

Presidential Election 2010
Common Opposition Candidate incarcerated and persecuted !
Would not his siege and illegal prevention by him of supervision of the ballots counting alone
have vitiated / nullified the entire Election ?

Meeting in the night of the day before the Presidential Election !

In such circumstances, *suddenly on the very eve* of the Presidential Election on 26th January 2010 i.e. on 25th January 2010, Ravi Karunanayake UNP M.P., intimated to me that Ranil Wickremesinghe, Leader of the UNP, was *anxious* to have a Meeting that evening at 6.30 p.m., with the common opposition candidate, retired General Sarath Fonseka, to explain to him the foregoing *interim amendments* to be effected to the Constitution *vis-à-vis* the *sharing of power* by and between the Executive President, Prime Minister and the Cabinet of Ministers.

For such purpose, I was requested by Ravi Karunanayake UNP M.P., to bring the former Chief Justice Sarath N. Silva, P.C., and come with the requisite documents for a Meeting on that day, 25th January 2010, at 6.30 p.m., to the Office at Reid Avenue, Colombo 7, from where the common opposition candidate, retired General Sarath Fonseka had been operating his Presidential Election campaign.

I pointed out to Ravi Karunanayake UNP M.P., that it would be *futile* to discuss the foregoing at the *eleventh hour*, as it were, since the Presidential Election campaign of the common opposition candidate, retired General Sarath Fonseka had been conducted by all parties concerned on the *premise* of *mutual trust and confidence*, and that such discussion could result in the loss of such *mutual trust and confidence*. However Ravi Karunanayake UNP M.P., intimated that Ranil Wickremesinghe, Leader of the UNP was *very anxious* to have such a Meeting.

Hence, I informed former Chief Justice Sarath N. Silva, P.C., who also *shared my such views*, and whilst we were being driven to the above Office of the common opposition candidate, retired General Sarath Fonseka, Ravi Karunanayake UNP M.P., *anxiously* phoned to ascertain, why we were getting late for such Meeting, whilst actually we were late only by 10 minutes; whereas for several Meetings had at my residence, both Ranil Wickremesinghe, Leader of the UNP and Ravi Karunanayake UNP M.P., had *arrived very much late*.

Former Chief Justice Sarath N. Silva, P.C., and I arrived at the Office of the common opposition candidate, retired General Sarath Fonseka, at Reid Avenue, Colombo 7, which was at the end of a highly guarded narrow lane, located upstairs of a building. In a small upstairs Office Room were seated, the common opposition candidate, retired General Sarath Fonseka, his Co-ordinating Secretary, Senaka de Silva, Ranil Wickremesinghe, Leader of the UNP, Karu Jayasuriya, Deputy Leader of the UNP, Ravi Karunanayake UNP M.P., Somawansa Amarasinghe, Leader of the JVP and Anura Kumara Disanayake JVP M.P.

In a complete turn of events, no discussion, whatsoever, took place, as had been *anticipated* by Ranil Wickremesinghe, Leader of the UNP on the foregoing *interim amendments* to be effected to the Constitution of Sri Lanka *vis-à-vis* the *sharing of power* by and between the Executive President, Prime Minister and the Cabinet of Ministers, *but on the contrary*, the common opposition candidate, retired General Sarath Fonseka, *shocking* all those present *alerted* that there was an *imminent threat* to his *security*, and that he had already made arrangements to move out of his Office, and was *moving* to the Cinnamon Lakeside Hotel on the day of the Election i.e. the next day, and that he had booked a large number of rooms for all those, who wanted to come and occupy the same, to conduct Election activities from the said Hotel.

The common opposition candidate, retired General Sarath Fonseka intimated that 5 Battalions of the Armed Forces *had already been moved* to Colombo. He intimated that 3 of the Battalions were *loyal* to him and that they would support him, whilst two of the Battalions would be *adverse* to him. The common opposition candidate, retired General Sarath Fonseka, was having a number of telephones, and phoning several persons, and receiving phone calls, *apparently on an urgent basis, facing a crisis, as it were.*

The common opposition candidate, retired General Sarath Fonseka *confided* that he had been made *privy* to the confidential discussions and decisions, which had been taken at a Security Council Meeting a few days back, and accordingly that he *apprehended* of being arrested; and furthermore that, *even if he wins* the Presidential Election on the very next day, that *power would not be ceded* by President Mahinda Rajapaksa, at the behest of his brother, the powerful Defence Secretary, Gotabhaya Rajapaksa, with whom common opposition candidate, retired General Sarath Fonseka has had a very *bitter relationship.*

The foregoing *apprehensive* atmosphere and urgent discussion *scuttled* the intended discussion, which Ranil Wickremesinghe Leader of the UNP had required to have with the common opposition candidate, retired General Sarath Fonseka, to explain and agree upon the aforesaid *interim amendments* to be effected to the Constitution of Sri Lanka *vis-à-vis* the *sharing of power* by and between the Executive President, Prime Minister and the Cabinet of Ministers.

All those present *concurred* with the *re-location strategy* of the common opposition candidate, retired General Sarath Fonseka to the Cinnamon Lakeside Hotel, with his Co-ordinating Secretary, Senaka de Silva having confirmed that 100 Hotel Rooms had already been booked, and invited those present to come and operate from the said Hotel. Retired General Sarath Fonseka had moved into the Cinnamon Lakeside Hotel in the afternoon on the next day, the Election day 26th January 2010.

It had been *revealed* from *intelligence sources* that the weekly '*opinion surveys*' on the *likely outcome* of the Presidential Election to be held on 26th January 2010, carried out by State Agencies, such as the Criminal Investigation Department, National Information Bureau and the Special Branch of the Sri Lanka Police had revealed that the common opposition candidate, retired General Sarath Fonseka was having a lead of 51% – 53% over President Mahinda Rajapaksa; and hence it appears the foregoing *strategy* arrangements for *not ceding power*, in the event the common opposition candidate, retired General Sarath Fonseka wins the Presidential Election on 26th January 2010.

Common opposition candidate *besieged* by the Armed Forces on the night of the Election day

Having been completely *exhausted* by evening on Election day, and having taken a stiff drink of Brandy, I fell asleep. My wife put me up at about 2.00 a.m. to intimate that the common opposition candidate, retired General Sarath Fonseka was *losing* the Election *very badly*. I then saw on the television, which was on, that Cinnamon Lakeside Hotel had been *sieged* by Armed Forces, making the common opposition candidate, retired General Sarath Fonseka *a prisoner therein.*

By the foregoing, the Armed Forces under some *intriguing* directions, had prevented the common opposition candidate, retired General Sarath Fonseka, from *exercising his legitimate right* to visit the ballot counting centers, and to satisfy himself, that the counting process of the ballots cast was correct. *As to why such step was taken only further adds to the mystery.* I later came to understand that such *siege* by the Armed Forces of the Cinnamon Lakeside Hotel, had taken place around 9.00 p.m. on the Election night, *significantly* at the very time around which, *the counting process of ballots commences at the counting centers.*

On making inquiries, I came to understand that persons *entering*, as well as *leaving*, the Cinnamon Lakeside Hotel were subjected to *severe checks* by the Armed Forces, thereby *instilling fear* in the free movement of persons, from having access to the common opposition candidate, retired General Sarath Fonseka, *which was a violation of the fundamental rights of the common opposition candidate, retired General Sarath Fonseka, and also of such persons, who required to freely move to have access to him.* Thus and thereby the *constitutional guarantee of 'freedom of movement' had been flagrantly violated.*

Presidential Election Results - 2010

The Presidential Election results announced on the next day by the Commissioner of Elections, Dayananda Dissanayake, who was *critical* of certain incidence, which had *transpired* before and during the night of the Election, gave an *overwhelming victory* to President Mahinda Rajapaksa, whose *demeanor*, somehow did not appear to me to be that of a person, who was so *victorious*. Ordinarily, a defeated candidate's supporters *lie low* after such a *humiliating* defeat, whereas in this instance, *intriguingly*, subsequently people had openly *declared*, that they had voted for the common opposition candidate, retired General Sarath Fonseka.

In such *resounding victorious* circumstances, one would have expected President Mahinda Rajapaksa to have *confidently* invited the defeated common opposition candidate, retired General Sarath Fonseka, for breakfast the following morning, to celebrate his such victory. However, *on the contrary*, the common opposition candidate, retired General Sarath Fonseka was instead *incarcerated* and taken into custody in a *demeaning manner* by the Military Police to be *arraigned* before Court Marshals, convened by President Mahinda Rajapaksa, also the Commander-in-Chief of the Armed Forces, under and in terms of the Army Act, giving rise to the *speculation*, as to whether President Mahinda Rajapaksa *feared* the common opposition candidate, retired General Sarath Fonseka ?

On 27th January 2010, the *media* broadcast a Statement made by the Commissioner of Elections, Dayananda Dissanayake, *castigating* certain incidents, with severe *strictures*, which I, myself, observed on television, and the following '*extracts*' from a *transcript* thereof, which I obtained, are given below:

- In terms of the law, as the Commissioner of Elections, I am empowered to issue directions from time to time to the media, to ensure balance reporting. Since the two State media institutions did not respect my directions, I was compelled to appoint Competent Authorities in respect of these institutions to ensure balance reporting. Their directions too were not heeded by the State media institutions. Therefore I was compelled to remove the Competent Authorities, since that too turned out to be a futile exercise.
- Furthermore, several Government institutions acted without taking into reckoning, as to what they ought do or not do. This caused me to undergo appalling difficulties. Some persons abused me stating that my job was only to protect the ballot boxes, and count the ballots only.
- The actual position was that in certain instances I could not even protect the ballot boxes. Hence, this is a serious and wrong situation. Because of this, I regret very much, that I had to act facing great difficulties.
- Because of this, very often the public blamed me and wrote to me, sometimes using foul language and scolding me and my household, including on the telephone. It is with patience undergoing all this, that I acted. Therefore, I very earnestly state that the position has come to be beyond my control.
- What I have to do, I will attend to and complete within the next two to three days of this month. Thereafter I do not in any manner intend that it is proper for me to continue in this post.
- On numerous factors I have been subjected to a stressful position, which I cannot suffer anymore. It is not good for me.

- I regret to state that instances had been observed of certain area leaders of having caused many problems.
- For example, at Counting Centres in Puttalam, Anuradhapura and Matale even our Officials had been subjected to problems caused.
- The Returning Officers at District Levels had to face great difficulties. There had been instances when they had been chased out having been abused in obscene language.
- I state that these are very regrettable instances.

Intriguingly, having gone overseas for a short visit, upon his return, the Commissioner of Elections, Dayananda Dissanayake issued a Statement to the *media* on 3rd February 2010 *retracting* most of the foregoing *castigations* and *criticisms*, which had been publicly made by him only a few days previously.

The all island results of the Presidential Election on 26th January 2010 and the results of the Parliamentary General Election held shortly thereafter on 8th April 2010 are *comparatively* tabulated below: *vide Appendices IA & IB*.

PRESIDENTIAL ELECTION - 26th January, 2010

ALL ISLAND RESULTS		
Candidate	Votes	%
Mahinda Rajapakse (UPFA)	6,015,934	57.88
Sarath Fonseka (DNA)	4,173,185	40.15
Others	204,494	1.97
<i>Valid Votes</i>	<i>10,393,613</i>	<i>99.03</i>
<i>Rejected Votes</i>	<i>101,838</i>	<i>0.97</i>
<i>Total Polled</i>	<i>10,495,451</i>	<i>74.49</i>
<i>Registered Electors</i>	<i>14,088,500</i>	

PARLIAMENTARY GENERAL ELECTION - 8th April, 2010

ALL ISLAND RESULTS			
PARTY NAME	Votes	%	SEATS
United People's Freedom Alliance (UPFA)	4,846,388	60.33	144
United National Party (UNP)	2,357,057	29.34	60
Democratic National Alliance (DNA)	441,251	5.49	7
Illankai Tamil Arasu Kadchi	233,190	2.90	14
Other Parties / Groups	155,389	1.80	
<i>Valid Votes</i>	<i>8,033,717</i>	<i>93.08</i>	
<i>Rejected Votes</i>	<i>596,972</i>	<i>6.92</i>	
<i>Total Polled</i>	<i>8,630,689</i>	<i>61.26</i>	
<i>Registered Electors</i>	<i>14,088,500</i>		

It would be noted that the United People's Freedom Alliance (UPFA) led by President Mahinda Rajapaksa at the Parliamentary General Election on 8th April 2010 had polled only 4,846,388 votes, compared with what President Mahinda Rajapaksa had been declared to have polled *just two months* previously at the Presidential Election on 26th January 2010 of 6,015,934 votes i.e. a decrease of 1,628,762 votes (27%) at the Parliamentary General Election on 8th April 2010 (*The District-wise comparative tabulation is given on the next page*).

The foregoing tabulation of the District-wise comparative polling results, between the Presidential Election on 26th January 2010 and the Parliamentary General Election on 8th April 2010, summarized from the comparatively tabulated Polling Division-wise polling results given at the end of this Chapter.

It is of significance, that the polling at the Presidential Election had been very much more, when compared to the polling at the Parliamentary General Election, *which was held just two months thereafter*. In a Presidential Election voters are called upon to vote for one candidate for the entire island, in *comparison* to the Parliamentary General Election, where voters are *lobbied* by candidates of several political parties, respectively in 22 Districts, to cast their ballots, *in which one would expect a higher degree of polling*. In this instance the total polling had been 61.3% at the Parliamentary General Election on 8th April 2010, as against a 74.5% total polling at the Presidential Election held *just two months previously* on 26th January 2010.

There has been much public *speculation* on the accuracy of the vote counting at the Presidential Election on 26th January 2010, with the common opposition candidate, retired General Sarath Fonseka, having *questionably* been *incarcerated* at the Cinnamon Lakeside Hotel, during the counting of the votes in the night on Presidential Election day, 26th January 2010, *thereby denying his liberty to have freely moved about and supervised the counting of votes, and the vote counting process*.

Govt. Has Successfully Concluded World's First Hi-Tech Election Rigging Operation — Mangala

By Mandana Ismail Abeywickrema

SLFP (M) Wing Leader and Co-media Spokesperson for General Sarath Fonseka, Mangala Samaraweera charged that software/paper rigging finally changed an approximately 1.5 million vote victory for General Sarath Fonseka into a 1.8 million majority for President Rajapaksa. He said this "is perhaps the first successfully carried out software/paper rigging in the world."

District Secretariats with whose help the final numbers of the tally sheets were heavily inflated in favour of Mahinda Rajapaksa. We are also receiving information on how these counting officers were handpicked by Basil Rajapaksa before the elections. We are in the process of getting concrete proof about this shocking operation. Until such time as we will have those in hand I will say with responsibility and gravity that this was one of the most sophisticated poll-rigging programmes carried out anywhere in the world.

life is in grave danger, but I am confident that we will be able to come out with the details. There are so many questions that need to be answered: Why did SLFPC send its staff on leave on the 26th and 27th and operate for two days through an OB bus from Temple Trees? The usual practice has always been that before any media institution can give results a copy of the results certified by the Elections Commissioner has to be sent. Why were computer generated results sent this time? Usually postal results are out by 2 am and the rest of the results start to come in. This time the postal votes took so long that electoral results got delayed; why did the voter

Why Was Election Results Procedure Changed?

By R.M.B. Senanayake

[I have had first-hand experience as a Presiding Officer, Counting Officer (Assistant Registering Officer) and as Returning Officer in past elections in Yaluniya, Nuwara Eliya, Matara, etc. The procedure then was for the counting centers to be set apart for each electorate. After the count the results for that electorate were announced by the Government Agent (Returning Officer). In later elections I am aware that the procedure was for the Returning Officer of each district to aggregate the results of each electorate and announce the results for

the District. The Commissioner of Elections is informed of such results and then he aggregates all the districts and announces the final result.

On this occasion the Commissioner of Elections has altered the procedure and instead of allowing the District Secretaries to announce the district result has asked them to send the electorate results to him. Why did he make this change which has now given rise to allegations of rigging? He has said it is because of the IDPs voting outside their districts. I am not sure whether there is a legal requirement which justifies the adoption of this new procedure. But it has caused unnecessary doubts in the minds

of the people. I think the only way to remove such doubts is for an independent audit of the results of the electorates to be done and reconciled with the votes cast. The Elections Commissioner is required by law to seal and preserve the votes for a limited time period. If the defeated candidate contests the result he should file an election petition. As for the Elections Commissioner he cut a pathetic figure. He should have boldly said whatever he had to say without moaning. He should have at least resigned, whether his resignation is accepted or not, for his enforced stay is perhaps another of those faulty judgments by the former CJ.

Speculation on the correctness of the ballot count !

With him at the Cinnamon Lakeside Hotel was Karu Jayasuriya, Deputy Leader of the UNP and several others. Karu Jayasuriya, Deputy Leader of the UNP later showed me *evidence*, that there was a marked material discrepancy in the polling percentages, which had been reported by the Returning Officers of the respective Districts, in comparison with the corresponding polling percentages, which had been announced District-wise, revealing a marked *increase* in the voting percentages announced District-wise.

A very senior official and a *confidante* in the *inner circle* of President Mahinda Rajapaksa's *regime*, who is personally known to me, in pure *social banter* disclosed that on the night of the Presidential Election, he was at Temple Trees, the Office of President Mahinda Rajapaksa, and that he, among others, was downstairs and they had been receiving final *victory* results.

According to him Basil Rajapaksa, an influential brother of President Mahinda Rajapaksa, Prof. Gamini Samaranayake, Chairman, University Grants Communication and Dr. Willie W. Gamage, Secretary of State Resources & Enterprise Development / Chairman & Chief Executive Officer, Strategic Management Enterprise Agency, reportedly a longstanding personal friend of President Mahinda Rajapaksa had all been upstairs at Temple Trees, receiving *unofficial* Election results, *prior* to the release of the final results as aforesaid.

Set out below are News Reports carried in *The Island* and *Daily Mirror* Newspapers on 31st January 2010 and 1st February 2010 and a subsequent un-contradicted report in *The Sunday Leader* Newspaper of 23rd October 2011 by Uvindu Kurukulasuriya.

Swiss reporter's visa cancelled
The government yesterday asked a Swiss journalist to leave the country. Authorities cancelled the visa issued to a Swiss journalist giving her time till Monday (Feb 1) to leave the country.
New Delhi, recently arrived to cover the Presidential elections, confirmed the Swiss journalist giving her time till Monday (Feb 1) to leave the country.
Chief P. B. Abeykoon confirmed the Swiss journalist giving her time till Monday (Feb 1) to leave the country.
Karin Wenger of Swiss Public Radio, who is based in New Delhi, recently arrived to cover the Presidential elections. The journalist had been issued with media accreditation valid until Feb 17.

Expulsion order on Swiss journalist revoked
An expulsion order served on a visiting Swiss journalist in Sri Lanka had been revoked, the presidential media unit said yesterday.
Karin Wenger had been asked to leave by February 1 after she had been accused of damaging Sri Lanka's image and the Department of Government Information cancelled her media accreditation required to do reporting from the country.
President Mahinda Rajapaksa had, however, ordered the authorities to allow Wenger to continue her work, his media office said.

President stops deportation of journalist
President Mahinda Rajapaksa yesterday revoked a decision to cancel the visa of a Swiss journalist who was in Sri Lanka to cover the Presidential elections.
The journalist Karin Wenger of Swiss Public Radio was earlier ordered to leave by today.
She said she received a letter from the Immigration Controller saying she must leave Sri Lanka by today and that her application for a media accreditation card had been rejected.
The Information Department had earlier issued Ms. Wenger who is based in New Delhi with a journalist visa and a media accreditation card valid until February 17.
"I fear I have been kicked out for asking uncomfortable questions at a government news conference," she told AFP.

Swiss Journalist asking 'awkward' questions expelled
COLOMBO, Friday (AFP) — Sri Lankan authorities have withdrawn the visa granted to a Swiss reporter covering the island's presidential election and asked her to leave the country within 48 hours, the journalist said.
Karin Wenger of Swiss Public Radio said she was sent a letter by the immigration controller telling her to leave the island before next Monday while refusing her application for a media accreditation card.
However, she had already been issued with a media accreditation card by the Sri Lankan government's department of information and said her journalists visa was valid until February 17.
"I fear I have been kicked out for asking uncomfortable questions at a gov. press conference," Wenger, who is based in New Delhi, told AFP.
A government minister had publicly criticized her for grilling the authorities on allegations of irregularities at Tuesday's vote, which was comfortably won by incumbent President Mahinda Rajapaksa. There was no immediate reaction from the government, while the Swiss embassy had only said it had provided "active support" for Swiss journalists to obtain visas and report from Sri Lanka.
Official sources said several foreign journalists, including a Swiss reporter for the newspaper NZZ, had been denied visas to cover Sri Lanka in recent times. A letter sent to Wenger by the Controller General of Immigration and Emigration, seen by AFP, stated: "You are kindly informed to leave the country on or before February 1, 2010. *Please note that you are not entitled to engage in any media activities in Sri Lanka after this period.*"

The Sunday Leader - Sunday, October 23, 2011
"That result was not convincing except to the President's close friends, his advisors and pollsters. For instance, a leaked US embassy cable shows what Rajapaksa's chief pollster and close advisor Dr. Sunimal Fernando thought less than a week before the presidential election. Sunimal Fernando told US Ambassador Patricia A. Butenis that their polling figures less than a week before the presidential election indicated the race statistically was a dead heat. He said the race was neck and neck. So, how did Rajapaksa win the election by such a huge margin? That is the question that should be investigated, since such an investigation will help prevent future election fraud.
As I wrote two weeks ago, another leaked cable states, "The president's campaign had ordered eight GAs including those in Ampara, Anuradhapura, Polonnaruwa and Batticaloa to send election results directly to the president's house for his review before sending them to the Election Commissioner." The government ordered Swiss Journalist Karin Wenger to leave the country, although after heavy criticism from the international community, the government reversed its decision and allowed Ms. Wenger to stay. It was widely suspected that the government was unhappy with her because she asked questions at a government news conference about the location and status of the EC on January 27. Wenger reportedly had asked Education Minister Susil Premajayantha why Basil Rajapaksa, the president's brother, had gone to see the EC shortly before the latter announced the results. Wenger reportedly said she saw Basil leave the EC's office just after the results were announced. Opposition sympathizers claimed Basil in fact had gone to force the Commissioner to certify the falsified results and that the Commissioner's bizarre speech made when releasing the results was clear evidence that he was under extreme duress."

As confirmed to me by Ravi Karunanayake, UNP M.P., who was co-ordinating with the Office of the Commissioner of Elections, the *compiling* of the Election results had been carried out through a *computer processing system* managed by the School of Computing of the University of Colombo, and there was much *speculation*, as to whether any *manipulation* had taken place in entering the final vote counts, particularly since the common opposition candidate's Agents at the counting centers had either *abdicated* their duties and responsibilities and *abandoned* the counting centres, or they had been *chased away*, as had been confirmed by the Commissioner of Elections, Dayananda Dissanayake, as referred to hereinbefore, *even confessing that is own Election Officials had been chased away*.

SUNDAY ISLAND - Sunday, January 31 2010

THE SUNDAY TIMES - Sunday, January 31, 2010

"Dayananda subjected to pressure" Intimidation at counting centers accuses Ranil

While polling proceeded between 7 am and 4 pm on election day in most places in a peaceful and non-intimidatory atmosphere, the situation was different at several counting centres that



Dayananda

had gathered at the counting centres to observe proceedings and permitted only their own supporters to remain.

The opposition has appointed a special team to gather details of

results. His speech on occasion was quite different from the speeches he made on such occasions viously.

Wickremesinghe's ment said that the Commissioner's suggested that something

Officials, agents chased out of counting centres: Opp.

Nearly four days after the presidential election, opposition evidence on election malpractices and violations which occurred in various parts of the country during the polls as well as at counting centres, where counting agents were reportedly chased away.

The opposition charged officials and agents were chased out of the counting centres at gun point by goons.

Counting agents in the Gampaha, Puttalam and Kaluwa districts lodged complaints with the Department of Elections and election monitors.

However, complications have arisen as the agents were appointed from various political parties and were not in a position to gather the complaints lodged immediately, as the complaints had been lodged by the agents and not through the political party.

Janatha Vimukthi Peramuna (JVP) MP



Left: A polling station at Puttalam and at right large crowds seen at a polling station in Dambulla

There were also reports of incidents of Election *malpractices* in various areas of the country, and one such incident was the discovery of 64 ballot papers, thrown in a drain, in the Ratnapura District, complained upon by Karu Jayasuriya, Deputy Leader of the UNP, to the Commissioner of Elections, Dayananda Dissanayake, with a certificate issued by a retired Examiner of Questioned Documents, *confirming* that they were *genuine* ballot papers.

However, nothing forthcame on such Complaint, with the succeeding Commissioner of Elections, Mahinda Deshapriya by Letter dated 14th July 2011 addressed to Karu Jayasuriya, Deputy Leader of the UNP, intimating that a firm conclusion can be drawn, only after a proper investigation by the Sri Lanka Police.

In view of the *lurking doubts* on the *correctness* of the Presidential Election *polling count*, at my request Ravi Karunanayaka UNP M.P., addressed the following Letter dated 15th June 2012 to the Commissioner of Elections, Mahinda Deshapriya, *requesting* for the relevant informations, as set out in the said Letter – *viz:*



RAVI KARUNANAYAKE P.C.M.A.
MEMBER OF PARLIAMENT - UNITED NATIONAL PARTY
NATIONAL ORGANIZER

Ref: R3/2012
15th June 2012

Mr. Mahinda Deshapriya
The Commissioner of Elections
Department of Elections
Election Secretariat,
P. O. Box 02,
Sarana Mawatha,
Rajagiriya.

Dear Commissioner,

PRESIDENTIAL AND GENERAL ELECTION 2010

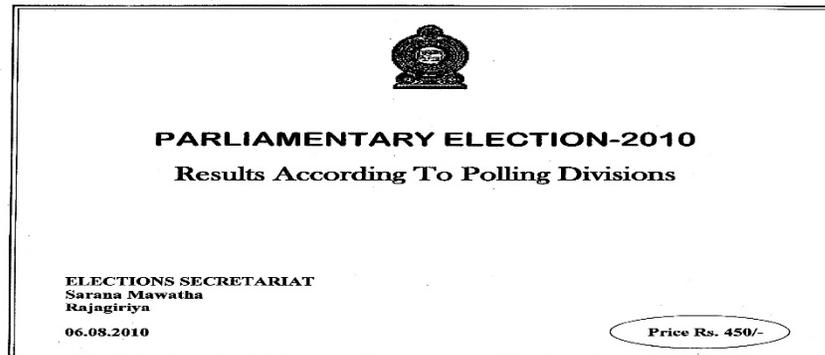
I refer to the telephone call had with you and write to request you to please forward me the following information at your earliest:

1. The percentages polled at each Polling Division as per the certificates issued by the Presiding Officer of each Polling Division at the Presidential and General Election 2010.
2. The percentages polled in respect of each of the Districts as per the Certificates issued by the District Secretary Returning Officer at the Presidential and General Election 2010.
3. Results of the count at each of the Counting Centers in respect of each Polling Division issued by the respective Returning Officers at the Presidential and General Election 2010.
4. Results of the count at each of the Counting Centers in respect of each District as per the Certificates issued by the Returning Officers at the Presidential and General Election 2010.

Thanking you,
Yours faithfully,

RAVI KARUNANAYAKE
MEMBER OF PARLIAMENT
RK/am.

Intriguingly though Ravi Karunanayaka UNP M.P., subsequently received a comprehensive Report dated 6th August 2010 on the Parliamentary General Elections held on 8th April 2010, no such comprehensive Report on the Presidential Elections, which had been held previously on 26th January 2010, had been available, or received thereafter by Ravi Karunanayaka UNP M.P., resulting him in addressing a further Letter dated 7th August 2012 to the Commissioner of Elections, Mahinda Deshapriya, *but no response had been received thereto – viz.:*



Ref: 138/2012
7th August 2012


RAVI KARUNANAYAKE, P.C.M.A.
MEMBER OF PARLIAMENT - UNITED NATIONAL PARTY
NATIONAL ORGANIZER

Mr. Mahinda Deshapriya
The Commissioner of Elections
Department of Elections
Election Secretariat,
P. O. Box 02,
Sarana Mawatha,
Rajagiriya.

Dear Commissioner,

PRESIDENTIAL AND GENERAL ELECTION 2010

I refer to my letter dated 15.06.2012, a copy of which is attached for your easy reference.

By my said letter, I requested for 4 items of information pertaining to the Presidential Election of January 2010 and the General Election of April 2010.

Your Office consequently gave me a Report dated 06.08.2010 on the Parliamentary Election of April 2010 – 'Results According To Polling Divisions'.

Your Office was unable to afford me a copy of the results according to Polling Divisions in respect of the Presidential Election of January 2010, intimating that these results were being compiled and will be available shortly.

However, I was afforded copies of pages 67 – 69 of your Report for the Year 2010 dated June 2011, which gave the District-wise polling at the Presidential Election of January 2010, and subsequently as requested by your Office, I obtained a copy of your said Report of 2010 from the Parliament.

As assured, I look forward to receiving a copy of the Report on the results according to Polling Divisions at the Presidential Election of January 2010, which was said to be under compilation, as referred to at paragraph 4 above.

Thanking you,
Yours faithfully,


RAVI KARUNANAYAKE
MEMBER OF PARLIAMENT
RK/sm.

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Persecution of common opposition Presidential Candidate

Retired General Sarath Fonseka having been announced by the Commissioner of Elections, Dayanada Dissanayake to have been elected, as a Member of Parliament of Sri Lanka at the General Election on 8th April 2010, he was brought to the Parliament of Sri Lanka, under military custody, for him to take *Oaths*, as a Member of Parliament of Sri Lanka, and thereafter to attend the *Sessions* of Parliament of Sri Lanka. During such attendance he was able to *interact* with Members of Parliament, and also address the Parliament of Sri Lanka.

In the meanwhile, two Court Marshals, under and in terms of the Army Act, were convened by President Mahinda Rajapaksa, also the Commander-in-Chief of the Armed Forces.

First Court Marshal

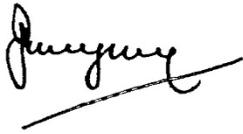
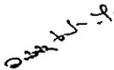
The First Court Marshal was convened on or about 16th March 2010, and the following Charge Sheet had been served on retired General Sarath Fonseka. The First Court Marshal comprised;

Major General H.L. Weeratunga, as President
Major General A.L.R. Wijetunga, as Member
Major General D.R.A.B. Jayathilake, as Member

CHARGE SHEET - I

The Accused O/50536 General GSC Fonseka RWP RSP VSV USP rcds psc is charged with:

<p>1ST CHARGE Sec 124 of the Army Act</p>	<p>TRAITOROUS / DISLOYAL WORDS</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service, serving as the Chief of Defence Staff and being a member of the Security Council between 01st day of October 2009 and 14th day of November 2009 during a telephone conversation you had with Mr. Johnston Fernando did use words disloyal regarding the sovereign to the effect, 'coming to Sri Lanka after having given evidence required by the American Government concerning the war and having put the Government and the Army's victories into embarrassment. Coming to contest as the Candidate at the Presidential Election. Arriving at the Airport as a hero. Be in readiness to welcome', and did thereby commit an offence punishable under Section 124 of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactment of Sri Lanka (Ceylon)</p>
<p>2ND CHARGE Sec 102 (1) of the Army Act</p>	<p>NEGLECT TO OBEY GARRISON OR OTHER ORDERS</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service, serving as the Chief of Defence Staff and being a member of the Security Council between 01st day of October 2009 and 14th day of November 2009 did engage yourself in political activities by soliciting the support of the Member of Parliament Johnston Fernando to have your name proposed as the Presidential candidate at the Working Committee of the United National Party a registered political party and thereby contravened para 01 of Army Order 13/79 pertaining to "Exercise of political rights of all ranks in the Army" Reference No G/INT/157(1) dated 27th December 1979 which is annexed as "X1" to this charge sheet and did thereby commit an offence punishable under Section 102(1) of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactment of Sri Lanka (Ceylon)</p>
<p>3RD CHARGE Sec 102 (1) of the Army Act</p>	<p>NEGLECT TO OBEY GARRISON OR OTHER ORDERS</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service, serving as the Chief of Defence Staff and being a member of the Security Council between 01st day of October</p>

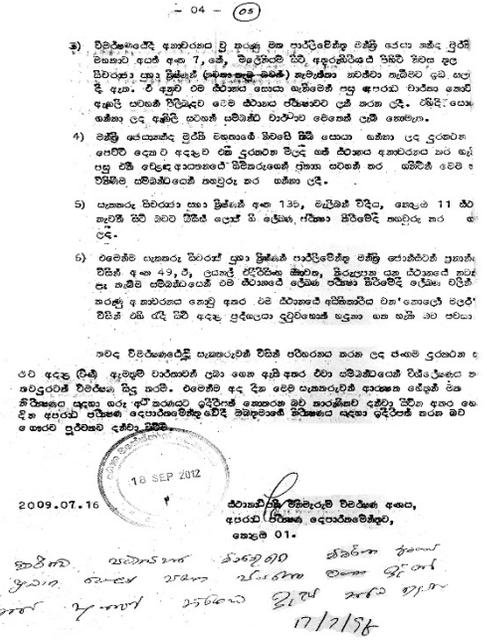
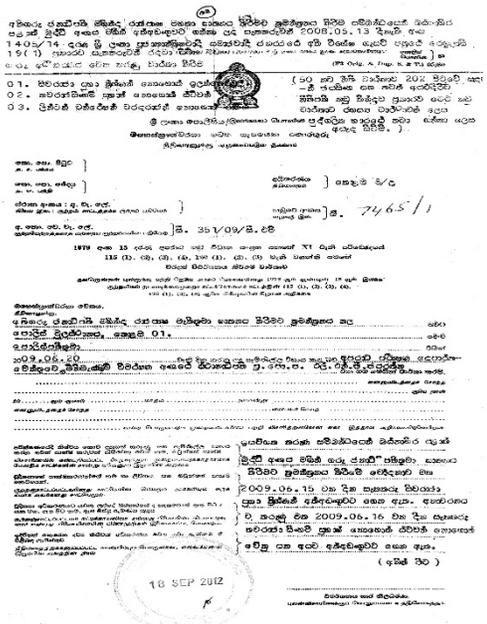
	<p>2009 and 14th day of November 2009 did engage yourself in political activities by having political discussions with the member of Parliament Lakshman Seneviratne to the effect with regard to your political career in the future and did thereby contravene para 01 of the Army order 13/79 pertaining to "Exercise of political rights of all ranks in the Army" Reference No G/INT/157(1) dated 27th December 1979 which is annexed as "X1" to this charge sheet and did thereby commit an offence punishable under Section 102(1) of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactments of Sri Lanka (Ceylon)</p> <p>To be remanded for trial by General Court Martial</p>  <p>J. JAYASURIYA USP ndu psc Lieutenant General Commander of the Army</p> <p>To be tried by General Court Martial</p>  <p>MAHINDA RAJAPAKSA President of the Democratic Socialist Republic of Sri Lanka</p>
10 th March 2010	
10 th March 2010	

Retired General Sarath Fonseka was found guilty on all charges and was *cashiered*. Thereby retired General Sarath Fonseka having once been *hailed, as one of the best Army Generals in Asia*, was *stripped* of all his *ranks* held in the Sri Lanka Army, with all Medals awarded to him being *confiscated*, and he was also *denied* of his right to receive his pension.

Ironically, *in complete contrast*, Secretary to the President, Lalith Weeratunga, and Secretary, Ministry of Defence, Gotabhaya Rajapaksa, a brother of President Mahinda Rajapaksa, both senior public Officers, who are *debarred* from *dabbling* in politics, had been *portrayed* in the *media* participating in political campaign activity, in support of President Mahinda Rajapaksa, to which a convenient '*Nelsonian Eye*' had been turned !

Two of the *key witnesses*, who had given evidence against retired General Sarath Fonseka had been two UNP Members of Parliament, namely, Johnston Fernando and Lakshman Seneviratne, who had both *crossed-over*, and become Ministers of the People's Alliance Government of President Mahinda Rajapaksa. The name of Member of Parliament, Johnston Fernando had figured in the following Case at that time, whilst the name of Member of Parliament, Lakshman Seneviratne had figured in another matter referred to in Chapter 8.

On 16th July 2009 a 'B' Report No. 7465/01 had been filed in the Colombo Magistrate's Court by the Criminal Investigation Department, *vis-à-vis*, investigations which were being carried out into a Complaint made by the Inspector General of Police on 20th June 2009 upon information received from the Intelligence Unit of the Western Province of a conspiracy to assassinate President Mahinda Rajapaksa. *Scanned copy of a certified copy of the first and last pages of the first 'B' Report in the Sinhala language are given below- viz:*



'Extracts' from certified copies of the said Magistrate's Court Record, translated to English from the Sinhala language are given below.

- 1) The Suspects named in the said 'B' Report had been the following persons:
 1. Sivarajah Subha Krishnan
 2. Thavarajasingham alias Steven
 3. Linton Venreshan Varadarajan alias Rajan
- 2) Suspect Sivarajah Subha Krishnan had been taken into custody on 15.6.2009 by the Intelligence Division of Western Province on the charge of conspiring to assassinate His Excellency the President, and as per facts revealed Suspect Thavarajasingham, alias Steven had been taken into custody 16.6.2009.
- 3) Likewise, upon the revelation of further facts after taking into custody on 17.6.2009 of Suspect Linton Venreshan Varadarajan, alias Rajan, by reason of it having been evident that an offence had been committed under Regulations 25 & 42 in Gazette Extra-ordinary No. 1405/14, as extended by Gazette Extra-Ordinary No. 1604/08 dated 02.6.2009, Detention Orders under Regulations 19(1) had been obtained by the Intelligence Division of Western Province from the Secretary, Ministry of Defence, to detain the Suspects and conduct further inquiries.
- 4) Thereafter on Orders of the Inspector General of Police, the Suspects had been taken to the CID on 29.6.2009 and detained for further inquiries and the 3 Suspects having been interrogated at length, their Statements recorded, had revealed the following.

a) **Sivarajah Subha Krishnan of No. 257, Anvalipura, Trincomalee**

He had been associated with the LTTE from 2002 and had undergone training. He had functioned as a Member of Black Tigers. His LTTE Membership No. had been 1043. He had also undergone training as a suicide bomber. He had fabricated Identity Cards in Muslim names. Upon instructions of Kapil Amman of the LTTE he had gone, as a Muslim National, with one Jeyakumar to "Niwasaya" at Mudithagama, Anuradhapura, and had thereafter on 28.2.2009, together with the said Jayakumar had gone and stayed at "OSIS" Lodge at No. 35, Maliban Street, Colombo 11, and on the following day, he with the 2nd Suspect Thavarajasingham, alias Steven, *having got together with Member of Parliament Johnston Fernando*, and the 3rd Suspect Linton Venreshan Varadarajan, alias Rajan, had had talks to assassinate His Excellency the President on instructions of one Rajesh, who had spoken from overseas.

b) **Thavarajasingham, alias Steven of No 513/62A, Trincomalee Road, Batticaloa**

He had from 2005 been functioning as the Private Secretary to the Batticaloa District Member of Parliament Jeyananda Moorthy, brother of his mother (i.e. his Uncle) and had been resident in the Official Residence until he had been arrested. Having used the Official Residence of the Member of Parliament, he had had frequent telephone communications with the Member of Parliament. Accordingly, he had met **Member of Parliament Johnston Fernando** on instructions of his uncle. *He had also prior to that met Member of Parliament Johnston Fernando* with the 3rd Suspect Linton Venreshan Varadarajan, alias Rajan and had thereafter plotted to assassinate His Excellency the President and discussions pertaining thereto had been had with him. He and Rajan had received Rs. 100 Lakhs and the said money had been obtained for them by Rajesh, who was at present in Malaysia. *The said money had been given to Member of Parliament Johnston Fernando.*

c) **Linton Venreshan Varadarajan, alias Rajan of Golden B Street, Valaichenai**

He had been involved in LTTE operations in Colombo area on instructions of one 'Konar' of Eastern area of the LTTE. Thereafter during the latter part of 2008, he had on instructions of one Rajesh, resident in Malaysia, met **Member of Parliament Johnston Fernando** through Thavarajasingham, alias Steven, at the Housing Complex for Parliamentarians, Madiwela. On instructions of Rajesh, he had on several occasions plotted to assassinate the President. As had been *led to believe by Member of Parliament Johnston Fernando*, the President was due to arrive at No. 14, Gregory's Road, and the sum of Rs. 100 Lakhs given by Rajesh had been given at several places. Black Tiger Subash had in February 2009 delivered the same to **Member of Parliament Johnston Fernando** at Pettah. Subash had been *kept in a private house of Member of Parliament Johnston Fernando*, and at a Lodge at Kirulapone, and since the plot could not be implemented Ramesh had been secretly kept in the Nochchiyagama area, and when he arrived once again to implement the plot, Subash had been arrested.

On investigations carried out as per facts revealed from the Statements of the Suspects, the facts established were as follows.

- 1) The 2nd Suspect Thavarajasingham, alias Steven, had given a Letter signed by Member of Parliament Jeyananda Moorthy to the Police Post to keep Linton Venreshan Varadarajan, alias Rajan, at the House of Member of Parliament Jeyananda Moorthy at the Housing Complex for Parliamentarians at Madiwela for two weeks. The said Letter had been taken charge of for further investigations in course of recording the Statement of Police Sergeant 5732 Bandara Herath of the Police Post.

- 2) Further, 2 boxes in which telephones had been packed were recovered from the Official Quarters No. 16, at Madiwela of Member of Parliament Jeyananda Moorthy upon the Statement made by Thavarajasingham Subash. International Mobile equipment identities on the 2 boxes pertaining to the 2 telephones had been identified.
- 3) Sivarajah Subha Krishnan had been facilitated to remain in premises No. 7, Millenium City, Aturugiriya. Accordingly after the location of said place, it had been subjected to an examination for finger prints by the Criminal Records Divisions. Report on such examination had not yet been received.
- 4) Having identified from the 2 empty boxes recovered from House of Member of Parliament Jeyanand Moorthy, the places from which the said telephones had been purchased, and statements of owners of such mercantile firms had been recorded and confirmation of the sale of the instruments obtained.
- 5) It had been established on examination of the documents at "OSIS" Lodge that Suspect Sivarajah Subha Krishnan had stayed at No. 135, Maliban Street, Colombo 11.
- 6) In regard to **Member of Parliament Johnston Fernando** having kept Suspect Sivarajah Subha Krishnan at No. 49A, Lionel Edirisinghe Mw, Kirulapone, upon examination of documents at the said premises nothing was revealed therefrom. The owner of the said premises Carlo Muller had stated that he could on seeing identify the relevant persons, who had stayed there. In course of these investigations the mobile telephones used by the Suspects and call reports pertaining thereto had been obtained and researched and investigations thereon were being conducted. Suspects had not been produced in Court due to security reasons.

The aforesaid Magistrate's Court Case No. B7465/01 had been taken up on several days from July 2009 to September 2010, with the Suspects having been produced in Court.

As per the certified copy of the Case Record it is revealed that Letter dated 2nd September 2010 had been received, by the Colombo Magistrate's Court from the Attorney General's Department calling for the Case Record to be sent, without delay, *directly* to the Chambers of the Hon. Attorney General, for an *urgent official purpose*. Scanned copy of a certified copy of the said Letter, which is in Sinhala language, sent by the Attorney General's Department is given below:

මගේ අංකය
My No. }
ඔබේ අංකය
Your No. }
දුරකථන අංකය
දුරකථන අංකය } 2433967
2433769
Telephone Nos. } 2320800
2327919
විද්‍යුත් තැපෑල
E-mail } administration@attorneygeneral.gov.lk
දුරකථන
අංකය } 2436421
Fax }



පිටු අංකය
P.O. Box No. } 502
කොළඹ 12.
Colombo 12.

2010.09.02



රෙජිස්ට්‍රාර්,
ප්‍රධාන මහේස්ත්‍රාත් අධිකරණය,
කොළඹ 12.

කොළඹ ම.ප. - නඩු අංකය: කී 7465/01/09 සම්බන්ධයෙනි.

ඉහත අංක දරණ නඩුවේ මුල් නඩු වාර්තාව අත්‍යවශ්‍ය රාජකාරී කටයුත්තක් සඳහා ගරු නීතිපතිතුමාට අවශ්‍ය වී ඇති හෙයින් එය නොසමාල ලැබීමට සලස්වන ලෙස දන්වමි. මෙම නඩු වාර්තාව නීතිපති නිලමැදිරිය වෙතම ලැබෙන පරිදි අවශ්‍ය පියවර ගන්නා ලෙසද ඉල්ලා පිටුම්.

Sathur
සාධාරණ රාජකාරිණී,
ජ්‍යෙෂ්ඨ රජයේ අධිකාරී (පරිපාලන)
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මක/7465

Subsequently, the Case had been called on 16th September 2010, and it had been recorded that the original Case Record had been forwarded to the Attorney General's Department, and that a further Report had been filed, and the Suspects had been accordingly discharged.

As per the certified copy of the Case Record on 25th February 2011 the Case Record had been received as per Letter dated 10th February 2011 of the Attorney General's Department. Subsequently, on 12th September 2012, Attorney-at-Law appearing for the 2nd Suspect had moved that since the 2nd Suspect had been discharged on 16th September 2010, that the prohibition imposed on him on travel abroad be vacated.

Second Court Marshal

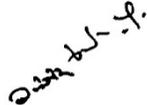
The Second Court Marshal had been convened on or about 6th April 2010 by President Mahinda Rajapaksa, also the Commander-in-Chief of the Armed Forces, and the following two Charge Sheets had been served on retired General Sarath Fonseka. The Second Court Marshal comprised;

- Major General M.P. Peiris, as President
- Major General S.W.L. Daulagala, as Member
- Major General M. Haturusinghe, as Member

CHARGE SHEET – No. II

The Accused O/50536 General GSC Fonseka RWP RSP VSV USP rcds psc is charged with:

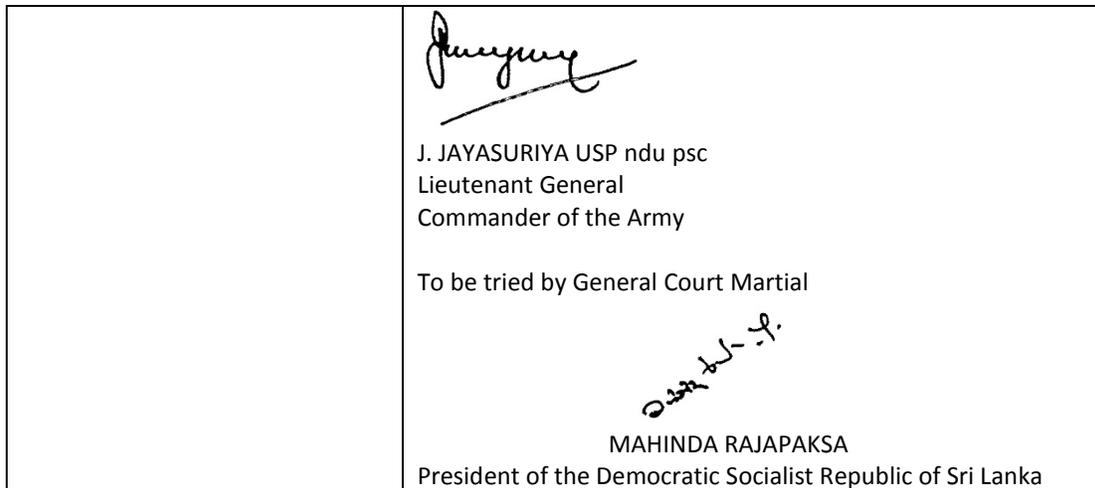
<p>1ST CHARGE Sec 109 (e) of the Army Act</p>	<p>DISGRACEFUL CONDUCT</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service being the Commander of the Sri Lanka Army served as Chairman of the Tender Board pertaining to the procurement of Day Vision Binoculars (234 Nos) under reference No. 2.14.1 -788 from M/S British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., and awarded the tender to the British</p>
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<p>2ND CHARGE Sec 109 (e) of the Army Act</p> <p>24th March 2010</p> <p>31st March 2010</p>	<p>Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., on or about 6th day of November 2007 in the knowledge of the fact that your son-in-law Danuna Thilakaratne had an interest or concern with the M/S Hicorp (Pvt) Ltd., aforesaid which relationship if disclosed, would have required you to disassociate yourself from the tender process in accordance with paragraph 1:4:2 and 1:4:3 of the Procurement Guidelines of 2006, and that you concealed the said relationship up to the date of your retirement on the 14th November 2009 and thereby you did commit a fraudulent act punishable under Section 109 of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactments of Sri Lanka (Ceylon)</p> <p>DISGRACEFUL CONDUCT</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service being the Commander of the Sri Lanka Army served as Chairman of the Tender Board pertaining to the procurement of 12V Maintenance Free Batteries (50 Nos) under reference No. 2.14.1 -510 from M/S British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., and awarded the tender to the British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., on or about 23rd day of August 2007 in the knowledge of the fact that your son-in-law Danuna Thilakaratne had an interest or concern with the M/S Hicorp (Pvt) Ltd., aforesaid which relationship if disclosed, would have required you to disassociate yourself from the tender process in accordance with paragraph 1:4:2 and 1:4:3 of the Procurement Guidelines of 2006, and that you concealed the said relationship up to the date of your retirement on the 14th November 2009 and thereby you did commit a fraudulent act punishable under Section 109 of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactments of Sri Lanka (Ceylon)</p> <p>To be remanded for trial by General Court Martial</p>  <p>J. JAYASURIYA USP ndu psc Lieutenant General Commander of the Army To be tried by General Court Martial</p>  <p>MAHINDA RAJAPAKSA President of the Democratic Socialist Republic of Sri Lanka</p>
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CHARGE SHEET – No. III

The Accused O/50536 General GSC Fonseka RWP RSP VSV USP rcds psc is charged with:

<p>1ST CHARGE Sec 109 (e) of the Army Act</p>	<p>DISGRACEFUL CONDUCT</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service being the Commander of the Sri Lanka Army served as Chairman of the Tender Board pertaining to the procurement of 5KVA Generators (50 Nos) under reference No. DPC/2008/2.14.1-86 from M/S British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., and awarded the tender to the British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., on or about 28th day of February 2008 in the knowledge of the fact that your son-in-law Danuna Thilakaratne had an interest or concern with the M/S Hicorp (Pvt) Ltd., aforesaid which relationship if disclosed, would have required you to disassociate yourself from the tender process in accordance with paragraph 1:4:2 and 1:4:3 of the Procurement Guidelines of 2006, and that you concealed the said relationship up to the date of your retirement on the 14th November 2009 and thereby you did commit a fraudulent act punishable under Section 109 of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactments of Sri Lanka (Ceylon)</p>
<p>2ND CHARGE Sec 109 (e) of the Army Act</p> <p>24th March 2010</p> <p>31st March 2010</p>	<p>DISGRACEFUL CONDUCT</p> <p>In that you O/50536 General GSC Fonseka being an officer of the Regular Force of the Sri Lanka Army whilst on active service being the Commander of the Sri Lanka Army served as Chairman of the Tender Board pertaining to the procurement of VHF Direction Finders (03 Nos) under reference No. DPC/2008/2.14.1/502 from M/S British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., and awarded the tender to the British Borneo Defence - Australia through M/S Hicorp (Pvt) Ltd., on or about 23rd day of July 2008 in the knowledge of the fact that your son-in-law Danuna Thilakaratne had an interest or concern with the M/S Hicorp (Pvt) Ltd., aforesaid which relationship if disclosed, would have required you to disassociate yourself from the tender process in accordance with paragraph 1:4:2 and 1:4:3 of the Procurement Guidelines of 2006, and that you concealed the said relationship up to the date of your retirement on the 14th November 2009 and thereby you did commit a fraudulent act punishable under Section 109 of the Army Act No. 17 of 1949 (Chapter 357) of the Legislative Enactments of Sri Lanka (Ceylon)</p> <p>To be remanded for trial by General Court Martial</p>



Retired General Sarath Fonseka was found guilty of all charges in the above second and third Charge Sheets, and was sentenced to *30 months rigorous imprisonment*, resulting in him losing his position, as a Member of Parliament of Sri Lanka, *having won comfortably* in the Colombo District, contesting under his own party at the General Election on 8th April 2010, and further *depriving* him of his *civic rights for a period of 7 years* !

Unequal treatment before the law !

In *complete contrast* to the foregoing, no actions, whatsoever, had been taken against the Secretary, Ministry of Finance & Secretary to the Treasury, P.B. Jayasundera for far more graver corrupt practices, as per findings of the highest judiciary of the country, the Supreme Court of Sri Lanka, nor had any action, whatsoever, been taken against those others, who were involved in such unlawful, illegal and fraudulent deals, of a far greater magnitude causing extensive losses to the State. - (IMF, World Bank & ADB Agenda on Privatisation – Vol. 3: Colombo Port Bunkering Privatisation – Annulled as Illegal & Fraudulent by Supreme Court – by same Author)-(IMF, World Bank & ADB Agenda on Privatisation – Vol. 4: Sri Lanka Insurance Privatisation - Annulled as Unlawful & Illegal by Supreme Court – by same Author)- (Derivative / Hedging Deals by Citibank, Standard Chartered Bank, Deutsche Bank, with Sri Lanka Government's Petroleum Corporation - Dubious & Illegal ? – by same Author)

Ironically the National Procurement Agency, which was monitoring and enforcing the *compliance* with the Procurement Guidelines referred to in the above Charge Sheets against retired General Sarath Fonseka, was dissolved and closed down in or about February 2008, thereby *questionably* averting those others, who had violated and are violating the Procurement Guidelines from being so *arraigned* before the law, *unlike in the instance of retired General Sarath Fonseka*.

Furthermore, previously in July 2007, the Public Enterprises Reform Commission (PERC) was likewise dissolved and closed down, whereas several litigations and issues had yet been pending pertaining to questionable and dubious privatizations, which had been carried out by PERC, two of which, the privatisations of Sri Lanka Insurance Corporation Ltd., to the Distilleries Consortium, and Lanka Marine Services Ltd., to John Keells Holdings Ltd., were annulled by the Supreme Court of Sri Lanka, *as wrongful, unlawful, illegal and fraudulent*. The lurking question that arises was as to whether to bury any further investigations into the other perverse and dubious privatisations ? (IMF, World Bank & ADB Agenda on Privatisation – Vol. 4: Sri Lanka Insurance Privatisation - Annulled as Unlawful & Illegal by Supreme Court – by same Author)- (IMF, World Bank & ADB Agenda on Privatisation – Vol. 3: Colombo Port Bunkering Privatisation – Annulled as Illegal & Fraudulent by Supreme Court – by same Author) -(IMF, World Bank & ADB Agenda on Privatisation – Vol. 2: 'Dubious Deals' in Sri Lanka – What a Paradox – by same Author)

The foregoing comparison *vividly* and *startlingly* reveals the *pathetic plight* of the *unequal enforcement* of the 'rule of law' in Sri Lanka, and the extent to which law enforcement is *selectively politically motivated* in the upper echelons of society *vis-à-vis* fraudulent deals of very large magnitude *perpetrated* on the State - (Derivative / Hedging Deals by Citibank, Standard Chartered Bank, Deutsche Bank, with Sri Lanka Government's Petroleum Corporation - Dubious & Illegal ? – by same Author)

Further Litigations !

It would appear that as a consequence of retired General Sarath Fonseka having *dared* to contest President Mahinda Rajapaksa at the Presidential Election on 26th January 2010, he was *compelled* to face, either *prosecuting* or *defending himself*, in several litigations *seemingly* tantamounting to *undue harassment*, arising *impliedly* from *vengeance*.

- Against the findings and sentencing by the aforesaid two Court Marshals, retired General Sarath Fonseka had filed Applications to the Court of Appeal, which are pending.
- In addition to having been charged, as aforesaid, in the Second Court Marshal, on similar Charges, once again retired General Sarath Fonseka had been indicted in the High Court of Colombo, Sri Lanka. However, the Learned High Court Judge had *dismissed* the said Case against retired General Sarath Fonseka, on the grounds of *double jeopardy*, and had *acquitted* him.
- Furthermore, retired General Sarath Fonseka had been compelled to make an Application to the Court of Appeal on grounds that a *Court Marshal was not a Court*, in terms of the Constitution of Sri Lanka, and the said Application having been referred to the Supreme Court of Sri Lanka, the Supreme Court of Sri Lanka had delivered Judgment holding, that a Court Marshal is a Court of Law in terms of the Constitution of Sri Lanka.
- Retired General Sarath Fonseka had also made an Application to the Court of Appeal to be *re-instated*, as a Member of Parliament of Sri Lanka, and the said Application is reported to be *pending*.
- In addition, retired General Sarath Fonseka had been also indicted in the High Court of Colombo, Sri Lanka on Charges of harbouring 10 Army Deserters, with 4 Charges made in respect of each of them and also a common Charge. The said High Court proceedings are reported to be *pending*.

Infamous ‘White Flag’ Case !

Not stopping with the above, Hon. Attorney General, Mohan Peiris, P.C., had further indicted retired General Sarath Fonseka for allegedly having made the statement ‘*“Gota Ordered Them To Be Shot”*’ – *General Sarath Fonseka*’, which has been reported, as the headline story in *The Sunday Leader* on 13th December 2009, as was referred to hereinbefore.

This *controversial* case was *expeditiously* heard by a Trial at Bar, by a 3 Judge Bench of the High Court of Sri Lanka, presided by Learned High Court Judge Deepali Wijesundera, and comprising Justices Zurfick Razeen and T.M.P.B. Warawewa, in Case No. HC Colombo 5311/2010.

DAILY MIRROR - Friday, July 30, 2010 White flag case: Trial at Bar on a day-to-day basis

By LAKMAL SOORIYAGODA

The Colombo High Court yesterday fixed the trial-at-bar against retired General Sarath Fonseka in connection with the ‘White Flag’ case to be heard on a day-to-day basis. Accordingly, the trial-at-bar comprising three judges presided by Ms. Deepali Wijesundera and H.N.P.B. Warawewa and Zurfick Razeen will start from September 27 on a day-to-day basis.

When the trial-at-bar inquiry into the alleged statement made by General Fonseka to the Sunday Leader Newspaper editor came

DM QUOTE

“The trial-at-bar comprising three judges presided by Ms. Deepali Wijesundera and H.N.P.B. Warawewa and Zurfick Razeen will start from Sep-



Despite the court trial, Gen (ret.) Sarath Fonseka is all smiles as he takes a call on his mobile phone outside the Colombo High Court yesterday. Mrs. Anoma Fonseka is also in the picture. (Pic by Pradeep Pathirana)

