

Time for the UN Human Rights Council to turn its concerns on Sri Lanka into action

As human rights defenders who have consistently engaged with the UN human rights system, including the Human Rights Council and its predecessor, the UN Commission on Human Rights, we remain committed to using all available mechanisms within that space to lobby for the protection and promotion of human rights in Sri Lanka. Since the intensification of the conflict in Sri Lanka in 2006, we have continually urged the Council to take firm action to mitigate the consequences of the on going humanitarian and human rights crisis in Sri Lanka and to support the government of Sri Lanka to return to the path of negotiation. We feel that the Human Rights Council is the appropriate arena in which we can voice our concerns regarding these matters, since its mandate focuses on responding to emergencies and preventing human rights violations and since Sri Lanka is a member of the Council.

We are saddened by attempts by certain parties to tarnish our image as human rights defenders by allegations that we are acting against the nation's interests, discrediting the country and undermining the government's efforts to end the conflict in Sri Lanka. We have been labelled as "traitors" for our engagement with the Council and for highlighting the plight of civilians and victims of human rights violations who are a critical part of the communities we work with in Sri Lanka.

2006 saw an intensification of hostilities between the Liberation Tigers of Tamil Eelam and the government of Sri Lanka, with flagrant violations of both human rights and humanitarian norms. The involvement of different paramilitary groups in the conflict has made the situation more complex. Civilians have been the target of attacks by all actors. Extrajudicial executions, involuntary and enforced disappearances, arbitrary detentions, internal displacement and forced returns have become the norm. Departure from the rule of law and due process have been facilitated by the enactment of draconian emergency regulations and attacks, threats and restrictions on human rights defenders, peace activists, independent media and humanitarian workers. The failure of the government to implement the 17th Amendment to the Constitution and to establish a Constitutional Council has rendered independent bodies such as the Human Rights Commission invalid and impotent.

Faced with these realities and with the breakdown of domestic mechanisms, we as Sri Lankan human rights defenders have seen no option but to seek recourse at the level of the UN Human Rights Council, to advance our demands for independent and international monitoring of the on-going human rights situation in the country.

At this juncture it is important to recall our past experiences in this connection. In 1990, the present President Rajapakse himself was among the Sri Lankan human rights defenders who travelled to Geneva to lobby the UN Commission on Human Rights in order to draw the attention and intervention of that body to the 'reign of terror' that ruled our island at that time. It was this lobbying initiative that paved the way for the visits to the island by the UN Working Group on Enforced and Involuntary Disappearances.

At the recently concluded fourth sessions of the UN Council for Human Rights, we were encouraged by the recognition of the seriousness of the crisis in Sri Lanka by members of the Council, by the UN High Commissioner for Human Rights, by the Council's Independent Experts and by regional and international NGOs. The willingness of the Independent Experts to visit Sri Lanka and assist the government to address the situation as well as the willingness

expressed by the High Commissioner to establish a office in Sri Lanka and assist in addressing impunity and victim and witness protection, raised our hopes that the Council could indeed live up to its mandate and offer protection to victims of human rights violations in Sri Lanka.

In this regard, we welcome the government's renewal of its invitations to the Council's independent experts on Torture and Internal Displacement to visit Sri Lanka.

It is regrettable that invitations that the government had committed to issue during its candidature to the council in April 2006 could not be honoured within the past months. The government had not up to date honoured the pledge it made that time to invite the Special Rapporteur on Freedom of Expression and Opinion to visit Sri Lanka.

We also regret that the government has not responded positively to the request of the Working Group on Enforced and Involuntary Disappearances to visit the country in early 2007.

In general, we regret that the Sri Lankan government had taken up a position of denying the seriousness of the crisis and even resorted to branding recommendations emerging from the Council as "out of order" and "hegomonistic", instead of constructively engaging with the Council and welcoming assistance of the international community. We also regret the public defamation campaign launched by the state media and some government officials against those human rights defenders who participate in lobbying and advocacy for the promotion and protection of human rights in Sri Lanka.

We are also dismayed by the apparent disregard of Asian member states of the Council towards the plight of civilians of all ethnic and religious communities in Sri Lanka.

The Council's lack of response to the crisis in Sri Lanka seems to reflect its overall unwillingness to censure a fellow member state for transgressing human rights norms. Although the limited but positive responses to the crises in Sudan and in the Middle East in the past have shown that the Council could act to prevent a situation from further escalation, the political balance of power among the members of the Council at the present moment is stacked against human rights protection in countries like Sri Lanka.

While the a Resolution on Sri Lanka which was tabled at its 2nd session in September 2006 has been deferred , apparently due to the lack of clear support from members of the Council, the situation in the country continues to deteriorate, with hundreds of thousands displaced due to recent fighting. Impunity reigns and civilians live in fear of extrajudicial killings, enforced disappearances and arbitrary arrest. The crackdown on dissenting voices also continues. The Commission of Inquiry into past human rights abuses, that was presented by the Sri Lankan government to the Council and to the international community in general as a response to our call for international human rights monitoring has faced many obstacles and is today confronting a direct challenge to its mandate due to the refusal of a Magistrate to allow the members of the Commission access to documents pertaining to the assassination of former Foreign Minister Lakshman Kadirgamar.

We recognize that the Human Rights Council is in its infancy, but its lack of action on a serious human rights crisis such as the one in Sri Lanka would undermine its credibility as the world's premier human rights body. Proactive action by the Council to address the situation in Sri Lanka would, on the other hand, set a positive precedent and help it to gain the confidence of victims of human rights violations, human rights defenders as well as states.

At this crucial moment in our history, as Sri Lankan human rights defenders, we look to the international community to support and encourage the government of Sri Lanka on its endeavours to protect human rights in Sri Lanka.

In our understanding of the present situation we see the primary challenges before the Council as:

- Encouraging the government to accept the presence of a field-based office of the Office of the High Commissioner in Sri Lanka as a supportive initiative;
- Assisting the government in establishing a robust and forward looking international human rights monitoring presence; and
- Engaging with the government to positively respond to the UN working group on Enforced Involuntary Disappearances to urgently visit Sri Lanka.

We will continue to work within and outside Sri Lanka to draw attention to the situation of human rights in the country and to urge all actors in the national and international arenas to support all efforts to end the conflict and return to the path of a negotiated settlement of the ethnic issue within a democratic framework that will guarantee the full range of human rights for all.

We will continue to engage with the UN Human Rights Council and expect more proactive action from the Council to help Sri Lankan people, at its forthcoming sessions.

10th April 2007

Centre for Policy Alternatives (CPA)
Civil Monitoring Commission (CMC)
Free Media Movement (FMM)
INFORM Human Rights Documentation Centre
International Movement against All Forms of Racial Discrimination (IMADR)
Law & Society Trust (LST)
Rights Now