempted to claim asylum status by mentioning bogus claims saying that the Sri Lankan Armed Forces had tortured them with hot irons and burning cigarette stubs”*. This claim, presented as fact, is unsourced. Further, it is not known how the authors would be in a position to access secure and confidential information on 52 individuals nor how they are in a position to state that these individuals made bogus claims nor how they are able or in a position to provide detail of the content of those claims. The language and claims made without any evidence are highly inflammatory and do nothing to assist the Court in assessing the issues before it.

It is a universal fact that the LTTE has effectively silenced their arms after the end of the war and particularly the demise of their leader. They are not capable or willing to engage in armed activities. The former cadres who underwent rehabilitation are now settled with their families and there is no evidence that they are involved in violent activities. It is on the other hand the Sri Lankan government, and in particular the Rajapaksa regime, that has fostered groups to stage violence in the name of the LTTE so that they can maintain their control of power under the pretext of providing security to the Sinhala public and at the same time eliminate their political opponents. The English experts on Sri Lanka, whose standards match the benchmark, have confirmed in their reports that there are Sri Lankan intelligence services operating in the UK & Europe and facilitating information about diaspora activities of Tamils to the Sri Lankan government. Those reports have resulted in the harassment and arrest of relatives of those involved in diaspora activities in the UK and Europe.

Thirdly, the language used throughout the report smacks of partiality and is highly emotive, much of it unsourced, casting considerable doubt on the value and weight that should be attached to it. See by way of example, the language used at paragraphs 80 and 84 referred to above. The report also seeks to paint a picture of the situation in Sri Lanka which is not balanced. For example, at page 5 it is claimed that “many of the Tamil refugees in the UK originally fled Sri Lanka because of the LTTE’s persecution, not by the ruling majority”. Whilst it is correct to say that historically, many

refugees did flee persecution from the LTTE, many also fled persecution by the ruling majority and in recent years the overwhelming majority of refugees have fled the Sri Lankan authorities.

Fourthly, the report seeks to attribute conduct of individuals as attributable to the LTTE, again without evidence. For example, at paragraph 79 of the report, the writers refer to the Gang violence of Sri Lankan Tamils in Europe and UK. Again, we consider that this is simply an attempt to disgrace the Tamil Community in the eyes of the international community. Unfortunately, gang violence is a common phenomenon among youngsters in the modern community all over the world in addition to isolated individual violence being staged by individuals. An example of such individualised violence is the deadly incident of an individual of Sri Lankan heritage of Sinhala ethnicity who shot a Police officer inside the police station immediately upon being released from handcuffs on 25 September 2020 (<https://www.theguardian.com/uk-news/2020/sep/25/suspect-croydon-police-shooting-known-prevent-scheme>). Mr Jayaraj Palihawadena, who seeks to hold himself out as a human rights activist, makes no reference to this incident in the report, instead choosing to highlight the individual Tamil violence as a general characteristic of the Tamil community or in some way linked to the LTTE, whereas, as a matter of fact, there is no such link, nor is gang violence linked to one particular ethnic group.

At paragraph 90, the writers refer to an incident relating to former LTTE member Gobi which alleges that he was reviving the LTTE after the end of the war. Unfortunately, the version described in the report is no more than a claim made and fails to refer to the further evidence on this issue in news reports, describing matters somewhat differently. The Colombo Telegraph has referred to this incident as follows and in verbatim “ **Sri Lanka War Crimes Investigation Part 2**. With UK’s position clear as crystal and the revised 2nd draft now for discussion warning to an international investigation (HRC25 draft op8), the Sri Lankan government is playing out a drama that is typical of its deceitful behavior, introducing a red-herring with the appearance of the spurious case of Gobi, to divert and even wiggle out of, so it thinks, from international scrutiny that may lead to serious charges of mass atrocity crimes allegedly perpetrated by Sri Lanka’s political and military leaders and most surely the high-flying members of the ruling Rajapaksa clan including its President”.
<https://www.colombotelegraph.com/index.php/gobi-reviving-ltte-and-the-rajapaksas-game-plan-well-know-soon/>

We have information from reliable sources that Gobi and two others were captured and killed in captivity in a staged summary execution. It is the foster group of the Sri Lankan government who is involved under the pretext that it is the LTTE to seek to demonstrate to the Sinhala Population and the world that the LTTE is still alive and active.

Paragraph 92 of the report refers to a plot to attack the motorcade of Mr M. A. Sumanthiran, MP and states that Joseph Peter Robinson was arrested in Kilinochchi and was tried in the Colombo High Court in 2018. However, the objective evidence (http://www.colombopage.com/archive_19B/Oct13_1570946676CH.php) reveals that he was actually arrested in October 2019. The venue of the court itself raises questions as to the accuracy and genuineness of the information given, since they appear to have filed a case in Colombo high court, nearly 200 miles away from where the incident happened when there are high courts available within a 30 mile range (Jaffna, Vavuniya & Anuradhapura High Courts).

Paragraph 93 of the report refers to the Ex-LTTE cadre 'Anandarasa' having been surrounded by the police while carrying a bag on January 1, 2019. However the objective evidence (<https://srilankamirror.com/news/13527-ltte-member-who-brought-weapons-to-puliyankulam-escapes-to-india>) reveals that the incident took place in December 2018 and that he managed to escape to India. Further, the case was filed in the Colombo magistrates court whereas Vavuniya Magistrates Court is within a 15 mile range of the incident. The contents of this paragraph do not accurately reflect the reports on this incident and are at the very least misleading.

Paragraph 94 refers to Dr. S. Sivaruban, a Medical Officer of the Palai Hospital in Jaffna, being arrested on August 18, 2019, at Elephant Pass roadblock while trying to transport weapons Pudukudiruppu for alleged involvement in terrorist-related activities and attempting to revamp the LTTE network. However, reports confirm (<https://www.tamilguardian.com/content/tid-arrest-senior-tamil-doctor-kilinochchi-locals-protest>) that while Dr Sivaruban remains in detention reportedly with the TID in Jaffna, Palai residents protested on Tuesday calling for his release. Among several high profile cases as JMO, Dr Sivaruban provided medical reports linking the Sri Lankan army with the so called 'grease devil' attacks of 2011. He was also a key medical witness in the case of the rape and murder of a child by a member of the EPDP paramilitary group. Following the murder of an EPDP member in an internal spat, Dr Sivaruban also received death threats warning him against reporting on the case. This arrest happened in Jaffna and yet the court case was filed in Colombo.

The 'grease devil' attacks were carried out by the Sri Lankan military while the current Rajapaksa regiment was in power at that time. (<https://tamilnet.com/art.html?catid=13&artid=34477>).

Accepted Facts

It is accepted that before May 2009, the LTTE was involved in money laundering activities. However, it is not accepted that they were involved in human smuggling or drug trafficking. The LTTE's name has been widely used by smugglers in order to gain sympathy and to escape the arms of law under the pretext of being forced to be involved in such activities.

(<https://www.theguardian.com/money/2007/apr/22/crime.scamsandfraud>)

The writers state at paragraphs 37-40 that the MV Sun Sea was a commercial shipping vessel that was used to bring 492 Tamil migrants to Canada. All the 492 refugees were former members and supporters of the LTTE who fled Sri Lanka immediately after the war to escape persecution from the Sri Lankan authorities. Had they not fled in time their names would also surely have been added to those 20 000 people who are missing without any trace of evidence.

After the end of the war, some influential members close to the current regime (Namal Rajapaksa) were involved in human trafficking as it appeared to be a "golden goose". (<https://www.tamilnet.com/art.html?catid=13&artid=35317>).

We would further point out that the claims made at paragraphs 32-36, are misleading and incomplete. They refer to thirteen financiers being accused of funnelling funds to the LTTE and a case being commenced in the Swiss Federal Criminal Court. They use this to support the argument that the LTTE is involved in money laundering for terrorism. However, the writers fail to refer to the fact that in June 2018 the Swiss Federal Criminal Court acquitted 12 people of charges and that following an appeal *the Swiss Federal Court has ruled that the Tamil Tigers are not a criminal organisation and has acquitted 12 people of charges filed by the Office of the Attorney General, in December 2019.* (https://www.swissinfo.ch/eng/law---order_tamil-tigers-acquitted-in-switzerland/45409056). *Federal Criminal Court found that the hierarchical link between the LTTE and WTCC could not be sufficiently established. The judges also felt there was not enough proof to consider the LTTE a criminal group.*

The writers' opinion at paragraph 81 about parents brain washing their children living in western countries amounts to an attempt to mislead and fails to have regard to the overwhelming evidence of children of those parents excelling in many fields such as medicine, law, accountancy and health care.

When analysed deeply, the root cause of the ethnic conflict in Sri Lanka was the introduction of the Sinhala only amendment to the Constitution by S.W.R.D Badaranayake soon after his popular mandate in the year of 1956. The whole impact of this amendment comprehensively illustrated by Dr Colvin R D Silva, the architect of the 1972 constitution, warned the Prime Minister that if the

official languages of the country are two, the country would be one and, vice versa, if the official language is one, the country would be two. The same doctrine is adhered to by these individuals to the letter and spirit. Therefore, we urge that this report should not be considered firstly as credible secondly as impartial and thirdly as natural.

Finally, the report and its conclusions appear to be based almost entirely on the history of the LTTE up to its defeat in May 2009. There is very little, if any, evidence which has subsequently been substantiated to support the claim that the LTTE "is" concerned with terrorism. The analysis of this issue at paragraphs 18-57 is based upon the assumption that in the absence of the LTTE stating that they have ceased to be involved in terrorist activities, they continue. This is clearly incorrect.

Conclusion

The Political events in Sri Lanka and elsewhere after the demise of the LTTE have clearly established that there is no evidence of the LTTE being politically active inside and outside of Sri Lanka.

Since May 2009, the country has faced 3 presidential elections,3 parliamentary elections and 2 government elections. All the elections were conducted smoothly all over the island with some isolated incidents. This established the fact that Sri Lanka is relatively peaceful and free of any threats of violence. However, the Sri Lankan government continues to use the name of the LTTE and its claimed continuing existence in order to suppress their political opponents.

Some of the foster groups are specifically designed for this propaganda and intellectuals living outside Sri Lanka are being encouraged and heavily sponsored by the Sri Lankan government to compile reports of this kind and in the name of expert evidence. Therefore, we urge you not to give any weight to this report.

By Members of Freedom Hunters For Tamils

Mr Kopithas Pararajasingham
Mr Babithas Ulaganathan
Mr Geethapriyan Selvanayagam
Mr Gowreesan Sathiyanesan
Mr Danesvaran Thirunavukkarasu
Mr Hisohanth Ilayathamby
Mrs Dilrukahi Niroshima Randeniya
Mr Palitha Bandara Wasgewatta
Mr Santrapillai Thurupathan
Mr Dinesh Puvirasasingam
Mr Neelagaran Maheswara
Mr Sasiyenthiran Theivanayagam
Mr Sutharsan Kaithampillai
Mr Thivagar Alagarethnam
Mr Vinoth Theivendran
Mr Thanusanth Rasarathinam
Mr Thanushan Vikkiramathiththan
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