

BY E-MAIL21st August 2013

Ms. Navanethem Pillay
United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland.

Dear Ms. Navanethem Pillay,

**Your proposed fact finding mission to Sri Lanka
by a Delegation headed by you, for 3 days commencing August 25, 2013**

It was reported on Sunday, August 18, 2013 in the English Newspaper '*Ceylon Today*', and in its Sinhala Newspaper '*Mawbima*', that you and your Delegation are scheduled to meet the impeached former Chief Justice, Shiranee Bandaranayake, during your aforesaid fact finding mission to Sri Lanka.

Should you do so, please also afford me an opportunity of placing relevant facts before you and your Delegation, since I had publicly supported the move to impeach the said Chief Justice, and had made several representations in such regard to you and your Office, *inter-alia*, by my Letters dated November 16, 2012, December 20, 2012 (also by Courier), January 7, 2013 and February 5, 2013, appending relevant attachments thereto.

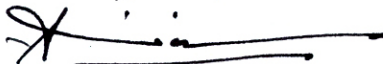
Should you and your Delegation choose not to do so, the consequent Report by you and your Delegation on the said subject matter would be incomplete, biased and prejudiced.

In such context, I urge you and your Delegation to afford me an opportunity of being also heard during your proposed visit, prior to finalizing your and your Delegation's Report on the foregoing subject.

I shall be overseas from August 22 to August 26, 2013, and shall make myself available to meet you and your Delegation at any time on August 27, 2013.

For reference you may visit websites – www.consultants21.com / www.consultants21.com/publications. I have just completed authoring a series of voluminous Books to the global market, on cases studies dealing with socio-political realities in contemporary society, particularly, *vis-à-vis*, governance, fraud and corruption, and the rule of law.

Yours truly,



Nihal Sri Ameresekere, F.C.A., F.C.M.A., C.M.A, C.G.M.A., C.F.E.

cc: Mr. Dimitri Vlassis
UN Secretary General's Representative
Chief, Corruption & Economic Crime Branch
Division for Treaty Affairs
United Nations Office on Drugs & Crime
Vienna International Center
Wagramerster. 5, A-1400
Vienna, Austria.



Consultants 21 Limited <consultants21@gmail.com>

Re - Impeachment of Chief Justice, Dr. Shirani A. Bandaranayake

Consultants 21 Limited <consultants21@gmail.com>

Tue, Feb 5, 2013 at 3:02 PM

To: Navanethem Pillay <cray@ohchr.org>, Navanethem Pillay <registry@ohchr.org>, SRindependencejl@ohchr.org, Amanda Flores <aflores@ohchr.org>

Dear Ms. Navanethem Pillay,

Re - Impeachment of Chief Justice, Dr. Shirani A. BandaranayakeI refer to my previous communications dated 16th November 2012, 29th November 2012, 20th December 2012, and 7th January 2013.I have noted the Statement issued by your Spokesperson, Rupert Colville, stating – *“The removal of Chief Justice through a flawed process – which has been deemed unconstitutional by the highest courts of the land -”*, vis-à-vis, the impeachment of Chief Justice, Dr. Shirani A. Bandaranayake.As far back as February 9, 2012, I had put in issue before the Supreme Court of Sri Lanka, the matter of *‘perceived judicial bias and disqualification on the part of Chief Justice, Dr. Shirani A. Bandaranayake’* and to be a person requiring enhanced scrutiny of financial affairs, as a *‘politically exposed person’* in terms of Article 52 of the UN Convention Against Corruption, upon her husband having accepted political office.

In the context of the foregoing, I forward the attached documents for you to be apprised of the salient facts, vis-à-vis, the impeachment of Chief Justice, Dr. Shirani A. Bandaranayake.

1. My Written Submission dated February 9, 2012 tendered to the Supreme Court, which was returned without being accepted
2. My final Petition to the Supreme Court dated October 18, 2012 – I particularly draw attention to paragraph 13 on pages 26-40 thereof
3. My Affidavit to the Hon. Speaker of Parliament dated January 5, 2013, which, *inter-alia*, discloses the *ex-parte* Minutes made in Chambers by certain Justices on my aforesaid Petition, without having heard me
4. An Article published in the Media by me titled – **“Constitutional interpretations & expeditious judicial procedure ?”**; which discloses the *perverseness* of the Supreme Court interpretation of January 1, 2013, and *based upon which* the Court of Appeal issued a Writ on January 7, 2013

I have just completed a series of Books on real case studies on fraud and corruption, economic crime, public finance and rule of law, published and marketed by US publisher AuthorHouse. For more particulars, you may visit : www.consultants21.com/publications and www.consultants21.com .


Yours truly,

Nihal Sri Ameresekere, F.C.A., F.C.M.A., C.M.A, C.G.M.A., C.F.E.

*Associate Member, American Bar Association**Individual Member, International Association of Anti-Corruption Authorities*


[Quoted text hidden]

4 attachments

 **1 - Further Writtten Submissions - 9.2.2012.pdf**
235K

 **2 - Review Petition - 18.10.12.pdf**
687K

 **3 - Affidavit to Hon. Speaker- 5.12.12.pdf**
200K

 **4-Constitutional interpretations & expeditious judicial procedure.pdf**
367K



BY E-MAIL

7th January 2013

Mrs. Gabriela Knaul
Special Rapporteur on the Independence of Judges & Lawyers
Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland.

Dear Mrs. Gabriela Knaul,

My attention was drawn to a weekend newspaper headline captioned – ‘UN Warns Government’, based as reported on an *exclusive* interview given by you.

Sri Lanka was the second country to ratify on March 31, 2004 the UN Convention Against Corruption, which entered into force on December 14, 2005, for the promotion and facilitation of which, the International Association of Anti-Corruption Authorities was launched in Beijing in October 2006, and of which I am an active Individual Member – “*The promotion of zero-tolerance of corruption is vital to good governance*” – *Latimer House Principles*.

No doubt it is of utmost importance to uphold in their entirety the Latimer House Principles and the Bangalore Principles of Judicial Conduct adopted by the UN, which are indeed very necessary for a judiciary with unblemished integrity and independence, with – “*Legitimate public criticism of judicial performance, as a means of ensuring accountability*” – *Latimer House Principles*.

To achieve the effective combating of fraud and corruption, you would concede that the judiciary ought be beyond reproach, since fraud and corruption cases have to be adjudicated upon by the judiciary. The US State Department 2010 Human Rights Report on Sri Lanka at pages 25 and 26 was critical of corruption in all three branches of Government, which included the judiciary, and particularly castigated the Supreme Court of Sri Lanka – “*A Judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom*” – *Bangalore Principles of Judicial Conduct*.

As a public interest activist, who has been *espousing* the cause to combat fraud and corruption, which is also a violation of Human Rights, be it in the public or private sectors, I could not be a silent party, when the impeachment process against the Chief Justice in terms of the Constitution of Sri Lanka was initiated; this was moreso, since I had put in issue ‘*perceived judicial bias and disqualification*’ on the part of the Chief Justice, as far back as February 9, 2012, citing the House of Lords Judgment *re – Pinochet* – “*A Judge shall perform his or her judicial duties without favour, bias or prejudice*” – *Bangalore Principles of Judicial Conduct*

As a consequence of your concerns reported in the media;

1. On November 16, 2012, I addressed you a Letter (*copy attached, without attachments thereto*)
2. Thereafter on December 20, 2012, I addressed you a further Letter (*copy attached, without attachments thereto*) – “*A Judge shall ensure that his or her conduct, both in and out of Court, maintains and enhances the confidence of the public*” – *Bangalore Principles of Judicial Conduct*

I addressed a brief Letter dated November 29, 2012 to Ms. Navanethem Pillay, UN High Commissioner for Human Rights, with copies of the aforesaid Letters, intimating that responses should not be on *ex-facie* impressions, but only after having ascertained the totality of the facts relevant to the matter (*copy attached*).

I had challenged the validity of a Determination on a Bill, made by the Chief Justice *without jurisdiction ultra-vires* Article 123(3) of the Constitution of Sri Lanka, which constitutionally mandatorily governed such Bill, *completely denying natural justice* to the parties affected by such *ad-hominem* Bill, and which Determination *flagrantly* violated Article 17 of the Universal Declaration of Human Rights, which ought have been of concern to you. The Legislature acted based upon such perverse Determination.

I *reiterate* the facts stated in my aforesaid Letters and the detailed attachments thereto, which lucidly set out the facts. I urge you to examine the said facts in a fair and reasonable manner, and then come to your conclusions – “A Judge shall exercise the judicial function independently on the basis of the Judge’s assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason” *Bangalore Principles of Judicial Conduct*

I also attach my Letter dated January 5, 2013 addressed to the Hon. Speaker of Parliament, the contents which are *self-explanatory* – “Judges are accountable to the Constitution and to the Law which they must apply honestly, independently and with integrity Judges may be constructive and purposive in the interpretation of Legislature, but must not usurp Parliament’s legislative function” *Latimer House Principles*.

In an interview given by former Chief Justice in today’s media, he draws attention to the *undue haste* during the Court vacation in which Judges of the Supreme Court and Court of Appeal had functioned, *vis-à-vis*, the matter of impeachment of the Chief Justice, which an ordinary litigant would not have had the benefit of “*In performing judicial duties, a Judge shall be independent of judicial colleagues in respect of decisions that the Judge is obliged to make independent*” – *Bangalore Principles of Judicial Conduct*.

On the other hand, there is *criticism* that the Parliamentary Select Committee had acted *hastily* to meet a deadline of one month stipulated by the Legislature. I am compelled to believe that you have not had the opportunity to examine the voluminous Report of the Parliamentary Select Committee to ascertain, what exactly had transpired.

Yours truly,

Nihal Sri Ameresekere, F.C.A., F.C.M.A., C.M.A, C.G.M.A., C.F.E.
Associate Member, American Bar Association

cc: Ms. Navanethem Pillay
United Nations High Commissioner
for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland.

Mr. Dimitri Vlassis
UN Secretary General's Representative
Chief, Corruption & Economic Crime Branch
Division for Treaty Affairs, UNODC
Vienna International Center
Wagramerster. 5, A-1400
Vienna, Austria.

Dr. Ye Feng
Secretary-General
International Association of
Anti-Corruption Authorities
No. 147 Beiheyuan Street,
Dongcheng District
Beijing 100726, China.

BY E-MAIL / COURIER

20th December 2012

Mrs. Gabriela Knaul
Special Rapporteur on the Independence of Judges & Lawyers
Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland.

Dear Mrs. Gabriela Knaul,

**“Sri Lanka: UN expert concerned about reprisals against judges urges
reconsideration of Chief Justice’s impeachment”**

In the context of your previous above-mentioned ‘*News Release*’, I addressed to you my Letter dated 16th November 2012, attaching copies of the following:

1. My Petition dated 18th October 2012 to the Supreme Court, whereby I put in issue the very grave and serious matter of ‘*perceived judicial bias and disqualification*’ on the part of the Chief Justice and two other Justices of the Supreme Court, who in my view had acted *without jurisdiction* and *ultra-vires* the Constitution. I cited the Judgment in Appeal in the House of Lords *re – Pinochet vide* paragraph 13 of my said Petition. *I intimated that the response I received was even more appalling*, but did not disclose the same in my said Letter.

Hence, I attach hereto my Affidavit dated 11th December 2012 addressed to the Hon. Speaker of Parliament, *inter-alia*, setting out the aforesaid responses I received, which are *lucidly self-explanatory*. Attached to my Affidavit was my further Written Submission, which I had tendered, *as far back as 9th February 2012*, to the Supreme Court on the same matter of ‘*perceived judicial bias and disqualification*’, on the part of Chief Justice, also setting out other pertinent facts, which however was not entertained, but returned to me by the Supreme Court. I urge you to cause a close examination and study of the facts contained in my said Affidavit of 11th December 2012 and my further Written Submission of 9th February 2012, and reach your conclusions thereon, *as to whether such conduct could in anywise be condoned and/or ignored?*

2. My Letter dated 5th November 2012 to the Attorney General, with attachments thereto, which reveals the conduct on the part of the Supreme Court, *vis-à-vis, illegal contracts* pertaining to which, citing international authorities, I had sought *anti-suit injunctions*. As a consequence of such conduct, Sri Lanka faces Claims of around SL Rs. 40 billion (US \$ 315 million) – *a cognizable sum of money*.

Your aforesaid repeated concerns have been on the Resolution in terms of Article 107 of the Constitution, *which reigns supreme*, and the Standing Orders made thereunder for the process to impeach the Chief Justice, by 117 law makers of a total of 225, consequent to which, the Hon. Speaker had no option, other than to appoint a Parliamentary Select Committee to investigate into Charges contained in such Resolution. To *allay the controversy* caused, as in the famous instance in France of *Alfred Dreyfus* affair, I attach a Chart *depicting* the administrative procedure for disciplinary action against judicial and public officers, together with an Article I had caused to be published, and the relevant Articles of the Constitution. I have observed as reported in the *media*, that Article 14 of the International Covenant on Civil & Political Rights was to be extended. Nevertheless, Judges are accountable to the prevalent Constitution under which they entered upon Office, and must not usurp Parliament’s Legislative function *vide - Latimer House Principles*; whereas as revealed in my Petition dated 18th October 2012 forwarded previously the Chief Justice has violated the UN Universal Declaration of Human Rights and had overwritten Article 157 of the Constitution, which she could not !

I attach a *scanned* copy of the Report of the Parliamentary Select Committee, without the recorded proceedings of, the list of documents examined by and the oral submissions made before, the said Committee, the contents of which are *self-explanatory*. The Parliamentary Select Committee is only an administrative process, enabling the President of the Republic to remove a Chief Justice, if the Committee’s Report makes an *adverse* finding and is passed after an Address of Parliament. I myself have appeared before Parliamentary Standing Committees, which are fact finding Committees, not exercising any judicial power, which I believe is as the same as in the House of Commons and Lords in the UK. The fact disclosed, that the Opposition Members of the Parliamentary Select Committee, after having seen the evidence, had ‘*walked out*’, without participating and writing a *dissenting* Report, with *justifiable* reasoning only *reinforces* the findings.

A *hue and cry* has been raised on the matter of natural justice, which perhaps *triggered* your concerns. On an examination of the attached Report of the Parliamentary Select Committee, it would be revealed that the facts are otherwise, and that the Chief Justice had been, in fact, afforded adequate time of one month, to respond to matters, *which were within her own knowledge*. Please do compare this with the contents of my aforesaid Affidavit, where the people and I, particularly parties affected, had been *knowingly* denied natural justice of *even having been heard*, whilst she and the other Members of the Bench had acted in my view, *without jurisdiction, ultra-vires* the Constitution, *rendering nugatory the tenet that all are equal before the law*.

Given below are two *strips* of scanned newspaper photographs of scenes, within the *precincts* of the Supreme Court, portraying organized protests, including *rituals* performed, uproars created and the demeanor of the Chief Justice, whilst leaving to attend the Parliamentary Select Committee proceedings, which alone speaks volumes, and brings into issue, as to whether such *hullabaloo* is acceptable under the Commonwealth Latimer House Principles and the Bangalore Principles of Judicial Conduct adopted by the UN. Would any ordinary litigant have been permitted to so conduct demonstrations in the Supreme Court *precincts*, to bring about undue pressure to endeavour to *stymie* and *stultify* an inquiry ?

DAY 1



DAY 2



As disclosed in my previous Letter, my interest is as an Individual Member of the International Association of Anti-Corruption Authorities, committed to promoting and facilitating the implementation of the UN Convention Against Corruption (UNCAC), which Sri Lanka ratified on 31st March 2004, whilst India ratified same only on 9th May 2011. *I am confident that you would support the same*. In the circumstances revealed in my aforesaid Affidavit dated 11th December 2012 and further Written Submission dated 9th February 2012 attached thereto, the Chief Justice comes within the ambit of Article 52 of the UNCAC, pertaining to category of '*politically exposed persons*' (PEPs), warranting *enhanced scrutiny* of their affairs in terms of the UNCAC.

Yours truly,

Nihal Sri Ameresekere, F.C.A., F.C.M.A., C.M.A, C.G.M.A., C.F.E.

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|--|--|---|
| cc: Ms. Navanethem Pillay
United Nations High Commissioner
for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland. | Dr. Ye Feng
Secretary-General
International Association of
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No. 147 Beiheyuan Street,
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Beijing 100726, China. | Mr. Dimitri Vlassis
UN Secretary General's Representative
Chief, Corruption & Economic Crime Branch
Division for Treaty Affairs, UNODC
Vienna International Center
Wagramerster. 5, A-1400
Vienna, Austria. |
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BY E-MAIL

29th November 2012

Ms. Navanethem Pillay
United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland.

Dear Ms. Navanethem Pillay,

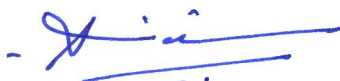
News Release -
**“Sri Lanka: UN expert concerned about reprisals against judges urges
reconsideration of Chief Justice’s impeachment ”**

I attach copy of my Letter dated 16th November 2012 addressed to Mrs. Gabriela Knaul, with copy to Mr. Dimitri Vlassis in the context of a News Release by Mrs. Gabriela Knaul under the above caption.

With due respect I am constrained to state that the aforesaid News Release should have been made not on *ex-facie* impressions created by interested parties, with or without hidden agendas, but you would appreciate should have been made only after ascertaining totality of facts pertaining to the matter.

In such context I reiterate the contents of my attached Letter and will forward shortly the response already received from the Chief Justice and certain other Judges of the Supreme Court on my Application, with a desperate attempt to cover-up, acting ultra-vires the Constitution of Sri Lanka, which is supreme.

Yours truly,



Nihal Sri Ameresekere, F.C.A., F.C.M.A., C.M.A, C.G.M.A., C.F.E.

cc: Mr. Dimitri Vlassis
UN Secretary General's Representative
Chief, Corruption & Economic Crime Branch
Division for Treaty Affairs
United Nations Office on Drugs & Crime
Vienna International Center
Wagramerster. 5, A-1400
Vienna, Austria.

16th November 2012

Mrs. Gabriela Knaul
Special Rapporteur on the Independence of Judges & Lawyers
Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10
Switzerland.

Dear Mrs. Gabriela Knaul,

News Release -
**“Sri Lanka: UN expert concerned about reprisals against judges urges
reconsideration of Chief Justice’s impeachment ”**

I read with interest the above captioned News Release, in the context of which, I forward for your kind attention, copies of the following:

1. My Petition dated 18th October 2012 to the Supreme Court of Sri Lanka, *the contents of which*, also dealing with issues under the United Nations Universal Declaration of Human Rights and Universal Declaration of Human Rights and International Covenant on Civil & Political Rights, *are self-explanatory*. The response I received is even more *appalling*.
2. My Letter dated 5th November 2012 to the present Attorney General of Sri Lanka, and attached thereto Letter dated 13th August to the Minister of Petroleum Industries, and Letter dated 24th June 2010 to the former Attorney General of Sri Lanka, *the contents of which too are self-explanatory*.

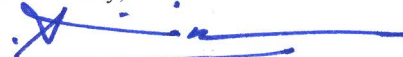
I am a public interest activist from early 1990s – please see www.consultants21.com, and I am also an Individual Member of the International Association of Anti-Corruption Authorities (IAACA) established in 2006, to promote and facilitate the implementation of the United Nations Convention Against Corruption (UNCAC), which came into force in December 2005.

Articles of the UNCAC, which Sri Lanka had ratified, contain mandatory obligations to be fulfilled on the part of the State Parties. I have published a series of Books in the US *vide* - www.consultants21.com/publications

In examining the foregoing documents, it would be relevant and pertinent to take into reckoning, the provisions in the Articles of the UNCAC, particularly with Sri Lanka being one of the countries selected to be reviewed this year, under the review mechanism conducted by UNODC on the implementation of the UNCAC.

Whilst I fully endorse the ‘Basic Principles on the Independence of the Judiciary’, it is of equal importance that the rights of citizens are recognized, upheld and protected in compliance with the applicable UN Conventions.

Yours truly,



Nihal Sri Ameresekere, F.C.A., F.C.M.A., C.M.A., C.G.M.A., C.F.E.

cc: Mr. Dimitri Vlassis
UN Secretary General's Representative
Chief, Corruption & Economic Crime Branch
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United Nations Office on Drugs & Crime
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Vienna, Austria.