

INTERNATIONAL
TRUTH
AND JUSTICE
PROJECT



W ITJPSL.COM
E ITJPSL@GMAIL.COM

6 March 2019

Joint Press Release: Sri Lanka sends war crimes denier to Geneva as part of official delegation.

EXECUTIVE DIRECTOR:
YASMIN SOOKA

Johannesburg: Sri Lanka is sending a Minister to represent its Government in Geneva who has systematically denied war crimes, threatened journalists and allegedly intimidated a father whose child was killed. Media reports say Mahinda Samarasinghe is part of a three-man delegation despatched to the Human Rights Council for the current session¹.

“The Minister’s job is to convince member states that Sri Lanka does intend to implement its 2015 promises to the international community regarding accountability for alleged war crimes. How can any interlocutor take him seriously in this role when he continues to deny there’s even a problem to fix,” said ITJP’s Executive Director, Yasmin Sooka.

Mahinda Samarasinghe was the Rajapaksa-era Human Rights Minister. A UN-backed international body reported that a witness, Dr Manoharan, gave sworn testimony that Mahinda Samarasinghe had contacted him by phone and told him not to talk to internationals, that members of the security forces had killed his son, and that he would assist him and his family with a new life in Colombo. This incident is well known and has been widely reported in the Sri Lankan media. The same body, the International Independent Group of Eminent Persons (IIGEP), described this in its report as:

¹ <http://www.dailynews.lk/2019/03/06/local/179455/three-representatives-attend-unhrc-session>

"...intimidation and/or attempted bribery of a material witness from the very Minister responsible for protecting human rights in Sri Lanka, but it was intimidation from a person who was, and remains part of the GoSL's team that represents Sri Lanka at international forums on human rights..".

Twelve years later, members of IIGEP would be surprised to know Minister Samarasinghe is still representing Sri Lanka in Geneva despite the change of government and professed commitment to dealing with the country's violent past.

"This shows Sri Lanka isn't serious about accountability and it doesn't even have the decency to pretend well," said Sinhalese exiled journalist Bashana Abeywardene of *Journalists for Democracy in Sri Lanka*. *"Imagine what it's like for victims and their families to see a man like this in Geneva who has systematically denied there was enforced disappearance or summary executions at the end of the war. The Minister hasn't indicated that he's changed his mind in the intervening years - quite the contrary."*

Mahinda Samarasinghe threatened reprisals against the Journalists for Democracy group in 2009 after they gave videos of naked bound prisoners being summarily executed by soldiers to Channel 4 News for broadcast². The footage was subsequently authenticated by the United Nations³. Nevertheless just last year, Mahinda Samarasinghe repeated the allegation that Channel 4 news had fabricated the execution videos⁴.

"This is a man who threatens journalists just for doing their job, who allegedly intimidates bereaved families and who denies allegations of war crimes and crimes against humanity that multiple UN bodies have investigated and found credible. UN officials and diplomats need to make it clear to the Minister how unacceptable his position is and to ask themselves how this Government can be serious about its commitments if this is their representative," said Mr Abeywardene.

In 2016, Sri Lanka sent an alleged perpetrator of torture as part of its delegation to the UN Committee Against Torture. It has yet to respond to the UN Committee's questions regarding the individual⁵.

² On October 5, 2009, at the government media briefing in Colombo, Mahinda Samarasinghe said:

"We are hoping to take action against the JDS, which gave this clip to Channel 4. By now we have obtained information about the members of this group. We will take action against them. What they have done is very wrong. We should punish them properly for deliberately fabricating something like this to destabilise the peaceful situation we have achieved."

³ UN Human Rights expert Christof Heyns on Sri Lanka video footage, Video at <https://www.youtube.com/watch?v=t9c9AWIo11A>

⁴ Video with translation of remarks by Mahinda Samarasinghe, 19 Sep 2018, <https://www.youtube.com/watch?v=8uA-mcVqOpc&feature=youtu.be>

[Sri Lanka: Renewed attack against Channel 4 documentary as "fake" \(VIDEO\)](http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/813-sri-lanka-renewed-attack-against-channel-4-war-crimes-documentary-as-fake), JDS, 24 Sep 2018,

<http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/813-sri-lanka-renewed-attack-against-channel-4-war-crimes-documentary-as-fake>

⁵ The Case Against Sisira Mendis Summary, 15 Nov 2016, <http://itjpsl.com/assets/press/The-case-against-Sisira-Mendis-final.pdf>

PRESS RELEASE: SISIRA MENDIS REWARDED NOT INVESTIGATED, 24 July 2017

<http://itjpsl.com/assets/press/Press-release-24-July-2017-on-Sisira-Mendis-2.pdf>

[UN gets no response from Sri Lanka on role of spy chief in torture](http://www.jdslanka.org/index.php/news-features/human-rights/741-uncat-sisiramendis-srilanka)

5 Feb 2018, JDS, <http://www.jdslanka.org/index.php/news-features/human-rights/741-uncat-sisiramendis-srilanka>

Dossier: Mahinda Samarasinghe

(first published Septmeber 2018⁶)

1.0 Denying Enforced Disappearances

1.1 Denial in 2007

Minister Samarasinghe is quoted in the UN Office of the High Commissioner for Human Rights investigation report into Sri Lanka (OISL) as denying reports in 2007 about people who had disappeared:

“...the then Human Rights and Disaster Management Minister, Mahinda Samarasinghe, claimed that the reports about people who disappeared were the result of the “propaganda strategy” by “a ruthless terrorist organization” which tried to “paint a bleak picture internationally to bring pressure on the government so that our resolve will be weakened. (Para. 397)”

It is worth noting this was a period when enforced disappearance was rampant – a Human Rights Watch report at the time collated 498 cases of disappearances, abductions and missing people that occurred in 2006 and 2007⁷ and even this may be an underestimate. In its 2006, 2007 and 2008 reports, WGEID indicated that it was gravely concerned at the increase in reported cases of recent enforced disappearances⁸. The UN also said in the majority of the cases of enforced disappearance the security forces were allegedly responsible⁹.

1.2 Denial in 2009

In a BBC HardTalk interview in March 2009, Minister Samarasinghe was asked about reports from Human Rights Watch that young Tamil men and women had disappeared before reaching the camps for the war displaced. He flatly denied this¹⁰. The UN Investigation report (OISL) recommended ‘an independent review of the lists of individuals registered as “surrendeeds”’ which has not happened to date.

1.3 Denial in 2018 of Summary Executions of Surrendeeds

In 2018, Mahinda Samarasinghe responded to the assertion by another Sri Lankan Minister, S.B. Dissanayake, that an LTTE leader, Colonel Ramesh, had telephoned him 10 minutes before surrendering to government forces in May 2009 whereafter he was executed. Minister Dissanayake alleged LTTE cadres who surrendered were killed. In the case of Colonel Ramesh there is video showing him alive in army custody and then later he is

⁶ <http://itjpsl.com/assets/press/24-September-2018-OMP-cabinet-committee.pdf>

⁷ Cases of "Disappearances," Abductions, and Missing Individuals Documented by Sri Lankan Human Rights Groups, <https://www.hrw.org/reports/2008/srilanka0308/srilanka0308cases.pdf>

⁸ OISL Paras. 403, 404 and 405.

⁹ OISL Para. 412.

¹⁰ BBC Hardtalk With Mahinda Samarasinghe MP, early March 2009, Transcript at http://www.businessstoday.lk/cover_page.php?article=35&issue=207

seen dead. Minister Samarasinghe however said he totally rejected his colleague's story because, "if anyone surrenders, a professional army will never take steps to kill them"¹¹. This comment by Minister Samarasinghe is of particular significance because the Office of Missing Persons has acknowledged that its priority case is the investigation into the hundreds¹² of Tamils who disappeared after surrendering in May 2009 to the Army.

2.0 Trinco 5: Alleged intimidation of a key witness and suppression of evidence

2.1 IIGEP

A confidential report to donors by the International Independent Group of Eminent Persons (IIGEP, April 2009) which assisted a Commission of Inquiry in Sri Lanka¹³ investigating 16 emblematic cases, found credible evidence that Mahinda Samarasinghe knew early on that government security forces had killed the five youths and injured others in Trincomalee in January 2006. The Minister has never disclosed that evidence.

IIGEP's report said a witness, Dr Manoharan, gave sworn testimony that Mahinda Samarasinghe had contacted him by phone and told him not to talk to internationals, that members of the security forces had killed his son, and that he would assist him and his family with a new life in Colombo. This incident has also been widely reported in the Sri Lankan media¹⁴.

IIGEP commented that:

¹¹ Translation of his remarks in Sinhala: "Our military is a professionals military. If these things were correct, I would like to ask the person who told such things (SB) how Prabhakaran's parents can be accounted for. Prabhakaran's mother and father surrendered and that responsibility was taken. Today Daya Master is living. They also surrendered and with the things they did and if it (killing surrendeers) was a policy they won't be alive. A better example is, 12,000 youth surrendered, some had cyanide capsules when surrendering, they were properly registered, they were accounted for, they have been rehabilitated and they have been reintegrated within society. That is how our military worked. We didn't take revenge from anyone. When there is a war, people from both sides die. But, if anyone surrenders, a professional army will never take steps to kill them. They didn't do that. We clearly state that. That is our stance earlier. It will be the same today and in future as well. These examples are enough, Shamindra, to show that this is a contradictory statement. If so, this story about Colonel Ramesh should have been told at that time (2009). "I spoke to him 10 minutes before surrendering and now he is not alive". This is a serious statement and I think that this claim warrants the recording of a statement, on how this came to be known. When there is a war, people from both sides die. A massive number of terrorists died. Many officers from our military also died. But, our tri-forces and police only helped those surrendered they didn't lay a hand on them. We are very clear on that."

Sinhala story and video on presser held on 19th September 2018: <http://www.radiogagana.com/2018/09/19/sri-lanka-wartime-minister-at-logger-heads-with-party-after-admitting-to-war-crimes/>

¹² ITJP Has been collecting names and photos of the disappeared: <http://www.disappearance.itjpsl.com/#filter=type:enforced&lang=english> but is still receiving additional information.

¹³ Known as "The Commission of Inquiry Appointed to Investigate and Inquire into Serious Violations of Human Rights which are alleged to have arisen in Sri Lanka since 1st August 2005".

¹⁴ For example: "Whilst military personnel intimidated Dr Manoharan, Sri Lanka's minister for human rights Mahinda Samarasinghe tried a different tact. He called the doctor and offered him a "nice house Colombo for you and your family" in exchange for dropping pursuit of the perpetrators. "We can find a nice school for your children," said Mr Samarasinghe, a politician who would go on to represent Sri Lanka at the UN Human Rights Council in Geneva". [12 years on and still no justice - Trinco 5 killings](https://www.tamilguardian.com/content/12-years-and-still-no-justice-trinco-5-killings), 2 January 2018, Tamil Guardian, <https://www.tamilguardian.com/content/12-years-and-still-no-justice-trinco-5-killings>

“The import of this evidence is that, not only does it prove that the GoSL knew early on that their forces were responsible and that there was intimidation and/or attempted bribery of a material witness from the very Minister responsible for protecting human rights in Sri Lanka, but it was intimidation from a person who was, and remains part of the GoSL’s team that represents Sri Lanka at international forums on human rights..”.

2.2 Media

It is worth noting the senior police official in charge of Trincomalee at the time of the killings was SSP Kapila Jayasekera¹⁵ and Dr. Manoharan has alleged he was responsible for the killing of his son¹⁶. Kapila Jayasekera has been promoted to Senior DIG of police and is still posted in the East of Sri Lanka in overall charge of the area¹⁷.

3.0 Denial Regarding the Final War

3.1 Casualty Figures in War

Mahinda Samarasinghe is also quoted by the UN’s OISL report as publicising what turned out to be vastly underestimated population figures for civilians in the war zone in 2009 in order to assert that sufficient food was supplied. We now know from UN reports that there were three times more people than the Minister asserted and acute food shortages with some cases of starvation. The UN Investigation concluded that the significant differences in population numbers could not be “explained by inaccuracies on the part of the Government” (Para 979).

3.2 BBC Interview

In an extraordinary interview with the BBC’s Hard Talk programme in the spring of 2009 Minister Samarasinghe denied any wrongdoing by the Sri Lankan Government in the conduct of the final phase of the war¹⁸. Local reporting of the broadcast framed it as the Minister “dismissing the biased questioning of the BBC”.

3.21 Heavy Weapons

The Minister claimed the government had stopped using heavy weapons around 20 February 2009¹⁹ – something refuted in the subsequent UN Investigation which said, “the Sri Lankan Armed Forces used indirect-

¹⁵ **The Trinco-5 And The Matale Mass Grave: Behind The Facade Of Accountability, Colombo Telegraph, 17 July 2013, <https://www.colombotelegraph.com/index.php/the-trinco-5-and-the-matale-mass-grave-behind-the-facade-of-accountability/>**

¹⁶ **“I have no doubt that Mr Kapila Jeyasekera is responsible for killing my son” said Dr Manoharan, seven years after the murder.’, Still searching for justice – 11th anniversary of Trinco 5 killings, 2 January 2017, Tamil Guardian, Still searching for justice – 11th anniversary of Trinco 5 killings**

¹⁷ **Tension in Ampara town, 27 Feb 2018, Daily Mirror Lanka, <http://www.dailymirror.lk/article/Tension-in-Ampara-town-146513.html>**

¹⁸ **BBC Hardtalk With Mahinda Samarasinghe MP, early March 2009, Transcript at http://www.businesstoday.lk/cover_page.php?article=35&issue=207**

¹⁹ **This interview is cited in OISL, Para. 749.**

fire weapons, including artillery shells and MBRLs on the three NFZs and surrounding areas, causing widespread damage to civilian infrastructure and loss of civilian lives” (Para 750). The UN also cited the Government in late April [two months after Samarasinghe said it had stopped] now announcing it would stop using heavy weapons²⁰. Moreover the UN said at this point, “the shelling did not stop, and may even have intensified according to some sources”. It is worth noting the UN said from the end of January the LTTE lacked heavy weapons (Para.86).

3.22 Zero Civilian Casualties

The Minister denied reports from a government doctor that artillery shells fired from government positions had killed 10 civilians, responding “Well we categorically deny this” and he surreally claimed the doctor had never given the interview in question. Later the Minister alleged the doctors had been forced to give false interviews by the LTTE – something they denied when free to do so. He repeated this allegation regarding the doctors again in 2018²¹.

The Minister also denied his government was responsible for any civilian casualties saying (a) civilians had not been targeted and (b) claiming the UN hadn’t accused them of this²². However the UN Panel of Experts in 2011 said there was “sustained SLA targeting of No Fire Zones” (762 OISL) and the UN OHCHR Investigation found “reasonable grounds to believe that they were deliberately targeted” (Para 864).

The UN later gave estimates for civilian deaths of 40,000 (UN Panel of Experts) and then 70,000 (Petrie Report). The UN OISL report (Para 750) added that, “At least four medical facilities - PTK, Mullaivaikkal, Udayarkaadu and Putumattalan - were shelled with unguided weapons and ammunition such as MBRLs according to witness testimonies”. Interestingly in the BBC Interview the Minister confirmed the government did know the locations of hospitals²³. With respect to hospitals, the UN’s OISL report also said that government forces “in some cases, may have deliberately targeted the facilities” (Para 789).

3.33 Detention of War Survivors

The Minister flatly denied that survivors of the war put in Manik Farm Camp were detained there against their will. However the OISL report says (Para 1072), “The IDPs were not only prohibited from leaving Manik Farm without authorization, but also could not leave the zone to which they had been assigned” and the report highlighted the role of the military in the administration of the camp, the terrifying nature of the screening process there and the appalling physical conditions. ITJP

²⁰ **Para 91: On 27 April, the Government announced that combat operations had reached their conclusion and that the security forces had been instructed “to end the use of heavy caliber guns, combat aircraft and aerial weapons which could cause civilian casualties”.**

²¹ **Video remarks in Sinhala with translation at: <https://youtu.be/8uA-mcVgOpc>**

²² **“I can tell you very frankly that neither the ICRC nor the UN at any point has said that the Government has fired into civilian positions. Of course they have said that civilians have died, but to that, we have asked them the question: How do you identify a civilian from a terrorist?”.**

²³ **“...some of these hospitals and other areas where civilians are there, the coordinates have been made available to us”.**

witnesses have described being raped while interrogated in the camp, and one identified her rapist as a military intelligence officer whom we know is still serving in the military.

I
T
J
P

3.34 Media Freedom

The Minister denied in 2009 there were any problems with journalistic freedom though the UN later said, "The number of journalists and media workers killed in Sri Lanka also ranks among the highest in the world and placed severe restrictions on freedom of expression" (OISL, Para 257). The UN OISL report has a whole section on the killing of journalists – an issue also highlighted by the domestic Lessons Learned and Reconciliation Commission in Sri Lanka. Several journalists, Sinhalese and Tamil, are still in exile despite the change of government in 2015.

4.0 Persistent Denial of War Crimes Evidence

4.1 Channel 4 Execution Footage

In 2018 Minister Samarsinghe has continued to attack Channel 4 for its coverage of the civil war, alleging it broadcast fabricated videos²⁴ at the behest of the Tamil Diaspora. The Channel 4 execution videos supplied by exiled journalists that the Government of Sri Lanka disputed were found authentic by the UN²⁵ and the UK broadcasting regulator, OFCOM²⁶.

4.2 Doctors

Minister Samarsinghe continued in 2018 to allege the government doctors who were in the war zone were forced by the LTTE to give untrue information²⁷. This is despite the fact the (a) the information the

²⁴ "As for C4 during the war, we very clearly knew it was on a political agenda. When we look at today's technology, it is very easy to create these things. At that time they fabricated them and showed them... Actually, what they (C4) wanted to do at that time was to give publicity to do what the extremist Tamil diaspora wanted to say. So, we have, our Sri Lankan High Commission there has, complained to the press council there. We took every possible step, but they didn't stop. They continued showing this. Not only them, actually others also showed them. So we can't be responsible for them. They were fake, fabricated and stage-managed things, which was shown at the time. I have to very clearly state that the military was never compelled to do such things." Translation of remarks in press conference, 19th September 2018, <http://www.radiogagana.com/2018/09/19/sri-lanka-wartime-minister-at-logger-heads-with-party-after-admitting-to-war-crimes/>

[Remarks reported in English at Sri Lanka: Renewed attack against Channel 4 documentary as "fake" \(VIDEO\), 24 September 2018, JDS. http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/813-sri-lanka-renewed-attack-against-channel-4-war-crimes-documentary-as-fake](http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/813-sri-lanka-renewed-attack-against-channel-4-war-crimes-documentary-as-fake)

²⁵ "However, the report, commissioned by the UN's Special Rapporteur on extrajudicial executions, Philip Alston, examined the video frame-by-frame and a group of experts said they could find no evidence that the video was a fake., 7 Jan 2010, Sri Lanka execution video 'appears authentic', <https://www.channel4.com/news/sri-lanka-execution-video-appears-authentic>

Also: "What is reflected in the extended video are crimes of the highest order - definitive war crimes," Heyns, said.", UN urged to probe Lanka war crimes, 30 May 2011, BBC, https://www.bbc.com/sinhala/news/story/2011/05/110530_geneva_unhrc.shtml

²⁶ Ofcom Broadcast Bulletin, Issue 192 24 October 2011, Not in Breach, Sri Lanka's Killing Fields, Channel 4, 14 June 2011, 23:05

https://www.ofcom.org.uk/__data/assets/pdf_file/0026/45926/obb192.pdf#page=45

Govt. expresses displeasure over ruling, 26 Oct 2011, Infolanka, <http://www.infolanka.com/news/IL/dm72.htm>

²⁷ "Now look, the best example is, those doctors; remember there were four doctors at that time. CNN or Al Jazeera used to take information from them daily over the phone. Those doctors were saying, now hospitals are being bombed, civilians are being killed, patients in them have died, so on and so forth. Alongside that footage containing acting is shown. Understand? Civilians are running, bombs exploding, ok? What did the doctors tell after they came out (from the war zone). The four doctors came out and said, "we were forced to

doctors gave has now been corroborated by multiple other survivor accounts and various UN investigations and (b) one such doctor has said they were forced to recant while in government custody after in his case being denied a vital operation if he didn't cooperate and having his family threatened²⁸. This amounts to psychological torture.

4.3 Denial in Geneva

In May 2011 the Minister asserted in Geneva that there were no standards to deal with conflicts like Sri Lanka's²⁹. He later claimed he had thwarted "a major international conspiracy against Sri Lanka" in being able to prevent the tabling at the Human Rights Council of the UN Panel of Experts report³⁰.

ends

say these things, so we had to talk." They asked, "what else can we do when a gun was held to our heads?" So, this is what really happened there. These were premeditated things." Translation from same press conference.

²⁸ Tamil Doctors and the Sri Lankan War, BBC Radio, 2015 <https://www.bbc.co.uk/programmes/p02w11dv>

²⁹ "There is no one set of international panacea that can apply for such a complex set of domestic issues," Minister for Plantation Industries and Special Envoy for Human Rights in Sri Lanka said", UN urged to probe Lanka war crimes, 30 May 2011, BBC, https://www.bbc.com/sinhala/news/story/2011/05/110530_geneva_unhrc.shtml.

³⁰ Sri Lanka 'defeated conspiracy at UN', 30 September 2011, BBC Sinhala, https://www.bbc.com/sinhala/news/story/2011/09/110930_mahinda_unhrc.shtml

Please note Ms. Sooka was one of the 3 experts on the Panel.

