

STATEMENT TO COUNTRY DELEGATES AT THE SECOND SESSION OF THE U.N. HUMAN RIGHTS COUNCIL: 29 SEPTEMBER 2006

As the second session of the UN Human Rights Council moves into its final phase, **we the undersigned** civil society organizations and individuals dedicated to principles of human rights, peace and democracy in Sri Lanka, await an outcome that will reaffirm the call of the High Commissioner for Human Rights, the Special Rapporteur on Extra-Judicial, Summary and Arbitrary Executions, as well as of international, regional and national human rights organizations for international human rights monitoring of the situation in Sri Lanka.

In the two weeks since the Council began its sessions, the situation in Sri Lanka has continued to deteriorate. 207,000 persons continue to be displaced throughout the north and east as a result of recent violence. Some IDPs face pressure to return to their places of origin, sometimes with the use of coercive measures. In Kinniya, in the east, on September 26, the Police entered a school where some IDPs were seeking shelter and cut off the power supply. Access to many areas of the north and east continues to be denied to many international and national agencies. With the prevailing security situation and the restrictions imposed on humanitarian actors, many international actors are severely constrained and some have even suspended their operations in certain parts of the north and east.

Killings and abductions continue throughout the north and east, as well as in Colombo. In Colombo alone, 17 Tamil businessmen have been abducted in the past few months. The massacre of ten Muslims in Pottuvil, also in the east, on September 18 led to heightened tensions and to the withdrawal of the Special Task Force of the Police from the area.

The inability of existing institutions and mechanisms, including the National Human Rights Commission, to investigate the large numbers of killings, abductions and disappearances is coupled with a long history of impunity which in turn intensifies high levels of insecurity in the minds of victims and survivors, who are potential witnesses. Neither the many different Commissions appointed to look into incidents of assassination or violence nor on-going judicial processes have been able to offer protection or justice for victims of human rights abuse.

The Supreme Court judgment of September 15 saying that Sri Lanka cannot be bound by the Optional Protocol to the ICCPR without going through a long process of Constitutional amendment and referendum has sent waves of concern throughout our community. We fear that this may be a first step by the state towards abdicating from all obligations under international law.

It is in this context that we reiterate our call for an independent and international human rights presence in Sri Lanka.

We feel that only an independent Commission of Inquiry consisting of figures of international repute in the field of human rights will generate confidence in such a mechanism and extend some guarantees of impartiality and confidentiality to all those who will have the courage to testify before the Commission.

Such a Commission would engage in both inquiry and investigation regarding human rights violations in the entire country over a specified period of time. It would document incidents and situations in a manner that could assist judicial proceedings of a subsequent date. The exercise of judicial powers would be retained by local authorities, thus rendering it consistent with the Constitution of Sri Lanka. The process of the Commission would complement existing structures in ensuring that human rights violations are investigated and perpetrators held accountable.

A national Commission of Inquiry, which is being proposed by the government, even though it has a panel of eminent international observers, will not bring the LTTE fully on board and we fear, allow the LTTE to avoid confronting the consequences of the human rights violations that it commits.

An independent international Commission will be, we believe, the best structure to draw in the full range of alleged perpetrators from the state and the LTTE, as well as other actors who have committed acts of human rights abuse. Its work would also enhance the sovereignty of the people of Sri Lanka in terms of the country's Constitution which includes fundamental rights and freedoms which all organs of the government have an obligation to protect and to advance.

The process of holding an independent international Commission of Inquiry which is seen to be unbiased and which has the strong endorsement of the international human rights community may well be a strong confidence-building measure in terms of the peace-building process as well. It can only strengthen the rule of law, fair and effective governance and better ensure human rights and human security for all the people of Sri Lanka.

In addition, we call for the Office of the High Commissioner for Human Rights (OHCHR) to establish a formal presence in Sri Lanka and work towards developing a Memorandum of Understanding with the government of Sri Lanka that will allow for a sustained and field-based presence of the OHCHR in Sri Lanka. The multiple roles of such a presence would enhance civilian protection and strengthen accountability through processes of consistent and active verification, investigation and documentation of human rights abuses together with public and systematic reporting to an independent body and would ensure a long-term commitment to the prevention of human rights violations in Sri Lanka.

We also hope that this session of the Council will ensure that there are arrangements made for the on-going monitoring of the situation in Sri Lanka as well as for a report back during the third session of the Council in November.

Signatories:

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Association of War Affected Women
Caring Hand
Centre for Human Rights and Development
Centre for Policy Alternatives
Citizen's Committee for Forcibly Evicted Northern Muslims, Puttalam
Human Care Foundation
International Centre for Ethnic Studies, Colombo
International Movement Against All Forms of Discrimination and Racism
INFORM
Islamic Women's Association for Research and Empowerment

Law and Society Trust
Muslim Action Front
Muslim Council of Sri Lanka
Muslim Forum for Social Development
Muslim Information Centre
Muslim People's Front
Muslim Women's Research and Action Forum
National Peace Council
People's Movement for Good Governance
Sri Lanka Islamic Student Movement
Sri Lanka Jamathe Islmaiya
Women's Development Organisation, Jaffna
Women and Media Collective
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Viluthu

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