

**OUTLINE OF SUBMISSION MADE BY JAYANTHA DHANAPALA  
TO COMMISSION ON LESSONS LEARNT AND RECONCILIATION**

1. My experience as a career diplomat in the Sri Lanka Foreign Service from 1965-97, and in particular my period as Ambassador and Permanent Representative to the United Nations Office in Geneva from 1984-87 and Ambassador to the USA from 1995-97, are relevant to the challenges of representing a country in conflict and defending it against allegations of human rights violations. In addition my service as an international civil servant with the United Nations for ten years provided me with a multilateral perspective which will enable me to help the Commission understand the workings of an international organization in its relations with a member state. Finally my tenure as Secretary-General of the Secretariat for the Co-ordination of the Peace Process (SCOPP) from 2004-2005 and as Senior Adviser to the President of Sri Lanka from 2004-2007 exposed me to an experience relevant to your mandate.
2. The details of my curriculum vitae and my writings and statements are available on my website [www.jayanthadhanapala.com](http://www.jayanthadhanapala.com)
3. At the outset may I state that I welcome the appointment of your Commission despite its belatedness. It is an opportunity to learn from the tragedy of the recent past and to establish a basis for national reconciliation and unity. The leadership of H.E. President Rajapakse and the bravery of our armed forces resulted in an outstanding military victory over a ruthless terrorist group which ravaged our nation for decades. The time has now come for a multi-dimensional political solution to consolidate that military victory addressing the roots of the conflict. I must warn, however, against a strategy of postponing Constitutional change and a political solution to the problems that culminated in three decades of conflict until the Commission concludes its work and makes its recommendations. That would only exacerbate existing grievances and widen the gulf between the Government and the public at large especially those belonging to the minority communities. It will also affect the credibility of your Commission adversely. A series of APRC meetings have taken place and a draft report awaits action by the President and its presentation to the general public for discussion and a decision after a wide consultative process.
4. Your mandate artificially sets a time frame from 21 February 2002 to 19 May 2009. That and its restricted mandate is also a limitation in your good faith efforts to discharge your task. The lessons we have to learn go back to the past – certainly from the time that we had responsibility for our own governance on 4 February 1948. Each and every Government which held office from 1948 till the present bear culpability for the failure to achieve good governance, national unity and a framework of peace, stability and economic development in which all

- ethnic, religious and other groups could live in security and equality. The political expediency of apportioning blame will not serve the purpose of national reconciliation. A collective apology to the people of Sri Lanka is owed by all political parties.
5. The supreme law of the land is its Constitution and we have still not been able to frame a Constitution that elicits the confidence and trust of all our citizens. It is not possible within this brief note to outline the form of devolution that I think is vital to prevent future conflict in our land. Suffice to say that constitutional reform is vital and I trust that the excellent talent we have among our constitutional lawyers will be harnessed in this vital task.
  6. Education is a primary tool in creating a tolerant society. The experts we have in this field will advise more competently than I can about the techniques of teaching the three languages in use in our country from the earliest age. This must be more than a token gesture and the need for competencies in all three languages up to the GCE 'O' level will be necessary to weld our nation into the harmonious multilingual society we need to be. The cost of recruiting teachers and producing the books for this is a small investment for a huge gain. The example of other countries can be studied most especially in Canada. As far as possible classes in comparative religion could be introduced at senior levels in secondary schools so that a basic understanding of the 4 religions practised in our country is imparted as a pre-requisite for tolerance and religious harmony.
  7. Addressing my own experience more directly I recommend that the career diplomats in the Sri Lanka Foreign Service be trained in the representation of a multi-cultural country. All diplomatic and consular missions of Sri Lanka abroad should have officials conversant in Sinhala and Tamil to communicate with the growing expatriate Sri Lankan communities. The symbols and photographs displayed in these missions should focus on the rich diversity of our culture with representatives of all religions participating in the official ceremonies conducted by them. A special outreach effort to engage all groups within the expatriate Sri Lankan community must be organized by the Ministry of External Affairs and implemented by our missions abroad.
  8. Sri Lanka is a signatory of all the major international human rights conventions and reports periodically on its adherence to these norms. It would be useful if national reports are not only co-ordinated with relevant Government agencies but also with leading NGOs as well. NGO representatives could be included in the Sri Lanka delegations to Human Rights meetings. More prominence must be given in the media to these reports and the proceedings in the international forums considering them. This transparency about the country's performance in relation to international norms is necessary both for our own citizens and for the information of the international community

9. The armed forces of Sri Lanka are already being trained in international humanitarian law and human rights. This must be intensified and the Police and the provincial administrators brought into this training process. All police stations and government offices must have facilities to deal with citizens who speak only in Sinhala or Tamil recording statements in the language of the citizen's choice.
  
10. International Humanitarian Law is work in progress. Currently there are four treaties and three additional protocols which, over approximately one and a half centuries, have set the norms. The modern experience of counter-terrorism needs to be reflected in the codification of this law and Sri Lanka is uniquely equipped to take an initiative in this respect. Armed combat with terrorist groups using suicide bombers, child soldiers and human shields make the protection of civilians and war victims very difficult for the armed forces. While in no way reducing the humanitarian aspects of the existing law some discussion could take place in the international community on how the rules of engagement between the armed forces of the state and the terrorist groups could be amended on the basis of the experience gained in Sri Lanka and elsewhere. For example, the May 2009 heroic breaching of the earth bund, behind which an estimated 300.000 civilians lay trapped by the LTTE as human shields, led to the saving of many lives and the conclusion of the conflict but the alternative scenarios and its humanitarian law consequences for Sri Lanka must also be considered. With regard to anti-personnel landmines, while the Mine Ban Convention applies to nation states the Geneva Call is a neutral and impartial humanitarian organization dedicated to engaging armed non-State actors (NSAs) towards compliance with the norms of international humanitarian law (IHL) and human rights law (IHRL). The organization focuses on NSAs that operate outside effective State control. The LTTE rejected overtures by the international community to join this Call. The point I make is that existing norms have to be adapted to new situations that arise. Sri Lanka will need to consult through diplomatic channels and especially with the ICRC to convene a diplomatic conference to formulate a new Additional Protocol on new situations arising on the battlefield when encountering terrorist groups. This would be innovative diplomacy and far more constructive than the vitriolic outburst and melodramatic demonstrations we have engaged in against countries and organizations critical of our human rights record.
  
11. The post-conflict situation is an excellent opportunity to de-weaponise our society. In the years of terrorism both in the South and the North we developed a gun culture. The country was flooded with small arms and weapons. Nobody felt secure without a gun. But even after the LTTE were defeated we have seen no replacement of the culture of violence with a culture of peace. There is violence at the level of the village and there is violence in cities. Guns contribute to this. We have a national campaign against the consumption of liquor led by the President called "Mathata Thitha". Should we not also have a programme which we can call "Aviyata Thitha"? I appeal to you to place this at the top of your priorities. The free availability of Small arms and light weapons feeds conflict and crime. They

are cheap and can be carried even by children. About 60% of human rights violations in the world have involved the use of these weapons. In Sri Lanka we need stricter laws for gun control. The existing Firearms Ordinance goes back to 1916 during the British colonial era and although penalties for offences under it have been increased the entire law relating to gun control needs revision and modernization. We do not even have reliable estimates of how many guns we have licensed and unlicensed. Some NGO surveys say there are 1.9 million in circulation. According to news reports guns owned by the LTTE are frequently being discovered. Are we sure they go into the custody of the Government? There are guns which deserters from our armed forces have carried away from the battlefield which may have gone into the underworld. There are trap guns illegally used by farmers which are misused for criminal activities. Guns should as far as possible be owned by the security forces only and private ownership must be licensed and for justifiable reasons. In a post conflict period while ensuring that we are vigilant to prevent terrorism we must also roll back the process of militarization that has taken place in our society.

When I was in charge of the Disarmament programme in the United Nations in addition to urging strong action against nuclear weapons I led a campaign against small arms which was directly affecting the peace and development of developing countries. There are an estimated 875 million small arms in the world 75% in the hands of civil society. They cause the deaths of about 500,000 persons every year. The UN held a conference in 2001 and adopted a Programme of Action to prevent the illicit trade in small arms. That programme is being implemented and every two years international conferences are held to review its implementation. A Preparatory Committee met in July this year to draw up an Arms Trade Treaty which will regulate the trade in conventional weapons in the world. We can use the many experiences in other countries to mop up surplus guns in Sri Lanka. Some of them have had bonfires of surplus guns. I would like to see the destruction of surplus guns in our country. That will symbolize more effectively the end of a gun culture and the defeat of terrorism. There are international resources available for curbing the proliferation of guns which we can use.

12. Racial and religious prejudices exist close to the surface in our society and can erupt in moments of tension. We need a law banning hate speech and hate incitement so that whether by the majority or the minorities all forms of hatred based on ethnicity, religion and caste are declared illegal. A Race and Religious Relations Act patterned on what other multicultural democracies have could be introduced under the Ministry of Nation Building.

A return to basic ethical principles and values is urgently needed in our country today when advocates of exclusivism, prejudice, hate and violence stand in the way of rebuilding a peaceful and prosperous nation.

Let us remember the words of Buddha, as recorded in the Dhammapada:

“The others know not that in this quarrel we perish. Those of them who realize it, have their quarrels calmed thereby.”

It is time we calmed the quarrels among ourselves.