

28 November 2016
Dr. Jeyaraj Mahalingam Pillay, President of Sri Lanka, Presidential Secretariat, Jeyaraj Mahalingam, Colombo 1.

Dear Mr. President,
The Ring of Corruption around the Governance Structure Can be Significantly Weakened

During your presentation at the 'Ravaya Anniversary' event, you were realistic to acknowledge that the ring of corruption that strangled Sri Lanka before 9 January 2015 was yet not fully dismantled. You rightfully asserted that the ring of influential persons were holding back the good governance commitments of the Government, unduly robbing them from being effectively implemented. Yet, you were farsighted and confident to commit, that over time, you will weaken the stranglehold corruption and other rings have over the prevailing governance structures and this weakening will lead to the effective delivery of good governance.

You will certainly be able to, significantly weaken these operating unwholesome rings and deliver on your promise of good governance, by implementing with leadership commitment, the following reforms and restructures of the governance process over the next six months to the end of the year:

1. Establish parallel Court systems dedicated to hear corruption related cases, with daily hearings to a finish, operating on a two shift basis (9 a.m.-1.30 p.m. and 2.30 p.m. to 7 p.m.) facilitated by electronic interfaces and communication, where evidence, network facilitations and the prosecutive activity will be done via remote access technology options. (Refer a live Indian example https://www.youtube.com/watch?v=0aU7T1U0t00)
2. Establish an independent, new investigation special case work support unit, with immediate resources to deal with investigations with deal with specialised needs arising from investigations conducted by the Financial Crime Investigations Department (FCID), the Criminal Investigations Department (CID), Bribery and Corruption Commission (CIBC) and the Financial Investigations Unit (FIU), including support in investigating:
 - a. Recovery of proceeds of crime and follow up with asset recovery in investigations handled by the law enforcement agencies
 - b. Forensic accounting
 - c. Money laundering
 - d. Organised crimes
 - e. High value white collar crimes
3. Enact a new comprehensive Proceeds of Crimes Act. A new enactment bench marking the Proceeds of Crime Act 2002 and
4. b. Amend the "Proceeds of Crime (Money Laundering) and Terrorist Financing" Act

5. Empower the FIU of the Central Bank to regularly share with the FCID, CID and CIBC

6. Investigate suspicious transactions reports of the FIU

7. Details of Cash Deposits and Cash Withdrawals in excess of Rs. 10 million in a single transaction

8. Restructure the organisation strategy of the FCID and CIBC, whereby:

- a. They set up separate units to progress the investigation of the Financial Crime before 2015 and after January 2015, allowing these investigations to proceed consecutively

9. They have within their organisation structures, dedicated independent network facilitations units, with competent resources, representing the

1. The Special Case Work Unit (Referred to in the Proceeds of Crime Act)

2. Attorney General's Department

3. Inland Revenue Department

4. Customs Department

5. Excise Department

6. A dedicated network facilitation services and public institutions have designated senior officers, with duly assigned accountability to disseminate information and to arrange network facilitation services for the conduct investigations;

7. Financial Intelligence Unit

8. Sri Lanka Accounting and Auditing Standards Monitoring Board

9. Securities and Exchange Commission

10. Central Bank

I had an interview with the finance Minister recently where he gave the reason for the massive degradation of the rupee as being due to the fact that the Government of Central Bank Governor Nivard Cabral had bought properties in the US and Brazil. I also noted a recent newspaper article that it was the fact that the Government was taking over these two properties that the Central Bank, and that the cost and current market values of the properties were as high as Rs. 21,000,000 in the table.

This is a total net worth of Rs. 21,000,000 to the Government as a result of Governor Nivard's action, being a small business man, myself, I feel he would have

v. Registrar of Companies
vi. Board of Investments
vii. Ministry of Public Administration

8. Review the Board of Investments, the Inland Revenue Department and the Customs Department to conduct Post Audit Reviews of effective compliance by all entities granted special tax holiday status and/or general exemptions from Customs duty/Income Tax (including VAT and other levies) and Excise Duty over the last seven years and submit the relevant reports to the Public Accounts Committee, Committee on Public Enterprises, the Finance Ministry, FCID, CID and CIBC

7. Amend the applicable laws dealing with the declaration of Assets and Liabilities of Sri Lanka to:

- a. Expand the scope of application to include all statutory boards and state owned public enterprises, including all subsidiaries and sub subsidiaries established by these entities, where the effective shareholding of the State is equal or higher than 50 % or where the interests of the state in the assets in custody of an entity exceeds 30%;

8. Require the persons covered by the enactment to make detailed disclosure of conflicts of interests and related party transactions

9. To further enhance the level of disclosure and scope of coverage of the format for disclosure by any person under the management and follow up capabilities by the interface of information technology

10. Remove the restrictions applicable in the disclosure of the contents of any declarations formally obtained by public from the CIBC

11. Promote and encourage State and private sector officials, professionals and citizens to report to the Commission (CIBC) with information regarding declarations of any persons or instances where the declarations made by any person under the Assets and Liabilities Law defers from or misrepresents the actual assets and liabilities of such person

8. Require all state officials, directors and officers of statutory corporations (including those in financial and other services) and all persons engaged in professional practice to provide declarations to their bankers, estate agents, valuers, insurers, financial advisors, trustees, money and investment advisers, and other service providers, etc. to disclose to the FCID, CID and CIBC, any acts of money laundering, bribery, corruption, possession of and transacting in proceeds of crime, and/or material noncompliance with laws and regulations (including tax, customs duty and excise duty laws and regulations), false or misleading knowledge gained in the course of their official/professional functions, duties and/or professional practices

9. Empower and require the Financial Intelligence Unit of the Central Bank to impose, penal sanctions against any banks, finance companies, primary dealers, deposit companies, share companies, foreign banks, insurers, fund managers and investing capital and saving institutions and other financial services providers

a. For failing to comply with laws, rules and regulations

1. Know Your Customer Rules

2. Financial Action Task Force 40 Recommendations

3. Financial Intelligence Unit promulgated other regulations

4. Reporting or assisting in transacting through formal sources/Proceeds of Crime

5. Any other court regulations dealing with the

Prudent Mahipala Funds recently regretfully accepted that a ring of influential persons were holding back the good governance commitments of the Government from being effectively implemented

with money laundering and terrorism financing

9. For facilitating transactions involving proceeds of crime, or money laundering including temporarily holding proceeds of crime, where during such periods of holding of funds the relevant intermediaries are deemed to have enjoyed a benefit/profit estimated at 20 % per annum as the yield on the funds so held

10. Require the Sri Lanka Accounting and Auditing Standards Monitoring Board to expand the list of Specified Business Undertakings covered by the relevant Act to include:

a. Licensed Primary Dealers

b. Licensed banking businesses

c. Licensed savings and deposit taking institution

d. Any business undertaking or trust accepting public funds by way of deposits, premiums, contributions for savings, thrift, or other designated purposes

e. Accepting public funds locally and international fund transfers by way of Charitable donations, grants and or endowments

f. All statutory corporations and State-owned public enterprises, including any subsidiaries and sub subsidiaries of statutory corporations and State-owned public enterprises

And further clarify that any business undertaking or company satisfying any one or more of the under noted classification types will be deemed to be a specified business undertaking:

1. Which has a turnover in excess of Rs. 500 million;

2. Which at the end of the previous financial year had gross assets in excess of Rs. 100 million;

3. Which at the end of the previous financial year had gross assets in excess of Rs. 300 million;

4. Which at the end of the previous year had liabilities, banks and other financial institutions in excess of Rs. 100 million;

5. Which has a staff in excess of 1,000 employees

11. Amend the definition of "State Property" to include all statutory corporations and State-owned public enterprises, including any subsidiaries and sub subsidiaries, where the interests of the state exceeds 30% of the assets of the undertaking

12. Require the chamber of commerce and industry, institutes/associations of directors and managers, and professional institutes/associations, to include and

adopt within their codes of governance, ethics and conduct, provisions requiring members to commit to (with penal sanctions for violation of such commitments)

a. combating money laundering, terrorism financing, bribery, corruption, possession of and transacting in proceeds of crime, cybercrimes, organised crimes and white collar crimes;

b. avoidance of material noncompliance with laws and regulations (including tax, customs duty and excise duty)

c. ensuring engaging in transactions with material and/or unmitigated nondisclosure of conflicts of interests and related party transactions

d. strengthening governance, promoting and adopting principles for good regulation, best practices and acceptable standards (including international standards for accounting, auditing and assurance, professional ethics and education, and public sector accounting) in order to create a more consistent and effective regulatory environment

e. avoidance of any misrepresentations and/or nondisclosure of material information and public warnings of risks of goods and services provided

f. restoring trust and integrity

13. Require practicing accountants and auditors, as an integral part of the annual assurance reports of specified business undertakings to specify that:

a. they have fully complied with the Provisions of the Company Law and have no direct or indirect connection or relationship with the duly appointed Company Secretary of the entity;

b. They have no conflicts of interest or related party connections whatsoever, with the entity and its directors and officers;

c. They have declared in their report all material non-compliance with laws and regulations, and suppressions of minority rights, that have come to their attention during the course of the audit, including any suspicious transactions connected with purported acts of bribery, corruption, money laundering, terrorism financing, possession of and transacting in proceeds of crime ; as well as any assets or interests owned or by the entity, or held as bearer instruments or investments or financial instruments registered in tax havens or in offshore trust companies;

d. To the best of their knowledge and belief that the financial statements make an accurate disclosure of:

1. appropriate accounting policies and standards, including where appropriate standards dealing with consolidation of accounts, impairment assets (including goodwill) arising by bribery, corruption and undervaluation of liabilities, including accurate disclosure of contingent liabilities and capital commitments

2. the going concern status

3. conflicts of interests, related party transactions, ultimate parent company and

4. the composition of the largest shareholders and confirm that there are to be the best of the knowledge and belief, no non-compliance with or suppression of minority rights

5. registered and or held in offshore trust companies

6. a copy of the audited financial statements have been submitted to the Accounting and Auditing Standards Monitoring Board, where the audited relates to a specified business undertaking within the meaning of the

14. Require the Sri Lanka Accounting and Auditing Standards Monitoring

Board and the Institute of Chartered Accountants of Sri Lanka to jointly establish an agreed a transparent procedure, to review and deal with the following on a regular basis, and take such appropriate action as deemed necessary in upholding the quality and accuracy of the financial statements and assurance processes of specified business undertakings and the processes followed by practicing accountants concerned in compliance with set accounting and auditing standards; and

a. Observations that require disclosure to revenue authorities (Income Tax/ Customs and Excise)

b. Observations that require disclosure to law enforcement authorities

c. Transparent prominent public communications to a good governance practice

15. Require the Sri Lanka Accounting and Auditing Standards Monitoring Board and the Institute of Chartered Accountants of Sri Lanka to jointly establish an agreed a secure communication facility including via a website for any person to register in confidence, a complaint or an observation

a. against any specified business undertaking or

b. professional accountants (PAs) (including as appropriate auditors, other PAs in public practice, PAs in business who are in senior level roles - directors, officers, or senior employees in their employing organisations and other PAs in business).

who may have failed in their accountability in terms of

16. Sri Lanka Accounting and Auditing Standards Monitoring Board Act and or the Code of Professional Practice, Ethics and Conduct binding any member of the Institute of chartered accountants of Sri Lanka

17. Commitments under Non Compliance with Laws and Regulations (NOCPLR) procedure

I am sure you will recognise that any such recommendations will be more than compensated by the consequential advantages

I appeal that these recommendations be reviewed and implemented early in the interest of delivering on the promise of good governance and assuring economic growth and prosperity

Yours sincerely,
Chandra Jayaratne
at: Prime Minister's Office
Minister of Justice
Attorney General
Governor Central Bank
Attorney General
Chairman COPE
President ICASE
Chairman CICA
Chairman CICC
Chairman SLAASMB
DG FIU

Ravi K on ex-CB buying foreign property: A response

	New York	Brazil
Current value (Rs)	1,101,800,000	143,800,000
Purchase price (Rs)	611,500,000	122,800,000
Capital increase (Rs)	490,300,000	21,000,000

As an advantage of the two property rates in the two countries.

Ravi, you do not give over to Cabral? I don't want to hear you and your boss Raniil Lanka lamenting and blaming the previous Government. You are always blaming the reason for the rupee either get on with the job Government or get out of the country. I am not sure you can but I don't take us for fools, by

It is disgusting to learn that the 'Yahapalanaya' concept is being prostituted to satisfy misplaced emotions of the Central Govt. MPs

with an additional mouthpiece of Rs. 100,000, in order to woo the voters in their constituencies by way of subsidising their household weddings, funerals and miscellaneous needs using taxpayer's money.

The Editor will recall that as re-elected, with the writer in his previous submissions, that with the

decentralised Provincial Councils and Pradeshiya Sabhas in 2013, the job-description and the role responsibilities of

Central Govt. MPs should have been redefined to make them real 'law-makers' or 'legislators' confined to the centre. If it happens with a well-intentioned politician, the country would have avoided the massive destruction and mayhem

that has befallen our civil war in our motherland.

Also, it is evident that the 'Preferential Voting System' acted as an obstacle to implementing an effective and a

proactive Democratic Political Administration system. The entire country including the

politicians and the electorate demur that the scandalous

'Preference voting system' has to be abolished with a view to coming electoral reforms.

On the other hand, since it is an optional system, can't it be abolished by a simple amendment to the relevant laws

because the attempt is enormous?

It is a common scenario as citizens with the country at heart, simply cannot comprehend this servicing of a

'Yahapalanaya' Govt, which is in stark contravention of installing a robust 'Good Governance' mechanism devoid of wastage and corruption.

We still hold the hope that

only a 'Yahapalanaya' Govt, can bring in the measures needed to institute an effective Political Machinery in Sri Lanka. Therefore, we beseech them to suspend the current moves aimed at increasing the political machinery in the political fraternity and accelerate the

Bernard Fernando
Moratwa