

8th November 2014

Prince Zeid Ra'ad Al Hussein
High Commissioner for Human Rights
Office of the High Commissioner for Human Rights
Geneva

Dear High Commissioner,

I write with reference to the News Release by your office dated 7 November 2014 titled 'Zeid condemns persistent disinformation designed to discredit UN Investigation on Sri Lanka'.

It is extremely regrettable that a News Release should have been issued on this matter attributed personally to you questioning the integrity of the Government of a sovereign nation which has been a member of the United Nations since 1955. As you would be aware, Sri Lanka has contributed consistently to the United Nations system in numerous capacities by taking a lead in norm setting processes including the Law of the Sea Conference, disarmament and human rights.

It is unfortunate that your News Release has been issued without making any attempt to understand the context or content apparent from the Media Release of the Ministry of External Affairs dated 5th November 2014.

In fact, the OHCHR has been inept in comprehending for reasons best known to it that the thrust of the concerns expressed by the Government of Sri Lanka related to the flawed procedure of the OHCHR Investigation on Sri Lanka (OISL).

The Government of Sri Lanka, its departments and agencies made no attempt whatsoever to prevent bona fide witnesses from submitting information to the investigation team. Neither was any attempt made to deter and intimidate individuals from submitting evidence. The submissions that the Investigation would have received by now would stand to prove this fact.

The Government of Sri Lanka informed a selected group of Ambassadors and Representatives based in Colombo, about the revelations made by an individual who was apprehended on the grounds of being a non-rehabilitated LTTE cadre. These revelations included him being employed to collect signatures of persons affected by the conflict on blank forms by deceiving them into believing that they would be granted monetary compensation by the UN. The forms were to then be used to submit false and fabricated information to the OISL. This information was shared by the Government in

order to caution the interlocutors on attempts being made at manipulating the investigation process.

Connected to this issue was the Government's concern regarding the response of the OHCHR Spokesperson to a Sri Lankan newspaper that although officially the deadline for submissions was October 30th and will not be extended, submissions arriving late would not be necessarily refused as some material may take time to arrive. This is in contravention of the original deadline established in the OISL announcement. This statement by the Spokesperson implies that only some material arriving late would be admitted, the basis for which is unknown. However, it is astonishing that your News Release at this juncture seeks to confirm the said deadline for submissions and the closure of the e-mail address. Such conflicting positions only serve to call into question the integrity of the OISL process.

As the OHCHR is well aware, when the Lessons Learnt and Reconciliation Commission (LLRC) was in session, the venues and dates of hearings were made known to the public. This was to ensure that no individual or organization, local or foreign, would be excluded from accessing the Commission. The Commission to Investigate Complaints Regarding Missing Persons in the Northern and Eastern Provinces whose mandate was expanded in July 2014 operates on the same basis. It is in this context that the Government of Sri Lanka expected the OISL which claims to be the embodiment of best practices with regard to conducting investigations to at least maintain the same level of transparency to facilitate access to the public.

With regard to your position on trained investigators, it is only reasonable for the OHCHR to have explained this fact in a professional manner while assuring the Government that the Investigation will exercise vigilance regarding attempts by parties to manipulate the system. Instead, you have challenged the right of a sovereign State to raise concerns regarding procedural aspects of an Investigation which impacts its people and their future in the context of the ongoing sensitive reconciliation process.

The Government's categorical rejection of the investigation established by the Human Rights Council is not tantamount to concealing information. The Government of Sri Lanka has steadfastly maintained that it owes to the country's dignity not to subject its people to an investigation that does not conform to even the minimum requisites of justice and fairplay. This position has been overwhelmingly endorsed by the national Parliament. It is a principled position which the Government chose to take that was supported by many countries in the Council.

The OHCHR would recall that the Government of Sri Lanka was not alone in raising concerns regarding the Investigation mandated by Resolution 25/1. While the Resolution itself saw a divided Council in March 2014, several countries voiced grave concern regarding the Investigation not only then but in September 2014 as well.

It is a matter of deep concern to note that you, as a high official of the UN system, have resorted to the use of intemperate language to attack and vilify a sovereign member of

the United Nations. Further, you have chosen to cast aspersions and denigrate a democratically elected Government. In fact, some countries have, on extremely cogent grounds, rejected mandates of the Council previously in much stronger ways, and have not been censured in the manner as in this instance. This undoubtedly confirms the double standards being applied. This type of action on your part would regrettably constrain constructive engagement which the Government of Sri Lanka has consistently sought to pursue.

Since you have released your comments to the public domain, I am compelled to make the text of this letter available to the membership of the Council and the people of Sri Lanka who deserve to be aware of the facts pertaining to this matter.

Yours sincerely,

Ravinatha Aryasinha
Ambassador
Permanent Representative

cc. H.E. Baudelaire Ndong Ella, President of the Human Rights Council