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Human rights situations that require the Council's attention

**Written statement* submitted by the International Movement
Against All Forms of Discrimination and Racism (IMADR), a
non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Enforced and involuntary disappearance in Sri Lanka**

Enforced disappearance in the 1980s and 1990s

Over the years, cases of enforced or involuntary disappearance increased, often in response to acts of violence against the state and in the context of a rigorous imposition of emergency rule. Landmark events in Sri Lanka's history of disappearances include: the JVP uprising of 1971; the increased militancy of Tamil youth following the communal riots of 1983; the signing of the Indo-Lanka Accord in 1987 after which the JVP started disrupting civil administration in the South; the presidential and parliamentary elections of 1989 and 1990, followed by the breakdown of the peace talks between the government and the LTTE in June 1990; the suicide bomb attack on Maj. Gen. Hapangama, the Army Commander in charge of the Jaffna Town in July 1996.

Due to both international and domestic pressure the Government of Sri Lanka under the Presidency of the Her Excellency Chandrika Bandaranaike Kumaranathunge appointed the Presidential Commission on Involuntary Removal or Disappearance of Persons mandated to investigate and report on the disappearance cases in the late 1980s/early 1990s in Sri Lanka. The ways in which persons were removed involuntarily and subsequently made to disappear is well recorded in the Interim Report II of this Commission.

The Commission reports of receiving about 30,000 complaints. In mid-1997 the Commission was asked to halt inquiries and to submit reports on the complaints they had investigated by then. The first report was handed to the President in September 1997 and later published.

According to the Report the Commission was not able to inquire into all the cases. When they wrote their final reports, a total of 10,136 complaints had remained uninvestigated. President Chandrika subsequently appointed another Commission in April 1998, with island wide jurisdiction to investigate into the unresolved cases.

It is reported that around 16,000 new cases of disappearance were brought to the notice of the All-Island Commission. Although the parties concerned wished these cases to be investigated and made the particulars available to the Commission, the mandate of the Commission barred it from inquiring into them. These cases have thus not been investigated by any Commission of Inquiry to date. The All Island Commission handed its report to the President Chandrika in August 2000, but the report is yet to be published.

Disappearances 2005 – 2006

As the conflict grew into a large scale war-fare with the LTTE since breaking down of the ceasefire agreement brokered by the Norwegians in 2002, Sri Lankan rulers ably continued to impose emergency regulations continuously supported by the Prevention of Terrorism Act (1978) enhanced in 2005 by the Special Emergency Provisions (2005).

A Civil Monitoring Committee engaged in monitoring involuntary disappearances, abductions, extra judicial killings, arbitrary arrests and detentions in Sri Lanka during 2005 – 2006 have recorded that 88 persons have been either abducted or gone missing in and around Colombo between 1st August 2006 and 9th April 2007. The Sri Lanka Human Rights Commission (NHRC) had received 4,787 complaints of human rights abuses in 2006, including 3,128 regarding illegal arrests, torture and disappearance. It had received

** Committee for the Investigation into Disappearance (CID) and Rights to Life, NGOs without consultative status, also share the views expressed in this statement.

419 complaints of disappearances in the Jaffna Peninsula alone since December 2005 (Source: MCM Iqbal on Disappearances 2007).

It should be noted that causing disappearances is not a punishable offence under Sri Lanka's Penal Code.

Most of the cases recently reported to the civil society initiative CID related to last stages of the war in 2008 are those of disappearances after arrest. Many arrests were witnessed by people, but the security forces later denied the arrests. In most cases relatives have not been able to find the places of detention. They were not given receipts. In some cases abducted persons were traced to security force detention centres or prisons.

More people disappeared during the final stages of the war, some due to abduction by the LTTE, as reported by the families, and several hundreds by security forces, para-military groups or later when crossing over to the government controlled areas during May 2008 (Representations made by civilians before the LLRC at Madhu on 08th January 2011. Transcript No. LLRC/FV/08.01.11/01).

Approximately 500 cases have been forwarded by the respective families at the end of January 2012 to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) in relation to above mentioned cases according to the Committee to Investigate into Disappearances.

Re-appearance of disappearances 2011 - 2012

- Dinesh Buddhika Charitananda(25) ethnic Sinhalese, was abducted on January 3rd 2012. His body was found near a river the following morning;
- Mohamed Niyas, a Muslim astrologer, abducted in a white van on 27th Oct 2011 Three weeks later he, too, was found dead;
- Hewage Chandana Rohan Lilantha Dabare of Thalawatugoda, Colombo, disappeared and found dead on 1st Jan 2012;
- Mohamed Nisthar of Sankutikulama, Puttalam, disappeared and found dead on 2nd Jan 2012;
- Rajgopal of Trincomalee abducted and found dead on 3rd Jan 2012;
- Lalith Kumar Weeraju and Kugan Murugan disappeared on December 10th 2011, while working on preparations for Human Rights day, their motorbikes were seen inside the Police station by family members;
- Mr. Arnold, Tamil political activist of the Ilangkai Thamizh Arasuck Kadchi (ITAK) in Jaffna and a former representative of Jaffna University Student Union was reported missing on 21 Jan 2012;
- Maligawatte Donald abducted by a group of unidentified persons on 7th Jan 2012 morning;
- 'Christopher' a 55 year old businessman in Kotahena was abducted on 5th Dec 2011
- Ramasamy Prabhakaran (42) abducted by a squad arriving in a white van around 3.30pm on 11th February 2012, 2 days before a fundamental rights application filed by him was taken up in the Supreme Court. Senior Police Officers attached to the Colombo Crime Division (CCD) was cited as respondents; the Police has informed his wife 'that the registration number of the white van was false'.

Recommendations

- GOSL should respond to the request of WGIED to conduct a mission to Sri Lanka to report on the further implementation of the recommendations emanating from the WGEID visits in 1991, 1992 and 1999;
- GOSL should fulfill its obligations under the Declaration to “take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction” (art. 3);
- GOSL should ratify the International Convention for the Protection of All Persons from Enforced disappearance.
- The former AG Mr Mohan Pieris should present details known to him as stated during the CAT re where about of Prageeth Eknaligoda.

For the past two years, many initiatives highlighted the lack of accountability and justice in Sri Lanka, while accountability for violations of international human rights and of humanitarian laws during the conflict have been deflected by the GOSL through promise of the National Human Rights Action Plan (NHRAP) and the Lessons Learned and Reconciliation Commission (LLRC). However, both the NHRAP and the final report of the LLRC, as published, are insufficient to ensure the rule of law and respect for human rights in Sri Lanka.

Removal of the Shrine for Innocence

The Shrine for Innocence was built in 1997 as a memorial for those who disappeared fulfilling a pledge given to Mothers Front in the South that campaigned against disappearance. This monument has been removed by the Urban Development Authority which comes under Secretary Gotabaya Rajapakse.

“Under the current regime, with their urge for development the neglected Shrine is being erased. As its designer, I really don’t know what to say! I don’t know if I should say anything against what’s happening to the Memorial now, because it makes no sense as such... The erasure of the Shrine is actually a process of enacting an abstract MONUMENT for our collective amnesia....If I have my way I’d imprison the broken narrative of the Shrine in a new memorial to commemorate the Shrine of the Innocents. We murdered thousands of innocent people for political reasons in this country; and then we built a memorial for them, and then we ‘murdered’ the memorial too. A society bent on amnesia, needs no memorial to remember victims of its recent history; it only needs monuments for rulers, kings, politicians, heroes and vulgar consumerism”, Jagath Weerasinghe, 26 January 2012.

Conclusion

According to the most recent report of the UN Working Group on Enforced or Involuntary Disappearances (A/HRC/19/58), 5671 cases of disappearance in Sri Lanka still remain outstanding; between 13 November 2010 and 11 November 2011, 59 cases were transmitted to GOSL, no reply was given by GOSL, and no case was clarified; no response was given by GOSL to the general allegation, prompt intervention letter, and request for a visit given by the Working Group.

As documented here, the issue of enforced and involuntary disappearance is a long-standing and ongoing problem in Sri Lanka, while the culture of impunity and lack of rule of law i.e. effective prosecution hamper its solution. This fact should be brought to the attention of international community.