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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.

[24 August 2012]

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

Sri Lanka: Human rights abuses in prison – assaults, torture and custodial death

Introduction

The government of Sri Lanka, in responding to the resolution adopted by the UN Human Rights Council at its 19th session (A/HRC/RES/19/2) on Sri Lanka, has now launched an Action Plan for the implementation of recommendations made by its Lessons Learnt and Reconciliation Commission (LLRC). In this context, the President of Sri Lanka has stated that 50% of the recommendations of the LLRC have been implemented by the government. Similarly representatives of the Attorney General's Department have also made statements that a list of detainees has been already compiled. However, unfortunately these statements do not reflect the ground reality. We wish to highlight in this written statement instances of human rights violations as well as the collapse of the rule of law that have occurred over the past 3 months. These cases should also illustrate the lack of political will to truly create a conducive environment for reconciliation and the total disregard of the State and other relevant authorities to challenges of accountability.

Torture and custodial death of prisoners in Vavuniya

On 29th June 2012, 32 Tamil Prisoners in the Vavuniya Prison were brutally assaulted as a result of an agitation staged by them inside the Prison. Following this incident it was reported in the media that all prisoners in Vavuniya have been transferred to other prisons in Anuradhapura, Kandy and Colombo Districts. Soon thereafter lawyers representing some of these prisoners and representatives of the Tamil National Alliance called upon the authorities to provide them with access to lawyers and family members to ascertain the whereabouts of the inmates. Based on the information received from the Tamil National Alliance civil society organizations forwarded an urgent appeal to the President of Sri Lanka urging him to take necessary action to provide medical treatment to the prisoners as well as immediate access to family members and lawyers.

According to some prisoners who shared the ordeal with the Members of Parliament of the Tamil National Alliance they were transported to Mahara Prisons in a state of unconsciousness and with severe injuries including bullet wounds. The "tear-gas" used to disperse the agitating inmates in the Vavuniya prison has made them weak and unconscious for several hours.

Two prisoners who were critically injured have succumbed to their injuries. One of them is Mr. Nimalaruben Ganeshan (28 years old) who died on 4th July 2012. He was receiving regular treatment for his heart ailment. Another is Mr. Mariyadas Delroksan (38 years old) who was in a state of coma since 29th June and passed away on 8th August 2012 at the Ragama Teaching Hospital. Mr. Mariyadasa has been reported as disappeared by the family since 2008.

In the whole course of this incident, the prisoners have not received adequate medical treatment. Family members were not notified of the transfer to other prisons. Lawyers could not access the prisoners immediately. According to the affidavit filed by the parents of the deceased Nimalaruben (Fundamental Rights Application 456/2012) they were brought down to Colombo by Police from Vavuniya on the 5th and kept under their custody before showing the dead body of their only son Nimalaruben. They too were denied access to their lawyers. In the affidavit they have stated seeing the dead body of their only son with several injuries. On the 5th the Police filed a motion in the Magistrate Courts in Mahara objecting to the body be taken back to his village in Vavuniya. The reason given was that it will be a threat to national security if a large crowd gathers for his funeral. The Supreme Court of Sri

Lanka on 23rd July ordered that the body be released to the parents. The Police still enforced the order to restrict participation of outsiders and funeral orations to be made.

Mariyadas Dilrokshan died on 8th August after being in coma for over one month and his body was taken to Jaffna. Even though the Police filed a motion seeking restrictions to be imposed related to his funeral ceremony lawyers representing his family managed to seek relief from the court. He was buried in Jaffna amidst a large gathering of villagers and representatives of the civil society. Centre for Human Rights and Development providing legal assistance has filed a fundamental rights application to be supported on 10th September 2012 for torture and custodial death.

The safety and security of the prison inmates undoubtedly lies with the State which is finally answerable to the deaths caused whilst in custody. This incident has once again exposed the collapse of the rule of law, continuing culture of impunity, lack of protection and security for Tamil detainees and prisoners and violation of fundamental rights of citizens by imposing restrictions on funeral rites.

Such violence and resulting deaths in prison have been an ever recurring problem in Sri Lanka. The two murders in January 2000 in Kalutara prison and the killing of 52 Tamil political prisoners in Welikada during 1983 racial riots, and the massacre of 26 Tamil political inmates of the Bindunuwewa Rehabilitation Camp in October 2000 have become only recorded history without perpetrators punished. In most cases prison officials and jail guards had enlisted the support of criminal convicts in the same prison to carryout racist attacks on Tamil political prisoners. Scant respect had been paid to the provisions of the Prisons Ordinance that deal with handling of emergency situations that arise in prisons.

Request to the Government of Sri Lanka

Owing to the consistent failure of successive Governments to hold fair and independent inquiries into incidents of this nature and deliver on matters relating to accountability for such incidents we therefore, call upon the Government of Sri Lanka to:

- Appoint an Independent Commission of Inquiry to investigate and inquire into the incident that led to the violence and attack on 37 Tamil political prisoners on 2.7.2012, with the technical assistance and guidance from the UN Office of the High Commissioner for Human Rights as provided for in paragraph 3 of the UNHRC resolution A/HRC/RES/19/2 on Sri Lanka adopted in March 2012;
- Draw up the Terms of Reference to trace identities on those directly and indirectly involved in the attack including those of the chain of command;
- Take all necessary measures to ensure the physical safety and security of prison inmates;
- Remove all restrictions applied from time to time to delay and deny access to lawyers by Tamil political detainees;
- Table in Parliament the list of detainees being held in all the prisons.