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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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No. 1471/6 - MONDAY, NOVEMBER 13, 2006

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PART I : SECTION (I) — GENERAL

Proclamations &c., by the President

P.O. No. : CSA/10/3/8.

**BY HIS EXCELLENCY MAHINDA RAJAPAKSA, PRESIDENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

Seal

MAHINDA RAJAPAKSA

To :

1. Hon. Nissanka Kumara Udalagama Esquire
(Judge of the Supreme Court)
2. Upawansa Yapa Esquire
3. Dr. Devanesan Nesiah
4. Kanapathipillai Cathiravelpillai Logeswaran Esquire
5. Madam Manouri Kokila Muttetuwegama
6. Madam Jezima Ismail
7. Somapala Samarasinghe Srimewa Wijeratne Esquire
8. Ahamed Javid Yusuf Esquire

Greetings :

WHEREAS, allegations have been made by certain parties, regarding the commission of serious violations of human rights by various persons in furtherance of, in the context of, and associated with (a) the ongoing terrorist activities against the Government of Sri Lanka, its security forces and its people, and (b) the counter measures adopted by the security forces and the police, to arrest, suppress, or terminate such terrorist activities ;

And whereas I am of the view that, (a) causing independent and comprehensive investigations into incidents involving alleged serious violations of human rights arising since 1st August 2005 specifically including serious

violations of human rights specified in the Schedule hereto, and (b) examining the adequacy and propriety of the investigations already conducted pertaining to such incidents amounting to serious violations of human rights, are necessary, and are in the public interest, public safety and welfare of the people of the Democratic Socialist Republic of Sri Lanka;

And whereas, without prejudice to on-going investigations, inquiries, other legal processes and legal proceedings including judicial proceedings conducted by the relevant competent authorities, I am of the opinion that afore-stated investigations and inquiries conducted by the Commission of Inquiry to be appointed in terms of this Warrant, would facilitate and enable me to present the relevant material to the appropriate competent authorities of the Government of Sri Lanka including the Attorney General enabling the institution of appropriate legal action including the consideration of the institution of criminal proceedings and efficacious prosecution of those persons who have allegedly committed serious violations of human rights arising since 1st August 2005 specifically including serious violations of human rights specified in the Schedule hereto,

And whereas, for maintaining the transparency of such investigations and inquiries, and for the purpose of satisfying interested parties that such investigations and inquiries have been conducted comprehensively and in conformity with relevant basic international norms and standards, I am of the opinion that the Commission of Inquiry to be appointed in terms of this Warrant (hereinafter referred to as the 'Commission of Inquiry'), should conduct its investigations and inquiries in a manner that would enable a panel of non-Sri Lankan eminent persons of international repute appointed by me and referred to as the 'International Independent Group of Eminent Persons' to efficaciously observe such investigations and inquiries of the said Commission of Inquiry,

Now therefore I, Mahinda Rajapaksa, the President of the Democratic Socialist Republic of Sri Lanka, reposing great trust and confidence in your prudence, ability and fidelity, do in pursuance of the provisions of Section 2 of the Commissions of Inquiry Act, by these presents, appoint you the said:

1. Hon Nissanka Kumara Udalagama Esquire - Chairman (Judge of the Supreme Court) ;
2. Upawansa Yapa Esquire
3. Dr. Devanesan Nesiah
4. Kanapathipillai Cathiravelpillai Logeswaran Esquire
5. Madam Manouri Kokila Muttetuwegama
6. Madam Jezima Ismail
7. Somapala Samarasinghe Srimega Wijeratne Esquire
8. Ahamed Javid Yusuf Esquire

to be Commissioners appointed by me to the Commission of Inquiry to be constituted in terms of this Warrant. I do hereby authorize you to obtain information, investigate and inquire into alleged serious violations of human rights arising since 1st August 2005 specifically including the several incidents set out in the Schedule hereto, and inquire into investigations that have been and are being conducted by the relevant competent authorities into such incidents. I require you to within one year of the date hereof or within such extended period of time which I may by warrant prescribe, present to me a Report or such Interim Reports as may be appropriate thereon, containing the findings of your investigations and inquiries and your recommendations regarding the following matters.

1. The facts and circumstances pertaining to each of the incidents investigated and inquired into by the Commission of Inquiry.
2. The descriptions, nature and backgrounds of persons who have directly suffered death, injury or any other physical harm as a result of the incidents investigated and inquired into by the Commission of Inquiry.
3. The circumstances that may have led to or resulted in those persons referred to in paragraph 2 above, suffering such death, injury or physical harm.

4. The identities, descriptions and backgrounds of persons and groups of persons, who are responsible under the applicable laws and legal principles of Sri Lanka, for the commission of deaths, injury or physical harm to any person during, in the course of, or as a result of, any of the incidents investigated and inquired into by the Commission of Inquiry.
5. Having regard to relevant circumstances and possible reasons that may have influenced or been relevant to the conduct of investigations, examine and comment on the nature, propriety and efficacy of the investigations conducted into the incidents investigated and inquired into by the Commission of Inquiry.
6. Recommend measures that should be taken in accordance with the laws of Sri Lanka, against those persons identified under paragraph 4 above.
7. Recommend appropriate measures of reparation to be provided to the victims of serious violations of human rights investigated and inquired into by the Commission of Inquiry and to their next-of kin.
8. Recommend measures that should be taken by the Government of Sri Lanka in order to prevent the occurrence of incidents in the nature of those investigated and inquired into by the Commission of Inquiry.
9. Any other recommendations considered by the Commission of Inquiry as being relevant on its findings in terms of this Warrant.

I do hereby require and direct all state officials and other persons to whom the Commission of Inquiry to be appointed in terms of the Warrant may apply for advice, assistance, facilities, resources including necessary human, financial, and technical resources, information or material, for the purpose of necessary investigations and inquiries, to render all such advice, assistance, facilities, resources, information and material as may be properly rendered and furnished in that behalf.

I further hereby require and direct the Inspector General of Police, Commanders of the Sri Lanka Army, Navy and Air Force, and other relevant state officials to, acting in terms of directives of the Commission of Inquiry to be appointed in terms of this Warrant, provide necessary protection and assistance to the Commissioners and officials of the Commission of Inquiry, members of the International Independent Group of Eminent Persons, and witnesses of the Commission of Inquiry, who may in the opinion of the said Commission of Inquiry require such protection or assistance.

The Sessions of inquiries of the Commission of Inquiry, shall be open to the public. However, having due regard to the sensitive nature of the information and material that may be received and or adduced at the inquiries, the disclosure of which may be prejudicial to national security, public safety or wellbeing, I do hereby direct that either that the entirety of parts of the inquiries into the aforesaid matters set out in this Warrant shall in the discretion of the Commissioners be not held in public or that any section of the public be excluded from the relevant inquiries. Provided however, notwithstanding the exclusion of the public, members of the International Independent Group of Eminent Persons shall be entitled to be present and observe throughout all investigations and sessions of inquiries of the Commission of Inquiry.

And I do hereby declare that the provisions of section 14 of the aforesaid Commissions of Inquiry Act shall apply to this Commission.

I do hereby declare and state my intention to, within two months of the receipt by me, forward the Reports of the Commission of Inquiry to be appointed in terms of this Warrant and any other material referred to and presented to me along with the said Reports, to the relevant competent authorities of the Government of Sri Lanka including the Attorney General, for their consideration of the initiation of necessary action to implement the recommendations of the Commission of Inquiry including the consideration of the institution of criminal proceedings. Upon receipt of such material, the Attorney General shall as soon as possible, consider, if required take necessary further action, and where appropriate institute necessary criminal proceedings against persons found to have been responsible for committing serious violations of human rights. The other competent authorities shall also consider and where appropriate take necessary action to implement the other recommendations of the Commission of Inquiry.

I do hereby declare and state my intention to, after excluding any material which in my opinion may be prejudicial to or absolutely necessary for the protection of, national security, public safety or wellbeing, and immediately following the relevant competent authorities of the Government of Sri Lanka including the Attorney General finally decides on the implementation of the recommendations of the Commission of Inquiry and institutes necessary legal action, publish in the Government *Gazette* the Reports of the Commission of Inquiry and table them in the Parliament.

Given at Colombo, under the seal of the Democratic Socialist Republic of Sri Lanka, on this Third day of November, 2006.

By His Excellency's command,

LALITH WEERATUNGA,
Secretary to the president.

SCHEDULE

1. The Assassination of the Foreign Minister of Sri Lanka Hon. Lakshman Kadirgamar, PC.
2. The killing of seventeen (17) aid workers of the international non-governmental organization *Action Contre Law Faim*, in early August 2006.
3. The alleged execution of Muslim villagers in Muttur in early August 2006 and the execution at Welikanda of 14 persons from Muttur who were being transported in ambulances.
4. The assassination of Mr. Joseph Pararajasingham, Member of Parliament on 25th December 2005.
5. The killing of (five) 5 youths in Trincomalee on or about 2nd January 2006.
6. The Assassination of the Deputy Director General of the Sri Lanka Peace Secretariat Mr. Ketheesh Loganathan on 12th August 2006.
7. Death of fifty one (51) persons in Naddalamottankulam (Sencholai) in August 2006.
8. Disappearance of Rev. Nihal Jim Brown of Philip Neri's Church at Allaipidi on 28th August 2006.
9. Killing of five (5) fishermen and another at Pesalai beach and at the Pesalai Church on 17th June 2006.
10. Killing of thirteen (13) persons in Kayts Police area on 13th May 2006.
11. Killing of ten (10) Muslim villagers at Radella in Pottuvil police area on 17th September 2006.
12. Killing of sixty eight (68) persons at Kebithigollewa on 15th June 2006.
13. Incident relating to the finding of five (5) headless bodies in Avissawella on 29th April 2006.
14. Killing of thirteen (13) persons at Welikanda on 29th May 2005.
15. Killing of ninety eight (98) security forces personnel in Digampathana, Sigiriya, on 16th October 2006.