

4th December 2007

Honorable Mahinda Rajapakse,
President of Sri Lanka
Presidential Secretariat
Colombo 01.

Gotabaya Rajapakse
Secretary
Ministry of Defence, Public Security, Law and Order
Colombo 01.

Honorable Mahinda Samarasinghe
Minister for Disaster Management and Human Rights
Colombo 07.

Chairman Ananda Coomaraswamy
National Human Rights Commission
Colombo 08.

Victor Perera
Inspector General of Police
Police Head Quarters
Colombo 01.

Open Letter to the Government on the Recent Arrests and Detentions

As civil society organizations committed to uphold the equality and dignity of all Sri Lankans, we are deeply concerned about the mass arrests and detentions of Tamils in the first three days of December 2007. The most recent figures available to us for this three day period show that over two thousand people have been arrested and detained.

The levels of harassment and intimidation as well as of arbitrary arrest and detention, abduction and disappearance and extra-judicial execution faced by the Tamil community in Sri Lanka at the hands of the State, the LTTE and other armed groups have greatly increased over the past year. The recent arrests and detentions that have taken place in the course of cordon and search operations carried out islandwide come in the wake of this general pattern. These actions also increase the marginalization and discrimination that the Tamil community has experienced at the hands of successive governments.

In the first three days of December 2007, we have been informed of arrests in and around Colombo, Kalutara, Galle, Puttalam, Pusselawa. The majority of persons detained are young Tamils, mostly males. At least one case of Muslims being arrested has been reported. There are several cases of women who have also been arrested and detained.

We have received reports that the arrests and detentions have not followed existing procedures, thereby violating the basic fundamental rights of the citizens of this country. Our independent

investigations show that many of the people detained were in possession of proper documentation, including police reports, but were arrested nonetheless. The reason or legal basis for arrests has not been provided to those who have been subjected to arrest or their next of kin. The arbitrary nature of the arrests have been made clear in cases where almost entire families have been taken into custody. In a number of cases no information regarding the reason for detention has been provided to those who have been detained or to their relatives. In many cases, the next of kin has not been provided a receipt. These are clear contraventions of the Presidential Guidelines re-issued in July 2007. From independent inquiries it appears that the National Human Rights Commission which is mandated to monitor arrests and detentions, has not received any lists of detainees.

While we acknowledge the need for measures to be taken to combat terrorism and uphold security, these should be in accordance with basic human rights standards and civil liberties. The fundamental reasoning behind security measures is to protect the rights of civilians, not to curtail or violate them.

We urge the authorities to ensure that existing laws are respected while carrying out security checks. Arbitrary arrests and detentions contravene the basic essence of the rights incorporated in the fundamental rights chapter in the Constitution of Sri Lanka, ensuring that all citizens are equal before the law and should be protected from arbitrary arrests, detention, cruel and inhuman treatment and torture.

We are also concerned about the conditions faced by the detainees. Large numbers of people were taken into Police Stations which had limited space to accommodate them, and which lacked basic facilities such as toilets and drinking water. In October 2007, during his visit to Sri Lanka, the UN Special Rapporteur on Torture, Manfred Nowak, referred to poor conditions in detention centers which were often over crowded, resulting in inhuman treatment. He also makes specific reference to the use of torture by the TID in the detention centre at Boosa.

Further, the lack of information about the location of detention centers and the restrictions placed on the access to detainees have resulted in limited or no contact between the detainees and their families or legal counsel. This has further marginalized the detainees, curtailing their legal rights. Recent restrictions of movement from the North due to security reasons have also added to the burden where families have been separated, with many young people possibly having no contact with their families.

On the 8th of June 2007, the Supreme Court of Sri Lanka deplored the eviction of 376 Tamils from Colombo and provided interim relief ensuring that further evictions would not take place. This measure demonstrated that all citizens are equal before the law and have the inalienable right to reside in any place that he/she chooses, freedom of movement, and protection from cruel inhuman treatment and torture. Such standards must be adhered to and respected, ensuring that all citizens are treated equally.

We the undersigned urge the authorities to take the following measures:

- Release all persons who are held without due cause
- Prevent further arbitrary arrests and detentions taking place
- Ensure that persons already detained are provided access to family and legal counsel

- Allow immediate access to all detention centres by ICRC to meet with all prisoners detained
- Follow the existing rules and procedures laid out in the emergency regulations and Presidential Directives regarding due process in arrests and detentions including informing relatives and HRC of the arrest, and the provision of a receipt
- The Help Desk to be set up by the Ministry of Human Rights should include a publicly available central registry of detainees and detention centres.
- Lists of detainees, updated daily, should be posted in places of detention in Tamil as well as Sinhala
- The Human Rights Commission should, in accordance with its mandate:
 - immediately activate its emergency hotline
 - actively monitor arrests and detention, including making immediate visits to areas where mass arrests are reported to take place and about to take place.
 - urgently visit places where detainees are alleged to be held and make available to the public details of such visits along with their observations and recommendations;
 - monitor and make inquiries into the procedures followed in arresting and detaining persons,
- In addition, the Human Rights Commission should maintain a public list of detainees and places of detention in all regional centres and on its webpage, which should be updated daily
- Cease immediately the practice of torture in detention camps and police custody by prosecution of those responsible
- Improve the conditions of detention centers
- Take on board and implement the recommendations made by the Special Rapporteur on Torture following his visit to Sri Lanka in October 2007

Signatories:

Association of War Affected Women
 Centre for Human Rights and Development
 Centre for Policy Alternatives
 Equal Ground
 Free Media Movement
 Home for Human Rights
 INFORM Human Rights Documentation Centre
 International Friends for Global Peace
 International Movement Against Discrimination and Racism
 Law and Society Trust
 Mothers and Daughters of Lanka
 Muslim Information Centre
 National Peace Council
 Women and Media Collective