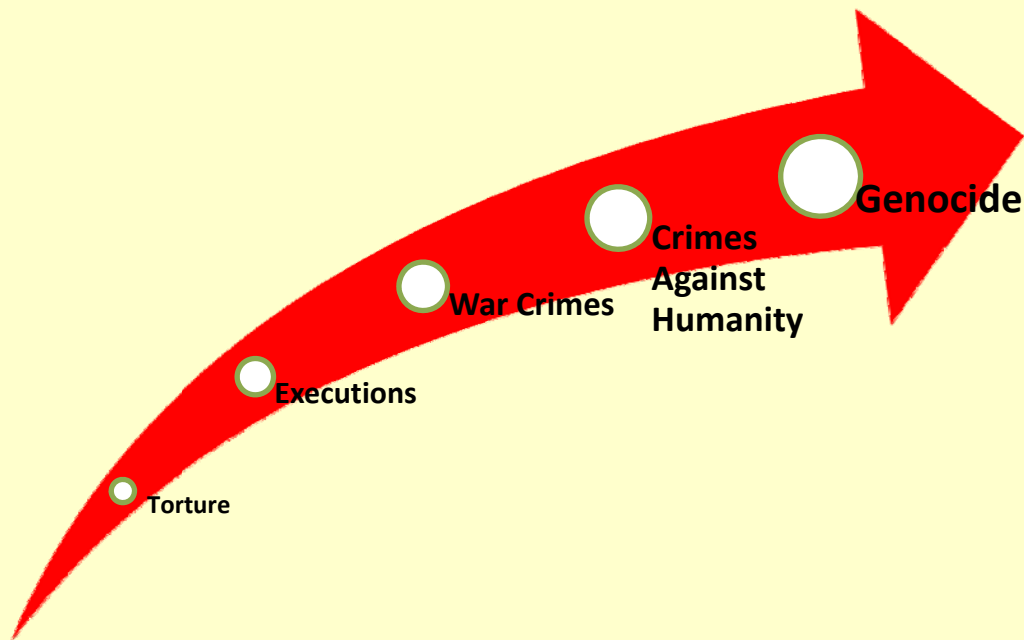


THE TRACK RECORD OF SRI LANKAN COMMISSIONS



THE NEED FOR AN INTERNATIONAL INVESTIGATION OF WAR CRIMES

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EXECUTIVE SUMMARY

The island of Sri Lanka is known by various names. Ceylon, Pearl of the Indian Ocean, Eelam, Ilankai are some of them. The majority inhabitants of this island can be divided into two linguistic groups, the Sinhalese and the Tamils. Both have lived in the island for more than 2,000 years developing their own heritage in different parts of the island. Most of the Tamils lived predominantly in the North and East of the island, while a majority of the Sinhalese lived in the South, West, and in the Central part of the island. Now, the Sinhalese are the majority with seventy percent of the population, and the Tamils are numerically the minority with twenty percent of the population. The rest of the ten percent consists of the Moors (mostly Tamil speaking Muslims) and of the Burghers (Descendants of the Dutch, Portuguese, and the British who spoke English). Historically, the Tamils and the Sinhalese lived in their independent kingdoms and had their own kings, languages, customs, culture, and legal systems. However, the governmental structure changed with the unification of all the kingdoms into one country by the British, who ruled it for nearly 150 years.

In 1948, Ceylon (renamed Sri Lanka in 1972) became independent with a parliamentary system of government, having a bicameral legislature. After independence, the majority Sinhalese members of the legislature made Sinhala the official language and started to discriminate against the minority Tamils in every aspect of life: education; government jobs, including police/army recruitments (>95% are Sinhalese); and industrial development in the North and East. Also, government sponsored colonization in the North and in the East changed the demography of the Tamil area. Since then, the Tamils have been treated as second-class citizens and, throughout their peaceful struggle for equal rights spanning thirty years, have suffered through several pogroms in the years 1958, 1960, 1972, 1977 and 1983. The late eighties saw the emergence of armed resistance by the Tamils. The predominant Tamil resistance group, the Liberation Tigers of Tamil Eelam (LTTE) was militarily defeated by the Sri Lankan forces in May 2009. This Sri Lankan offensive in the Tamil North created a humanitarian catastrophe culminating in the death of more than 40,000 Tamils.

In each and every pogrom, the human rights of the Tamils were violated. The Tamils were arbitrarily arrested; they were not equal before the law; they were afraid to express their conscience; and they could not enjoy their religion, culture, and language in a manner they wanted. Even now the Tamils' rights are continuing to be violated. In many of the pogroms, the government in power at the time of the incident was either involved in the violation of the rights or turned a blind eye when the rights were violated. Very often, the government in the opposition is the one which appoints a commission to inquire into human rights violations of the previous administration when it assumes power after periodic elections held once in five years. In other instances, a commission is appointed to circumvent international criticism.

During the past thirty-five years, eleven commissions have been appointed to investigate human rights violations. Out of the eleven, four did not submit a report either because their mandate was not extended or because the Commissioners resigned. In case the commission submitted a report, the report was shelved without publishing it and the government did not act upon it. The reports rarely criticized the government in power or its agents.

This report is written to encourage the creation of an International Commission to investigate the mass killing of an estimated 40,000 Tamils in 2009 and the war crimes committed by the Sri Lankan forces during the civil war. To substantiate the recommendation, an objective analysis of the past Sri Lankan commissions of inquiry is necessary. Thus, the author has analyzed five commissions appointed by the Sri Lankan government during the past thirty-five years to inquire into human rights violations: Sansoni Commission of 1977; Kokkaddicholai Commission of 1991; the 2001 Presidential Truth Commission of Ethnic Violence; the 2006 Presidential Commission of Inquiry; and the 2010 Lessons Learnt and Reconciliation Commission.

The Sansoni Commission heard testimony regarding two events where the Tamils' rights were violated: the first event is where the Police attacked the attendees of the fourth conference of the International Association of Tamil Research (IATR) in 1972 (death of ten Tamil civilians), and the second event was the riots against Tamils during the period August 13, 1977 to September 15, 1977 (killing over 500 Tamils). The Commission, which had only one Commissioner, former Chief Justice of the Sri Lanka Supreme Court, Mr. M.C. Sansoni, gave more weight to the Police testimony than to the lay witnesses. The Attorney General acted both as an investigator for the commission and as a counselor for the accused government employees. At the end of the inquiry, no one was prosecuted.

The Kokkaddicholai Commission (1991) investigated the death of sixty seven civilians and the disappearance of another fifty six civilians, all of them Tamils. It heard testimony against seventeen soldiers and an officer of the army as being allegedly responsible for the deaths and disappearances. The soldiers were charged for extrajudicial killings and kidnappings. Although the actions of the soldiers were beyond their military duties, the commission recommended that they be tried by a military tribunal. The military tribunal acquitted all the soldiers and punished the officer for dereliction of his duties.

Eighteen years after the pogrom of 1983, also known as Black July, the President appointed the Presidential Commission for Ethnic Violence in 2001. It was during Black July that more than 3,000 Tamils died due to planned violence against the Tamils by the government agents, including a cabinet Minister. After the riots, several Tamils in the Western and Southern part of Sri Lanka were shipped to Jaffna in the North. It also started the migration of Tamils as refugees to India, and several countries in the West including Germany, Canada, the United Kingdom, and Australia. Thus, there were hardly any witnesses to testify: they had either died

or migrated to a foreign country. Not a single prosecution resulted from this exercise. The backing of the Government during the 1983 riots cannot be better illustrated than the statement made by the then President, J. R. Jayewardene, to Ian Ward of the *London Daily Telegraph*: “I am not worried about the opinion of the Jaffna (Tamil) people now. . . The more you put pressure on the North, the happier the Sinhala people will be here. . . [R]eally, if I starve the Tamils out, the Sinhala people will be happy”

The current President of Sri Lanka invited eleven eminent persons from Australia to the United States of America to observe and guide the 2006 Presidential Commission of Inquiry. These eleven eminent persons, hailing from India, Indonesia, USA, Netherlands, Bangladesh, France, Canada, Cyprus, UK, Australia, and Japan, were known as the International Independent Group of Eminent Persons (IIGEP). They were invited especially to ensure that the commission’s work met international standards. Out of the sixteen cases included in the mandate, the two principal cases investigated by the commission are the killing of five students in Trincomalee, allegedly by the security forces, and the death of sixteen workers of the international nongovernmental organization Action Contre la Faim (ACF) in Mutur. Both cities are located in the Eastern part of Sri Lanka, and all the victims are Tamils.

After observing the commission for fourteen months, the IIGEP publicly stated that the Sri Lankan government does not have the political will to pursue the truth. It also identified the following five factors as incompatible with international standards: (a) the dual role played by the Attorney General’s Office, defending and investigating the accused; (b) lack of witness protection, before, during, and after the testimony; (c) the in-camera proceedings and inadequate protection for whistle blowers; (d) lack of cooperation by the government entities to provide information; and (e) the Commission’s lack of financial independence to carry out its duties. After releasing the above statement, the IIGEP terminated its activities. Later, some of the Commissioners resigned, and the sole Tamil Commissioner was forced to resign by the government. The government did not extend the Commission’s mandate, and the commission never published its report.

The last commission discussed in the report is the ongoing Lessons Learnt and Reconciliation Commission (LLRC) appointed by the Sri Lankan President on May 15, 2010. The goal of the President was to prevent the appointment of an International Commission by the United Nations to inquire into the alleged human rights violations during the last stages of the war between the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan military. Indiscriminate bombing of civilians and hospitals, killing of surrendering fighters, and arbitrary detention of civilians are some of the human rights violations, and all of them were committed against Tamils. Another goal of the President was to find fault with the previous government that initiated a peace process with Tamil rebels.

The LLRC's mandate did not have any provisions for the investigation of human rights violations. The United States Department of State is skeptical of the composition of the Commission because the Chairman of the Commission was the former Attorney General who was criticized by the IIGEP for his actions in the 2006 Presidential Commission of Inquiry. Although the Sri Lankan government stated that the commission is similar to the Truth and Reconciliation Commission of South Africa, Arch Bishop Desmond Tutu, a member of that commission, refuted the government's claim. He stated that the past Sri Lankan Commissions have done nothing to show that they were successful in dealing with human rights violations, and the new commission also will not reveal the truth.

In summary, the history of the Sri Lankan Commissions reveals the following:

- (a) The Politicians put pressure on the Commissioners;
- (b) The Attorney General plays a dual role, investigating and counseling the accused;
- (c) There is no witness protection before, during, and after the testimony;
- (d) There is lack of protection for whistleblowers;
- (e) The commissions are not financially independent;
- (f) The Commissioners are former long-term employees of the government;
- (g) The composition of the commission does not represent the citizens or the victims; and
- (h) The government does not act upon the Commissions' recommendations.

Thus, there is hardly any chance that the present commission, LLRC, will investigate human rights violations, let alone war crimes, when it does not even have a mandate to inquire into rights violations. The only solution is for the United Nations to appoint an International Commission to inquire into the human rights violations and war crimes committed during the final stages of the war during which an estimated 40,000 Tamils died.

1. INTRODUCTION

During the past thirty-five years, the Sri Lankan government has appointed several commissions to inquire into various human rights abuses and violations of humanitarian law. During the tenure of the commissions, many Commissioners resigned due to direct or indirect threats from the security forces and the government. The reports of many of these commissions have never been made public. Several of the witnesses who testified in these commissions have fled the country due to government threats. Some witnesses either refused to testify or, if they had testified, refused to continue testifying because they were photographed, videotaped, and intimidated by the security forces.ⁱ

There is ample reason to believe that the recent Lessons Learnt and Reconciliation Commission appointed by the Sri Lankan President Rajapaksa was formed to resist the appointment of an Independent International Commission by the United Nations to inquire into the final stages of the civil war between the Sri Lankan Government and the Liberation Tigers of Tamil Eelam (LTTE) in May 2009.ⁱⁱ Although the commission was to have public hearings, international news reporters were often not allowed;ⁱⁱⁱ if reporters were allowed, the local reporting was biased to prevent harassment from the government.^{iv} They did not report any testimony that would challenge the government.^v

During the period under discussion, two political parties from the Southern part of Sri Lanka were in power; the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP). The majority of the elected members in both parties came from the Sinhala Community, which supported both the SLFP and the UNP. Both parties have been accused of human rights violations. Irrespective of the party in power, the commissions appointed by the government served the political ideology of the government in power and were never independent.

As the objective of this paper is to inquire into the functioning of the commissions with respect to human rights violations, the first section identifies and defines the basic human rights under examination. The next section describes the various incidents which resulted in the violations of the aforementioned rights, the appointment of the particular commissions, and the final outcomes of the Commissions. It appears that these ad hoc commissions were formed to resist international pressure, to deceive the international community and receive trade benefits, and to avoid economic sanctions. Finally, the paper concludes that as long as there is no political will in the Sri Lankan government to address the consequences of human rights violations, an Independent International Commission is necessary to investigate the human rights violations which occurred during the final stages of the war between the Sri Lankan government and the LTTE when an estimated 40,000 civilians were killed.

2. HUMAN RIGHTS

Human rights are inalienable and cannot be taken away without due process of law.

“Human rights” is the concept of liberty, individually and collectively, free from abuse and misuse by political power. The General Assembly of the United Nations adopted the Universal Declaration of Human Rights on December 10, 1948, and proclaimed all human beings to be “born free and equal in dignity and rights.” The United Nations outlined the following important rights: equality before the law; protection against arbitrary arrest; freedom of thought, conscience and religion; freedom of opinion and expression. While the declaration is not a treaty, and the rights are not legally enforceable, it has obtained a legal status which was not originally intended by the member nations.

Subsequent to the Declaration of Human Rights, 132 countries signed “The International Covenant on Civil and Political Rights and Optional Protocol (ICCPR), and Sri Lanka is a signatory to the Protocol. The Covenant, in addition to the rights identified in the Universal Declaration, recognizes additional rights, such as the right to self determination and the right of ethnic, religious, or linguistic minorities to enjoy their own culture, to profess and practice their own religion and to use their own language. The Protocol also established a Human Rights Committee (HRC) consisting of eighteen members to review whether or not the states which signed the covenant have taken measures to adopt the recognized rights. The HRC can also resolve disputes between two states. The states which signed the Optional Protocol also agreed that the HRC can act upon complaints by individuals who claim that they are victims and that a state is not honoring its obligations. Although eighty-five countries signed the above first operational protocol, Sri Lanka did not sign it. It also did not sign the second protocol, which bans the death penalty.^{vi} For additional information on the treaties and instruments on human rights, the reader is referred to the following website maintained by the Office of the United Nations High Commissioner for Human Rights.

<http://www.unhchr.ch/tbs/doc.nsf/RepStatfrset?OpenFrameSet>

The human rights topics that are important to this paper are the following:

- Torture or other cruel, inhuman or degrading treatment or punishment;
- Enforced disappearances and kidnapping;
- Arbitrary and summary executions;
- Genocide; and
- Protection of civilians during war.

3. COMMISSIONS FROM 1977 TO 2010

3.1 Introduction

A commission is “a formal written warrant or authority granting certain powers or privileges and authorizing or commanding the performance of certain acts or duties.”^{vii} The Sri Lankan President has the authority to establish Special Presidential Commissions of Inquiry under law.^{viii} Although the legislation of setting up these Commissions has evolved since the Commissions of Inquiry Act No. 17 of 1948, we need not engage in a discourse about the evolution here because the goal of this report is to inquire into the merits of the Commissions established by the President to investigate human rights with particular attention to Tamil citizens’ rights.

The timeline on page 11 shows the various commissions established by the President of Sri Lanka. Each of the boxes shows the name of the commission and the date on which the commission was established. The period during which the commission was functioning is also shown in the figure. Although twelve commissions are shown in the figure, only seven commissions have completed their work and submitted a report. While the Lessons Learnt and Reconciliation Commission’s (LLRC) work is ongoing, the other three either did not submit a report or did not finish their work.

The following is a summary of these commissions’ effort:

- (a) The political pressure on the Commissioner, M. C. Sansoni, was so powerful that the sole Commissioner was unable to make independent conclusions because he relied on state evidence, rejected independent eye witnesses’ testimony and fell in line with the majority political will.
- (b) The Commission appointed to inquire into the shooting and attack by the Sri Lanka Air Force which injured the staff of Medecins Sans Frontieres (MSF) on May 3, 1991, concluded that the Air Force (Government) was not at fault even though the testimony of the injured staff of MSF and the radio recordings showed otherwise.
- (c) Contrary to International Law, the Commission appointed to inquire into the killings of civilians on June 12, 1991, by the Kokkaddicholai Army Camp soldiers, recommended a military tribunal to inquire into the extrajudicial killings.
- (d) The Presidential Commissions of 1991, 1992, and 1993, specially appointed to deflect international criticism on Sri Lanka’s human rights violations, held their inquiries in secret and never published any reports.
- (e) The three Commissions appointed in 1993, each to inquire into disappearances in three different geographical regions, found that at least in 1681 cases out of 27,526 complaints, identities of the missing persons could be established. The government interfered into the proceedings of the Commission, and it did not follow through with the recommendations.
- (f) The 1998 All Island Disappearances Commission found that 4,473 cases of missing persons could be proved as government sponsored abductions/kidnappings and that Senior Officers of the Armed Forces who committed these human rights violations continued to serve in the military establishment without being indicted.
- (g) The Presidential Truth Commission on Ethnic Violence (1981-84), appointed on July 23, 2001, after eighteen years of the massacre of more than 1,300 Tamils, did not serve any purpose because the Commission’s recommendations were ignored, and the Commission did not come up with any mechanism to address accountability

- (h) The Presidential Commission appointed in 2006 that was supposed to be an international independent commission later became a commission consisting of local professionals with observers from a group of International Independent Group of Eminent Persons (IIGEP). It was slow; it selectively chose cases to suit the political needs; it did not provide any witness protection; and it dissolved as several members resigned from the Commission.
- (i) The Commission appointed in 1995 to inquire into the torture chamber in Batalanda implicated Senior Police Officers, but the President manipulated the Commission's findings to suit her political ambitions.

Except for the Lessons Learnt and Reconciliation Commission (LLRC), the rest of the Commissions' effectiveness has been well documented in two recent publications: "Post-War Justice in Sri Lanka – Rule of Law, The Criminal Justice System and Commissions of Inquiry" by Kishali Pinto Jayawardena, International Commission of Jurists (2010) and "Twenty Years of Make-Believe Commissions of Inquiry" by Amnesty International (2009). The first publication covers extensively the effectiveness of the first ten commissions in the Timeline, while the second publication covers the effectiveness of the eleventh commission established on November 02, 2006.

The rest of this chapter describes the effectiveness of the following five Commissions dealing with human rights violations of minority Tamils in Sri Lanka:

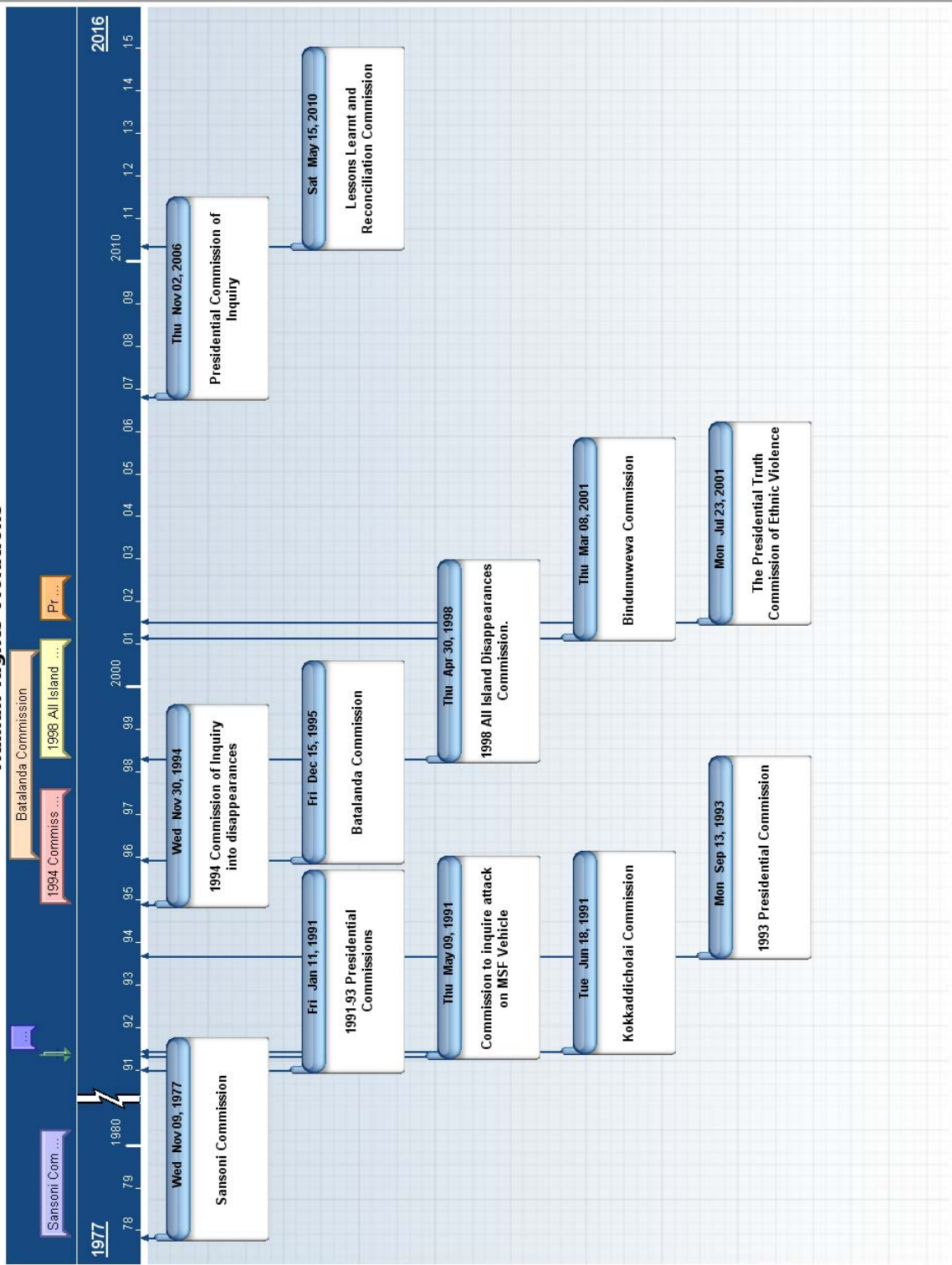
- Sansoni Commission;
- Kokkaddicholai Commission;
- The Presidential Truth Commission on Ethnic Violence;
- Presidential Commission of Inquiry 2006; and
- The Lessons Learnt and Reconciliation Commission (LLRC).

Although the first four commissions' work has already been analyzed by the aforementioned reports, new perspectives are identified in this report. Further, it is important to investigate the functioning of the LLRC with the following criteria that are essential to the success of a reconciliation commission which is attempting to heal the wounds of the affected Tamils:

- (a) The mandate of the Commission;
- (b) Independence of the Commission Members;
- (c) The representation of the Commission Members;
- (d) Providing protection to witnesses;
- (e) Resources available to the Commission;
- (f) Publication of the report; and
- (g) The government's response to the report.

Thirty Five years of Presidential Commissions

Human Rights Violations



3.2 The Sansoni Commission, 1977.

The political pressure on the only Commissioner, M. C. Sansoni, was so powerful that he was unable to make independent conclusions because he relied on state evidence, rejected independent eye witnesses' testimony and followed the political will of the majority community.

After negotiating with the Sri Lanka government to obtain their legitimate rights over a period of thirty years, and finding that the rights were eroding, the Tamil community embarked on a new mission. On May 14, 1976, the Tamil United Liberation Front (TULF), a coalition of Tamil Political parties, adopted a resolution calling for the formation of a separate state of Tamil Eelam. During the election held after the resolution was passed, the TULF obtained the second most parliamentary seats, next to the United National Party (UNP) who obtained more than two thirds of the seats in the Parliament. Consequently, the TULF was able choose the Opposition leader and Appapillai Amirthalingam became the opposition leader. It was the first time that a person from the minority Tamil community became the opposition leader since Sri Lanka received its independence in 1948.

Communal violence erupted after the elections in 1977 and swept the entire country. Although a President of the country is expected to quell the violence, President Jayewardene's statements made the situation worse. In a message to the citizens the President said, "If the Tamils want war we are ready for war," and his statement was faithfully printed as the headlines of the daily newspapers.

Although instances of civilian deaths and property damage are not well documented, some recorded instances give insight into the depth of the nationwide violence.

- (a) Tamil Passengers arriving by train at Anuradhapura station were identified, assaulted, and some were massacred.
- (b) In Galle, more than three hundred Tamils were in a Hindu temple as refugees. Several of them were injured while running away or jumping over walls and fences to escape from the armed Sinhalese gangs.
- (c) K.P. Chelliah, a Tamil businessman who had been running a grocery store in Kekirawa for decades, had to flee with the clothes he was wearing and never returned; and

- (d) K. Sivasambo, a pharmacist working at Anuradhapura Government Hospital, was found dead with his head smashed, apparently by a heavy boulder. He left his wife and three minor children.

The President, J. R. Jayewardene, appointed M. C. Sansoni, former Chief Justice of the Sri Lanka Supreme Court, as the sole Commissioner on November 9, 1997, to look into the communal violence. The abbreviated mandate is as follows: (a) the circumstances and the causes for the communal violence during the period August 13, 1977, to September 15, 1977; (b) whether any person or group of persons were involved in the conspiracy and in the commission of violent acts; and (c) to recommend measures that would prevent the recurrence of such crimes including any measures for rehabilitation^{ix}.

The value of the Commissioner's report was marginalized by the following issues:

- His conclusions in the police disturbance of the fourth conference of the International Association of Tamil Research (ITAR) were diametrically opposite to the findings of another Commission (a private commission consisting of two of his colleagues in the Supreme Court and a Bishop);
- there was political pressure on him to ensure that none of the Senior political leadership is implicated in the violence;
- admitted confessions to the Police without any corroboration; and
- involvement of the Attorney General in the examination of the Police witnesses.

Finally, in regard to accountability for civilian deaths and property damages, the report identified some police officers who belonged to the majority Sinhalese community. However, no one was punished. Further, the report also did not identify perpetrators on the basis that they acted as a group and not as individuals.

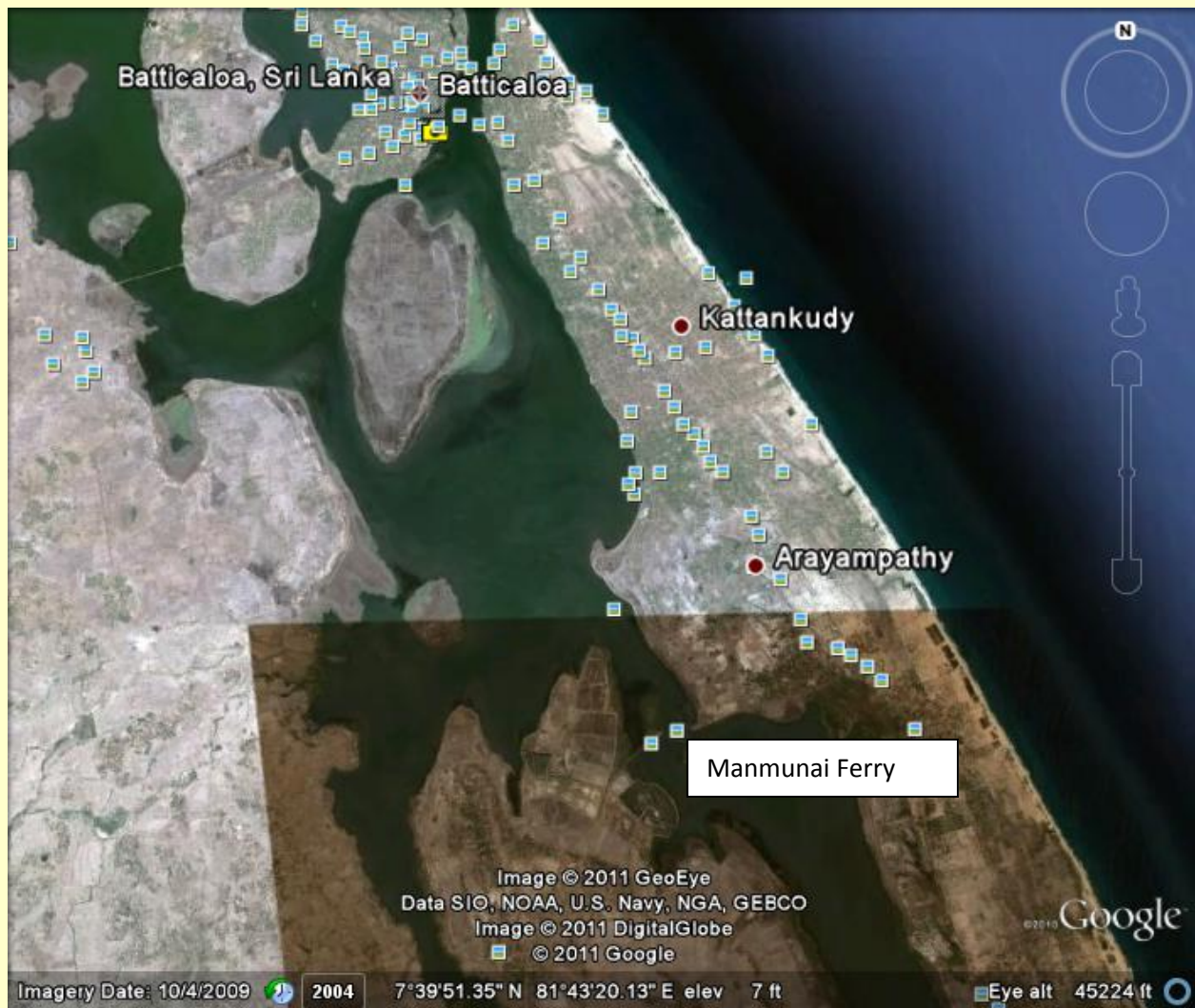
3.3 The Kokkaddicholai Commission, 1991.

Contrary to International Law, the Commission appointed to inquire into the killings of civilians on June 12, 1991, by the Kokkaddicholai Army Camp soldiers, recommended a military tribunal to inquire into the extrajudicial killings.

Soldiers travel along Kokkaddicholai-Manmunai Ferry Road, Batticaloa District, to transport grocery and general provisions. On June 12, 1991, they were following their usual routine and were returning with their provisions when a land mine exploded on their way and killed two soldiers. Another soldier was injured. In retaliation, the soldiers who were attached to the Army Camp in Kokkaddicholai, attacked the residents in the neighboring villages. The result was the death of sixty-seven civilians. However, according to the local residents, another fifty-six were missing and could not be located. Residents speculate that these missing persons were burnt to ashes and could not be identified. In addition, at least six women were raped and several houses were burnt.^x

A commission was appointed by President Premadasa on June 18, 1991, to inquire into whether the two incidents, the explosion along Kokkaddicholai-Manmunai Ferry Road and the killing, rape and arson in the villages were connected, whether the civilian deaths were caused by the armed forces, whether any criminal proceedings are necessary against any individuals or officers, and whether any proceedings should be held under military law.

The Commission submitted its report on March 9, 1992, with a finding that seventeen soldiers and an officer are responsible, but they should be inquired into by a military tribunal and not by a civil court. There were several shortcomings in the manner the proceedings were conducted. First, the Commission cross-examined the civilian witnesses but never the accused military officers. Second, the Commission did not evaluate the responsibility of the Senior Officers of the camp. Third, while the Commission found that the killings and arson were the acts of Sri Lankan soldiers, no individual soldier was linked to the crimes. Finally, the Commission concluded that there was no evidence against any particular soldier even though seventeen soldiers were charged in the deaths of the civilians.



An aerial view of Kokkaddicholai-Manmunai Ferry Road

According to international law, soldiers who are charged with extrajudicial killings and enforced disappearances are to be heard by the civilian courts and not by the military tribunals. However, the Kokkaddicholai Commission recommended that the military conduct its own investigation under military law.

The military tribunal acquitted all seventeen soldiers and found that the Commanding Officer failed to perform his duties. It found that the officer failed to control his subordinates and that he improperly disposed the dead bodies. Not a single soldier was prosecuted for any crime, either by the military tribunal or by the civil court.

3.4 The Presidential Truth Commission on Ethnic Violence, 2001.

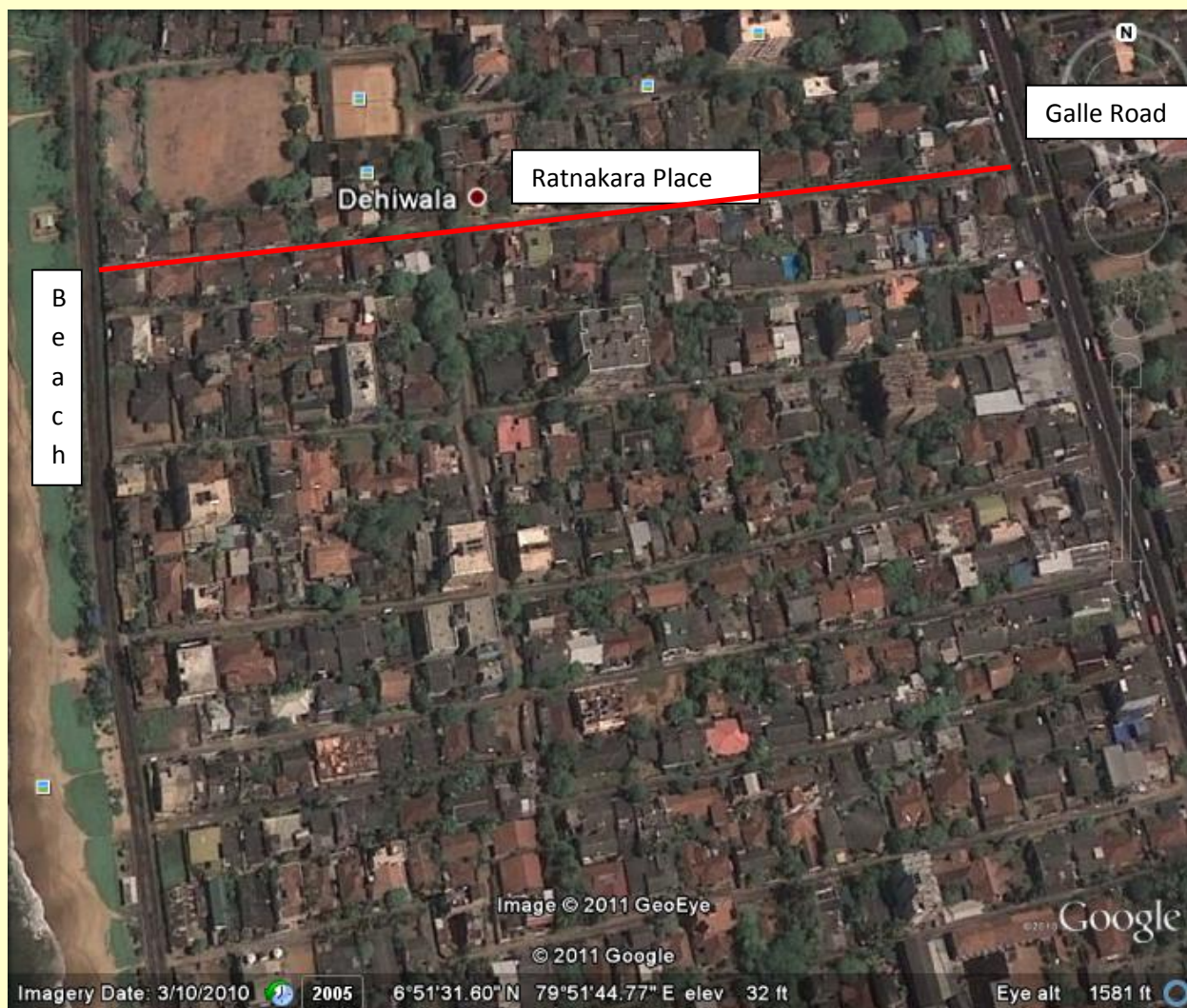
The Presidential Truth Commission on Ethnic Violence (1981-84) appointed on July 23, 2001, after eighteen years of the massacre of more than 1,300 Tamils, did not serve any purpose because the Commission's recommendations were ignored, and the Commission did not come up with any mechanism to address accountability.

On July 23, 1983, there was a sudden eruption of violence against Tamils in the entire country, excluding the Northern and some parts of the Easter province of Sri Lanka. Thousands of Tamils were brutally killed. Businesses and factories owned by Tamils were burnt and destroyed by Sinhalese consisting of thugs and organized groups. There is credible evidence that the orgy was organized and directed by Senior Ministers of the government in power at the time, President J.R. Jayewardene's government.

Using voter lists which identified the occupants of the residences, Sinhalese mobs chased and killed the Tamil occupant; several Tamil houses were looted and burned. All these took place while the Police turned a blind eye.

One such eruption took place at Ratnakara Place in Dehiwela, a suburb of Colombo. There were seventy three houses along Ratnakara Place, the majority of which were occupied by Tamil families. Most of them had been living there for nearly three decades before the riots erupted. Nearly eighty to ninety percent of the houses were burnt or damaged during the riots. One occupant, Mr. W.M.S. Kingsbury, witnessing his house on fire, attempted suicide. He was saved by the neighbors and taken to a refugee camp. Several other families in that street were trapped by rioters armed with swords and sticks entering the street from both ends, a group entering from Galle Road, the major thoroughfare from Colombo to Galle, and the other entering from the beach, where the road terminated. Some were assaulted while others escaped to go to a refugee camp, leaving all their belongings to be taken by the rioters. A majority of these refugees were shipped to safety in Jaffna.

It took the government eighteen years to set up this commission to inquire into the events of July 1983 and the human rights violations during the period 1981 to 1984. The Commission was appointed on July 23, 2001, to coincide with the eighteenth anniversary. It is no coincidence that the Commission was appointed by the President Chandrika Kumaratunga, a member of the political party that was in the opposition during J.R. Jayewardene's incumbency.



An aerial view of Ratnakara Place, Dehiwela.

Typical of Commissions appointed by the government, the mandate was to inquire into the following^{xi}:

- (a) Nature, causes and extent of human rights violations, destruction of property during the period 1981 to 1984 with particular reference to the period July 1983;
- (b) Whether any person or group of persons was responsible;
- (c) The nature and extent of damage;
- (d) Compensation that can be granted; and
- (e) Institutional, administrative, and legislative changes needed to rectify and prevent any further occurrence of such violations and promote national unity.

The findings of the Commission had no impact either on preventing human right violations or holding those accountable for their actions including individuals, public officers, or political representatives. The report did not recommend the prosecution of any individuals^{xii}.

3.5 Presidential Commission of Inquiry 2006.

The Presidential Commission appointed in 2006 that was supposed to be an international independent commission later became a commission consisting of local professionals with observers from a group of International Independent Group of Eminent Persons (IIGEP). It was slow; it selectively chose cases to suit the political needs; it did not provide any witness protection; and it dissolved as several members resigned from the Commission.

On September 04, 2006, President Mahinda Rajapaksa announced that the government would invite an international independent Commission to probe abductions, enforced disappearances, and extrajudicial killings in the entire country. However, on September 06, 2006, he announced that he would invite an International Independent Group of Eminent Persons (IIGEP) to observe the functioning of a Commission consisting of local persons who would investigate the violations. On November 02, 2006, he appointed a Commission of Inquiry to investigate serious human rights violations since August 01, 2005. Later, in February of 2007 the IIGEP was also formed.

The IIGEP consisted of the following eminent persons: Justice P.N. Bhagwati, Chairman (India), Mr. Marzuki Darusman (Indonesia), Mr. Arthur E. “Gene” Dewey (USA), Professor Cees Fasseur (Netherlands), Dr. Kamal Hossain (Bangladesh), Dr. Bernard Kouchner (France) later replaced by Judge Jean-Pierre Cot (France), Professor Bruce Matthews (Canada), IvIr. Andreas Mavrommatis (Cyprus), Professor Sir Nigel Rodley (UK), Professor Ivan Shearer (Australia), and Professor Yozo Yokota (Japan). The invitation to the eminent persons by the Sri Lanka President stated “ *[o]bserve jointly or severally the investigations and inquiries conducted by the Commission of Inquiry, with the view to satisfying that such inquiries are conducted in a transparent manner and in accordance with basic international norms and standards.*”^{xiii}

The Commission was to investigate and inquire sixteen cases as shown in the timeline in the next page: investigation meaning in camera proceedings and inquiry meaning open to the public. Out of the sixteen cases, the Commission was able to manage only five cases during its existence:

- The killing of five youths in Trincomalee on or about January 02, 2006;
- The killing of seventeen aid workers of the international nongovernmental organization, Action contre la Faim (ACF), in early August 2006;
- The death of fifty-one children in Naddalamottankulam (Sencholai) in August 2006;
- The killing of sixty-eight people at Kebithigollewa on June 15, 2006; (e) and
- The killing of ten villagers in Pottuvil.

This report will focus on the first two cases to show that the Commission was ineffective and it did not meet the requirements of international standards.

Around 7:00 p.m., January 02, 2006, a group of nine students had assembled in front of a Gandhi statue close to the beach in Trincomalee and engaged in conversation. While the students were engaged in conversation, a three-wheeled motorized vehicle passed them, and an unidentified person threw a grenade at them. With five of the students seriously injured, two of the uninjured students, Manoharan Ragihar and Yogarajah Hemachandran, tried to obtain help from passing vehicles to transport the wounded to the hospital. During that time, an army jeep drove towards the injured students. The jeep's occupants, who were masked, lifted the injured into the jeep, beat them up, pushed them back to the ground, and shot them. When the masked men also noticed Ragihar and Hemachandran seated on the ground, both were shot and killed.

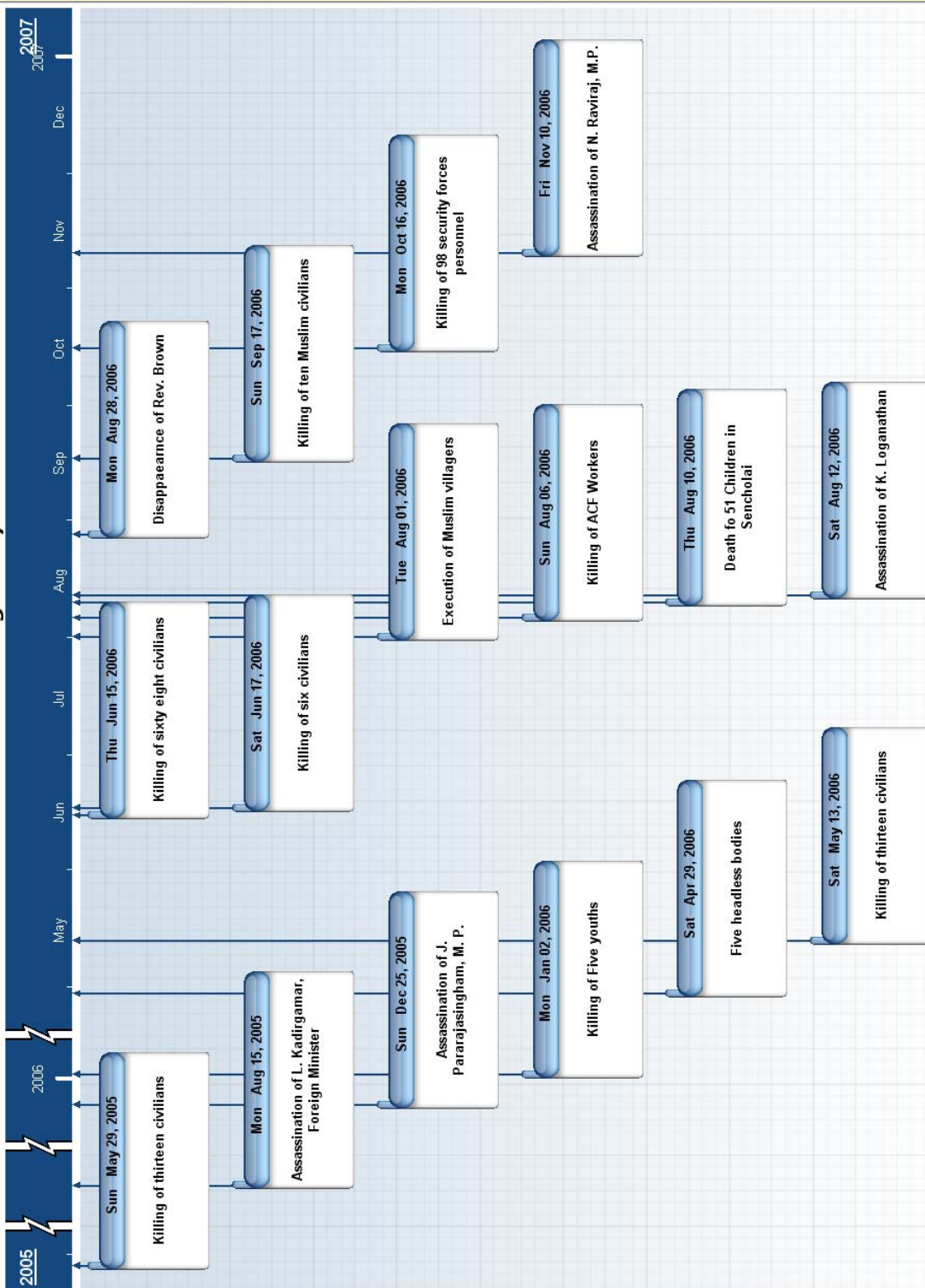
The second incident was where fifteen aid workers' bodies were found on August 06, 2006, on the front lawn of the ACF Office in Mutur, and two other aid workers' bodies were found in a nearby car. All of them had bullet wounds on the head and neck implying that they were shot point blank at close range. Incidentally, for Ponnuthurai Yogarajah, the year 2006 was a year of double tragedy as he lost two of his children: Yogarajah Hemachandran mentioned in the incident on January 02, 2006, was one of his children and Yogarajah Kodeeswaran, his eldest son, was one among the 17 aid workers of ACF killed on August 06, 2006.

"Perhaps the most telling and scandalous aspect of the Commission is the systematic intimidation of Tamil witnesses, causing so much misery in place of the justice promised by the Commission and the death of at least one – an ACF widow."^{xiv} The families of the dead and injured were threatened and compelled by the Police and Army not to testify in any legal proceedings. Except for Ragihar's parents, the majority of the families of the dead kept their silence to prevent retribution by the armed forces and the police. Dr. Kasipillai Manoharan, Ragihar's dad, complained to the Sri Lanka Monitoring Mission (SLMM), the International Committee of the Red Cross (ICRC), United Nations High Commissioner for Refugees (UNHCR), and the National Human Rights Commission of the threats to his life and his family. In addition to threats, bribes were offered as a means of preventing testimony.

The threats were so unbearable that Dr. Manoharan and the rest of the family moved to an undisclosed location. While giving testimony by video conference on March 13, 2008, he testified that the Minister of Human Rights and Disaster Management telephoned him in April 2006 to inform him that his son's death was a tragic incident, that he would receive a house in Colombo and schooling for the rest of the children, and that Dr. Manoharan should not testify.^{xv} Even the Commission's staff was not immune to threats. A former police constable informed the IIGEP staff that while he was alone in the Commission's Investigation Office, an Officer who introduced himself as an Assistant Superintendent of Police had told him "Son, you are a policeman; I don't want to teach you anything new; you have to give evidence in support of the Police. Do not forget that we are all wearing the same uniform. While you are in the Commission, we are looking after your wife and children. As long as you tell the right story, they will be safe."^{xvi}

Presidential Commission of 2006

Schedule of cases to be investigated by the Commission





Beach where the five youth were massacred, Trincomalee.

The, IIGEP^{xvii} made a public statement on April 14, 2008, that there is a “lack of political will to support a search for the truth and identified five factors that were problematic in the working of the Commission and terminated its activities by the end of March 2008:

1. Conflicting role played by the Attorney General’s office (the Chairman of the current LLRC, C. R, de Silva was the Attorney General) – on the one hand it was representing the Commission while on the other hand it was also assisting the government entities such as the police and the armed forces who were alleged to have committed human rights violations;
2. There was no witness protection during and after the life of the Commission leading a number of witnesses to flee abroad or to not testify;

3. Since its inception the Commission has had all its hearings in camera, had worked only in five cases out of the sixteen originally to have been inquired into, and has no protection for any whistleblowers;
4. The state bodies have refused to cooperate in providing information on the pretext of national security, even though such an issue does not seem to exist; and
5. The Commission does not have any financial independence having to depend on the Presidential Secretariat for funds.

The IIGEP left the country after terminating its services, and the task was never completed. The final blow to the Commission was when the only Tamil member of the Commission, K. Nesiah, was accused of a conflict of interest and forced to resign. A few months later, two other Commissioners resigned for personal reasons, and the Presidential Commission folded as its mandate was not extended.

3.6 The Lessons Learnt and Reconciliation Commission, 2010.

The Lessons Learnt and Reconciliation Commission appointed on May 15, 2010, has no mandate for accountability and was created to resist the United Nation's pressure to appoint an Independent International Investigation.

The Sri Lankan Tamils' political struggle for a separate state of Tamil Eelam, which began with the election manifesto of TULF on May 14, 1976, changed into an armed struggle shortly thereafter with the Tamil youth taking up arms. University admissions based on ethnicity and not based on merit, employment based on ethnicity and not based on qualifications, promotions in government employment based on ethnicity and not based on seniority, and economic development in the country based on ethnic regions led to a majority of Tamils supporting the armed struggle. In addition, the communal violence in July 1983 gave an impetus to the youth taking up arms.

During the next thirty-five years, the armed struggle led to a defacto Tamil Eelam in the North and East of Sri Lanka controlled by the Liberation Tigers of Tamil Eelam (LTTE), an armed group which grew to be the main Tamil group fighting for a separate state. During this period, a number of ceasefire agreements between the government and the LTTE to prevent violence, to reduce civilian killings, and to resolve the ethnic issue were broken.

In 2006, Mahinda Rajapaksa was elected as the President of Sri Lanka, and the approach to resolving the ethnic conflict changed. The Sri Lankan army, with logistical, arms, ammunition, and personnel help from China, India, and Pakistan, was able to corner all the civilians in the de facto Tamil Eelam, along with the LTTE fighters, into a small area in the eastern part of Sri Lanka. During this attack, which lasted for eighteen months, civilians moved from one safety zone to another; several civilians died while relocating to different safety zones; schools, places of worship, and hospitals were bombed; and several died due to malnutrition and lack of medical facilities. The Sri Lankan government did not allow any journalists or Non Governmental Organizations (NGO) to work in the conflict area. The only organization which worked with meager facilities was the International Committee of Red Cross (ICRC).



**Tamil civilians
moving to safety
zones**

The final assault by the Sri Lankan forces in May 2009 led to the decimation of the LTTE movement, creation of Nazi-style detention camps for more than 300, 000 Tamil civilians, and the death of nearly 40,000 Tamils. Several surrendering LTTE fighters were alleged to have been executed, and more than 10,000 civilians between the ages of 15 and 50 were taken to undisclosed locations. The fate of these civilians taken to detention camps is unknown.



One of the Nazi-style detention camps – Manik Farm, Vavuniva, Sri Lanka

The detention of 300,000 civilians in camps having no facilities, the alleged execution of surrendering LTTE fighters, the alleged detention of more than 10,000 civilians without due process of law, the bombing of hospitals and other human rights violations by the Sri Lankan government led the United Nations to embark on setting up an International Committee to inquire into possible human rights violations during the last stages of the war between the LTTE and the Sri Lankan government. The Sri Lankan government opposed it and set up its own commission arguing that it has the means and the expertise to conduct such an inquiry. The result is the setting up of the Lessons Learnt and Reconciliation Commission.

On May 15, 2010, President Rajapaksa, “in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act (Chapter 393), appointed eight members to be the Commissioners to inquire and report on the following matters that may have taken place during the period between 21st February 2002 and 19th May 2009, namely;

- (a) the facts and circumstances which led to the failure of the ceasefire agreement operationalized on 27th February 2002 and the sequence of events that followed thereafter up to the 19th of May 2009;
- (b) whether any person, group or institution directly or indirectly bears responsibility in this regard;
- (c) the lessons we would learn from those events and their attendant concerns, in order to ensure that there will be no recurrence;
- (d) the methodology whereby restitution to any person affected by those events or their dependants or their heirs, can be effected;
- (e) the institutional, administrative and legislative measures which need to be taken in order to prevent any recurrence of such concerns in the future, and to promote further national unity and reconciliation among all communities, and to make any such other recommendations with reference to any of the matters that have been inquired into under the terms of this Warrant.^{xviii}”

He appointed Chitta Ranjan de Silva Esquire, President’s Counsel and retired Attorney General to be the Chairman of the said Commission. The Commission was ordered to submit the report within six months from the date of appointment. However, on November 03, 2010, the submission date was extended till May 15, 2011.

The government’s propaganda suggested that the Commission was similar to the Truth and Reconciliation Commission (TRC) which was appointed by the South African Government in 1995 “to enable South Africans to come to terms with their past on a morally accepted basis and to advance the cause of reconciliation.”^{xix} However, Archbishop Desmond Tutu, a member of the TRC said the following in regard to the Sri Lankan government’s commissions: “The government of Sri Lanka needs to show a much greater commitment to achieving meaningful reconciliation. The ongoing persecution and disappearances of human rights activists, journalists and government opponents is truly terrifying. Unfortunately, previous internal commissions have done little to reveal the truth behind human rights abuses. It is doubtful that the President’s ‘Lessons Learned and Reconciliation Commission’ (LLRC) will help Sri Lankans to work towards lasting peace and reconciliation.”^{xxx, xxi}

The Truth and Reconciliation Commission (TRC) appointed by the South Africa Government had the following objectives:

- (1) the objectives of the Commission shall be to promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past by-
 - (a) Establishing as complete a picture as possible of the causes, nature and extent of the gross violations of human rights which were committed during the period from 1 March 1960 to the cut-off date, including the antecedents, circumstances, factors and context of such violations, as well as the perspectives of the victims and the motives and perspectives of the persons responsible for the commission of the violations, by conducting investigations and holding hearings;
 - (b) Facilitating the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective and complies with the requirements of this Act;
 - (c) Establishing and making known the fate or whereabouts of victims and by restoring the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violations of which they are the victims, and by recommending reparation measures in respect of them;
 - (d) compiling a report providing as comprehensive an account as possible of the activities and findings of the Commission contemplated in paragraphs (a) , (b) and (c) , and which contains recommendations of measures to prevent the future violations of human rights.
- (2) The provisions of subsection (1) shall not be interpreted as limiting the power of the Commission to investigate or make recommendations concerning any matter with a view to promoting or achieving national unity and reconciliation within the context of this Act.
- (3) In order to achieve the objectives of the Commission-
 - (a) The Committee on Human Rights Violations, as contemplated in Chapter 3, shall deal, among other things, with matters pertaining to investigations of gross violations of human rights;
 - (b) The Committee on Amnesty, as contemplated in Chapter 4, shall deal with matters relating to amnesty;
 - (c) The Committee on Reparation and Rehabilitation, as contemplated in Chapter 5, shall deal with matters referred to it relating to reparations;
 - (d) The investigating unit referred to in section 5 (d) shall perform the investigations contemplated in section 28 (4) (a); and
 - (e) The subcommittees, referred to in section 5 (c) , shall exercise, perform and carry out the powers, functions and duties conferred upon, assigned to or imposed upon them by the Commission.”^{xxii}

For a reconciliation commission to be effective, the commission should possess sufficient mandate and authority to inquire into human rights violations. A comparison of the LLRC’s

mandate and the TRC's objectives will show that LLRC was not set up to inquire into human rights violations.

- (a) The LLRC was given a mandate to identify the facts and circumstances which led to the failure of the ceasefire agreement which became effective on 27th February 2002 and the sequence of events that followed thereafter up to the 19th of May 2009, whereas the TRC's objective was to identify the causes, nature and extent of the gross violations of human rights which were committed during the period from the 1st of March 1960 to the cut-off date.^{xxiii}
- (b) The LLRC does not have a mandate to investigate violations of human rights and does not have a committee to investigate such violations, whereas the TRC also had a Committee to investigate violations of human rights.
- (c) The LLRC's mandate was to identify whether any person, group or institution directly or indirectly bears responsibility for the failure of the Cease Fire Agreement and the events thereafter, whereas TRC's objective was to look into the various factors which caused violations of human rights including the victims and the perpetrators.
- (d) The LLRC does not have the mandate to grant amnesty to perpetrators, whereas the TRC was authorized to grant amnesty when the perpetrators fully disclosed the facts.
- (e) The LLRC does not have the mandate to identify victims subject to human right violations, whereas TRC's objective was to identify victims and provide reparation.
- (f) The LLRC does not have a mandate to recommend measures to prevent human right violations whereas TRC's objective was to recommend methods to prevent future violations of human rights.
- (g) The LLRC is the only entity to function under the mandate, whereas TRC had three committees within the Commission: the Committee on Human Rights Violations was to investigate gross rights violations; the Committee on Reparation and Rehabilitation to deal with reparation; and the Committee on Amnesty were to deal with issues related to amnesty.

Thus, the LLRC is not similar to the TRC in investigating human rights violations, and it is highly unlikely that it will investigate human rights violations. A similar conclusion was arrived by the United States' Department of State.^{xxiv}

The US Department of State identified six factors that are important for the success of a Commission of Inquiry:

- 1) Independence of the Commission members;
- 2) Adequate representation of the Commission members;
- 3) Protection for witnesses;
- 4) Sufficient resources for the Commission;

- 5) The production of a public report by the Commission; and
- 6) The response by the government in light of the report.

The following discussion concentrates on the first three factors as the Commission's work is ongoing, and it is premature to comment on the last three factors.

First, a Commission inquiring into civil conflicts between different communities should be independent, impartial and competent . . . and be composed of members who do not have, and are not perceived as having, an interest in the outcome of the commission's work.^{xxv} Thus the composition of the Commission is important. LLRC is comprised of eight members: Chitta Ranjan de Silva, former attorney General of Sri Lanka, whose independence and appointment as Chairman to the LLRC has been questioned by the US Department of State;^{xxvi} Professor Hangawatte a former Assistant Secretary in Ministry of Justice, Sri Lanka;^{xxvii} Dr Rohan Perera staff officer in the Sri Lanka Ministry of Foreign Affairs for thirty years; Mr. Palihakkara, Sri Lanka government official for thirty-eight years, finally retiring as Foreign Secretary;^{xxviii} Mr. C. Shanmugham, a former Secretary to the Treasury of Sri Lanka; Mrs. Manohari Ramanathan, a former Legal Draftsman (The Legal Draftsman's Department is under the direction and control of the Ministry of Justice); Mr. M.P. Paranagama, a former High Court Judge; and Mr. Bafiq, a Senior Attorney at Law.

As the majority of the Commissioners have worked for the Sri Lankan government, their independence is questionable. The Sunday Leader, a leading weekly Sri Lanka newspaper, which observed the testimony of a witness, reported that the Commission's questioning was slanted to receive an answer the Commission wanted, that the Commission was manufacturing history, and that the Commission's questioning was rarely related to the last days of the war. The Sunday Leader indirectly reported that the President was controlling the Commission.^{xxix}

Next, the State Department recommends that the members should also be appointed after consultation of the communities that were affected. Although the Commission has a Tamil member, Manohari Ramanathan, "the extent to which the government of Sri Lanka consulted the Tamil community during the establishment of the commission and selection of its members is unclear."^{xxx} The Commission also has a member, Mr. Bafiq, belonging to the Muslim community, but whether he was the Muslim Community's choice is unclear. Professor M.T.M. Jiffry, belonging to the Muslim community, was the initial member who was appointed by the President, but he resigned.

Finally, the Members of the Commission and witnesses must receive adequate protection particularly when the armed forces and the government are alleged to have been involved in human rights violations. To protect the witnesses, the proceedings can be held in camera without any public being present. Further, the witnesses should be able to attend the hearings without any fear and free of any harassment subsequent to their testimony. The trend of the hearings appears to be as follows: the hearings are low key without any publicity or calling for witnesses. "It seems that when the panel came to the north[ern part of Sri Lanka], most locals

had no idea it was visiting and had difficulty getting the information they needed to come and testify. A website commentator said it even appeared that witnesses were being photographed by plainclothes police, raising serious questions on witness protection.”^{xxxix}

The LLRC does not have any specific mandate for victims who are witnesses. In contrast, the TRC had specific requirements for treating victims. The TRC had special provisions to protect victims. “ When dealing with victims, the actions of the Commission shall be guided by the following principles:

- Victims shall be treated with compassion and respect for their dignity;
- Victims shall be treated equally and without discrimination of any kind, including race, color, gender, sex, sexual orientation, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin or disability;
- Procedures for dealing with applications by victims shall be expeditious, fair, inexpensive and accessible; . . .
- Appropriate measures shall be taken in order to minimize inconvenience to victims and, when necessary, to protect their privacy, to ensure their safety as well as that of their families and of witnesses testifying on their behalf, and to protect them from intimidation. . . .”^{xxxix}

Although the commission had its hearings, none of the above measures were taken to reinforce that its functions were ever close to that of the TRC. Thus, LLRC is clearly not similar to TRC, particularly given the LLRC’s mandate which does not include human rights violations or protection for witnesses.

4. CONCLUSIONS AND RECOMMENDATIONS

Eleven commissions have been appointed by the Sri Lankan government over the past thirty-five years to investigate human rights violations. These commissions possessed similar mandates which have not materially changed over the last thirty five years. The mandate of each of the commission was to inquire into the following:

- whether there were human rights violations and the reasons for such violations;
- whether anyone or a group of persons was responsible;
- whether those responsible for the violations need to be punished;
- whether the victims need to be compensated; and
- whether any changes have to be made in the government, especially whether institutional, administrative, and legislative measures are necessary to prevent the recurrence of such violations.

These noble reasons promulgated in the mandate did not turn out to produce effective solutions to those affected by human rights violations in Sri Lanka because there was no political will to provide redress to the victims. The following paragraphs summarize the detailed analysis of the various commissions in the report.

- The Sansoni Commission failed because the Commissioner was unable to perform his duties due to political pressure from the government. Although Mr. Sansoni was the former Chief Justice of the Sri Lanka Supreme Court, he failed to exercise his independence in submitting his conclusions. Another issue that arose during the hearing was the dual role played by the Attorney General's Office, which both defended and investigated the government entity.
- The Kookkaddicholai Commission which inquired into the killings of fifty-seven civilians by the army did not recommend any prosecution against the seventeen soldiers guilty of murder, rape, and arson. Contrary to international standards, the Commission recommended that the seventeen soldiers be tried under military law even though the killings were extrajudicial.
- The Presidential Truth Commission was appointed in 2001, nearly two decades after the events of interest took place. By the time the Presidential Truth Commission was formed, many witnesses were either dead or had moved to foreign countries as refugees. Thus, the appointment of the Commission was futile.
- The 2006 Presidential Commission of Inquiry folded because the mandate was not extended, and several Commissioners resigned. The IIGEP unilaterally suspended its mission citing the dual role of the Attorney General, inadequate witness protection measures, and inadequate funding for the Commission.
- The Lessons Learnt and Reconciliation Commission of 2010, which has no mandate to look into human rights violations, which cannot recommend prosecution against those who committed human rights violations, and which cannot provide witness protection to those making complaints, is already a failed Commission.

The latest Human Rights Report published by the United States State Department^{xxxiii} has identified several issues in relation to Sri Lanka: "the government and its agents are

responsible for human rights violations; security forces continue to commit extrajudicial killings and kidnap citizens; the minority community continues to live in fear; the security forces continue to torture and abuse the detainees.” The list goes on. In such a situation, will a commission such as LLRC, whose members are past government employees, inquire into human rights violations? Citizens are arbitrarily arrested, and neither the civilian nor the military courts have convicted any police or military personnel for human rights violations. Will a commission such as the LLRC recommend that military personnel be punished for human rights violations? In the unlikely event the commission recommends prosecution of military personnel, will the Attorney General prosecute them, and will the court pass an impartial judgment because the Executive continues to influence the judiciary?

Therefore, an International Investigation by unbiased experts of human rights is essential to find out the truth of what happened during the last days of the war between the LTTE and the Sri Lankan Government where more than 40,000 Tamil civilians perished during the latter stages of the civil war in 2009. These experts should also be given the authority to recommend prosecution of any alleged violators of human rights irrespective of their positions with the Sri Lanka government. Those who have violated human rights shall also be brought to justice in front of the International Criminal Court to face charges.

References and End Notes

ⁱ A website commentator said it even appeared that witnesses were being photographed by plainclothes police, raising serious questions regarding witness protection.
http://news.bbc.co.uk/2/hi/programmes/from_our_own_correspondent/9047814.stm (last visited April 04, 2011).

ⁱⁱ The three-man panel was appointed in June by the UN secretary general to look into alleged war crimes in the final stage of the government's war with Tamil Tiger rebels in 2009. Sri Lanka vehemently opposed the move and set up its own internal commission. Sri Lanka ends Ban on UN War Crimes Probe Team,
<http://www.bbc.co.uk/news/world-south-asia-12027993> (last visited April 04, 2011).

ⁱⁱⁱ Not only was the BBC kept away from the latest northern hearings. Many of the Sri Lankan media, fearing reprisals by the state, have covered the commission sessions in a heavily one-sided way, largely ignoring the more controversial testimony., Seeking the Truth in Sri Lanka.
http://news.bbc.co.uk/2/hi/programmes/from_our_own_correspondent/9047814.stm (last visited April 04, 2011).

^{iv} Seeking the Truth in Sri Lanka,
http://news.bbc.co.uk/2/hi/programmes/from_our_own_correspondent/9047814.stm (last visited April 04, 2011).

^v Supra

^{vi} **Fact Sheet No.2 (Rev.1), The International Bill of Human Rights**
<http://www.ohchr.org/Documents/Publications/Compilation1.1en.pdf>

^{vii} Webster's Third new International Dictionary, Volume 1, 457 (1986)

^{viii} Special Presidential Commissions of Inquiry Law, Act 7 of 1978, §2, "Whenever it appears to the President to be necessary that an inquiry should be held and information obtained as to . . . any matter . . . [which] will in his opinion be in the public interest" the President can appoint a Special Presidential Commission of Inquiry.
http://www.lawnet.lk/sec_process.php?chapterid=1978Y0VOC7A§ionno=2&title=Special%20Presidential%20Commissions%20Of%20Inquiry%20Law%20&path=5 (last visited April 05, 2011)

^{ix} K. P. Jayewardene, Post-War Justice in Sri Lanka, Rule of Law, The Criminal Justice System, and Commissions of Inquiry, pp. 67-71 and 99-100, (2010).

^x Kokkaddicholai massacre and After, UTHRJ Report 8,
<http://www.uthr.org/Reports/Report8/chapter3.htm>, (last visited 03-09-2011).

^{xi} K. P. Jayawardena, Post-War Justice in Sri Lanka, Rule of Law, The Criminal Justice System, and Commissions of Inquiry pp. 97-98 (2010).

^{xii} -ibid-, pp. 106

^{xiii} IIGEP Public Statement for release on April 15, 2008 (2008) (Original with Author)

^{xiv} Third Anniversary of ACF Massacre, UTHRJ Report No: 33, <http://www.uthr.org/SpecialReports/spreport33.htm>, (last visited 03-07-2011)

^{xv} Twenty Five Years of Make-Believe Sri Lanka's Commissions of Inquiry, ASA 37/005/2009, Amnesty International, pp. 27 and 21. (2009).

^{xvi} Third Anniversary of the ACF Massacre, UTHRJ Report No: 33,
<http://www.uthr.org/SpecialReports/spreport33.htm>, (last visited 03-07-2011).

^{xvii} <http://www.ruleoflawsrilanka.org/resources/IIGEPnbspSTM.pdf>, (last visited 03-07-2011).

^{xviii} <http://www.llrc.lk/images/stories/docs/Mandate%20English.pdf> (last visited 04-14-2011).

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- ^{xix} <http://www.justice.gov.za/trc/> (last visited 04-14-2011)
- ^{xx} <http://www.theelders.org/media/mediareleases/sri-lankas-disturbing-actions-met-by-deafening-global-silence>
- ^{xxi} <http://thelede.blogs.nytimes.com/2010/08/03/desmond-tutu-rebukes-sri-lanka/>
- ^{xxii} Promotion of National Unity and Reconciliation Act 34 of 1995, <http://www.justice.gov.za/legislation/acts/1995-034.pdf> (last visited 04-14-2011)
- ^{xxiii} Date established by the Constitution of the Republic of South Africa under the heading “National Unity and Reconciliation.”
- ^{xxiv} “The warrant did not explicitly direct the commission to identify violations of internationally accepted norms in conflict situations or to identify those responsible.”
- ^{xxv} <http://www.state.gov/s/wci/srilanka/releases/145884.htm> (last visited 04-14-2011)
- ^{xxvi} “The then incumbent Attorney General (Chitta Ranjan de Silva), who in that capacity was criticized for obstructing the IIGEP’s work, has been appointed as Chairman of the LLRC”
- ^{xxvii} <http://www.state.gov/s/wci/srilanka/releases/145884.htm> (last visited 04-1-2011)
- ^{xxviii} “During the time he was in Sri Lanka, Hangawatte occupied a position in the legal research section in the Ministry of Justice and later as assistant secretary of the same ministry.”
- ^{xxviii} <http://www.asiantribune.com/news/2004/12/05/elitist-hegemony-obstacle-devolving-power-people-sri-lankan-professor-us-gives-diffe> (last visited 04-14-2011)
- ^{xxviii} http://www.defence.lk/new.asp?fname=20100517_07
- ^{xxix} <http://www.thesundayleader.lk/2010/12/19/karuna-at-the-llrc/> (last visited 04-14-2011)
- ^{xxx} Report to Congress on Measures Taken by the Government of Sri Lanka and International Bodies to Investigate Incidents During the Recent Conflict in Sri Lanka and Evaluating the Effectiveness of Such Efforts (2010).
- ^{xxx} <http://www.state.gov/s/wci/srilanka/releases/145884.htm> (last visited 04-14-2011)
- ^{xxxi} http://news.bbc.co.uk/2/hi/programmes/from_our_own_correspondent/9047814.stm
- ^{xxxii} Promotion of National Unity and Reconciliation Act 34 of 1995.
- ^{xxxii} <http://www.justice.gov.za/legislation/acts/1995-034.pdf> (last visited 04-14-2011).
- ^{xxxiii} 2010 Human Rights Report, Sri Lanka, Bureau of Democracy, Human Rights, and Labor (2011)
- ^{xxxiii} <http://www.state.gov/g/drl/rls/hrrpt/2010/sca/154486.htm> (last visited 04-09-2011).