



# General Assembly

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## Human Rights Council

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Human rights situations that require the Council's attention

### **Written statement\* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status**

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

[23 August 2010]

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

## **Sri Lanka: Right to the truth required regarding “death sentences” carried out secretly by state agencies**

1. The Asian Legal Resource Centre (ALRC) wishes to inform the Human Rights Council of a phenomenon that is of grave concern to the organization with regard to Sri Lanka and the wider Asian region. The ALRC is seriously disturbed by claims that have been made by some security agencies about their right to decide on “death sentences” and the assertions they make about their right to carry these out.

2. Such claims imply the following:

- a) These security agencies are misappropriating a judicial power;
- b) The reasons allowing “death sentences” to be pronounced are moved from legal grounds to political and administrative ones;
- c) Those who make the decisions and those who carry it out are arbitrarily chosen;
- d) No legal norms are observed in the decision-making process or the execution of these decisions;
- e) No legal obligations concerning the need to make valid accusations and ensure the rights of the accused are fulfilled;
- f) No process of accountability of any sort is followed;
- g) Decision making and the carrying out of these decisions take place in secrecy, and the relatives and representatives of victims are denied the right to any information regarding the decision-making process and the carrying out of these decisions.

3. The administration of “death sentences” in the manner cited above is called by different names in Sri Lanka: involuntary disappearances, self-defence killings, and killings of undesirable persons. What these various names connote is the killing of individuals by state agencies without any kind of due process. Since the late nineteen eighties the numbers of persons alleged to have been killed in this manner may be numbered in the tens of thousands, in the South, North and the East of the country.

4. Such killings are usually referred to as extra-judicial killings. In the modern forms of such killings, the authorization of the State is given to non-judicial bodies to decide on the right to life of persons. This power to decide formally belongs only to the judicial branch of government and should remain exclusively with this branch. The policy decision to grant the power to decide on persons’ right to life to non-judicial bodies is a significant and threatening change that has the potential to affect the most fundamental aspects of human civilization and development within such a context. The scope and impact of such a policy can be multiplied by the availability and potential of modern technology, through which the killing of large numbers of persons can be carried out with great speed. The sinister nature of authorizations to decide on the lives of peoples needs to be studied in greater depth and its impact on civilized norms and principles need to be exposed.

5. The right to the truth is a recognized right under international law.<sup>1</sup> This right is available to all victims of gross violations of human rights, their relatives and their

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<sup>1</sup> See Study on the right to the truth - Report of the office of the United Nations High Commissioner for Human Rights - E/Cn.4/2006/91 dated 8th Feb. 2006.

representatives. Therefore victims of the killings by state agencies mentioned above are entitled to this right.

6. The following are entitlements included in the right to the truth:
  - a. To know the whereabouts of relatives;
  - b. To seek and obtain information on:
    - i. The causes leading to the person's victimization;
    - ii. The causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law;
    - iii. The progress and results of the investigation;
    - iv. The circumstances and reasons for the perpetration of crimes under international law and gross human rights violations;
    - v. The circumstances in which violations took place.
7. However there are hardly any legal processes available for victims, their relatives or their representatives to realize these entitlements. The right to the truth cannot be realized under these circumstances, due to the absence of legislative, administrative and judicial remedies to ensure entitlements relating to the right to the truth. There is a complete legal vacuum concerning these matters and therefore a complete absence of accountability.
8. The attention of the Human Rights Council must be directed towards the understanding of the these killings, which take place large numbers, and the incapacity of victims, their relatives and representatives to find any kind of way to obtain legal redress. Violations of the right to the truth and the right to a remedy under Article 2 of the International Covenant on Civil and Political Rights (ICCPR) need to be addressed urgently.