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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 organisation with 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.

[18 February 2009]

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

Sri Lanka: The abdication of the duty to investigate crimes

Every day instances are added to the list of crimes that go uninvestigated in Sri Lanka. The alleged crimes, including war crimes in the north and the east are not investigated on the grounds that a war is being fought with a ruthless terrorist organisation, the LTTE. The north and the east remain areas where those who dare to complaint about violations of rights place their lives in peril.

The instances mentioned before are from the south, mostly from Colombo and areas in the vicinity of Colombo. In some instances particular incidents are directed towards politically sensitive targets such as journalists and the media which supports the opposition. In one instance the target was the editor of a pro-government paper. In several other instances the victims were private citizens, harassed for one reason or another, or lawyers who support these citizens.

A few incidents may illustrate this situation. Lasantha Wickrematunge, who was an editor for a well known newspaper, the Sunday Leader, for 15 years, was assassinated in broad daylight when he was shot down on the 8th January, 2009. A month later the reply of the police spokesman, Mr. Gunasekara, when he was questioned about the state of the inquiry into the fatal shooting was reported thus:

However, Gunasekera on Friday told *The Sunday Leader* that he did not know whether the police have received the GA's report and said that he knew nothing about the latest details of the investigation.¹

The government has claimed that the death was due to an international conspiracy against the government to discredit it. However, no details of any such conspiracy have been revealed. On the other hand, Mr. Wickrematunge himself stated, "*When I am killed it will be the government that kills me.*" He also predicted that despite of public proclamations by the government of inquiries being conducted, no genuine inquiry would, in fact, be conducted nor any perpetrators brought to justice².

The editor of Rivira, identified as a pro-government newspaper, Upali Tennakoon, was brutally attacked by four persons, two of whom were carrying wooden poles, one a dagger and the other a metal staff with a sharpened end. He described the result of the attack thus:

There were several injuries on my hands. I had received them while trying to ward off the attack. There was a bone fracture in one finger of my left hand. The left side of my face, just below the eye, had received a severe blow from a wooden rod. It had fractured my facial bone. It could have been a fatal blow and caused my death, in a matter of seconds. I

¹ No real breakthrough in Lasantha investigation – The Sunday Leader, 7th February, 2009

² The Sunday Leader editorial, 11th January, 2009

can now see knife marks on my body, where the knife had slid off without fatally injuring me. I had just missed a knife jab to the neck. There is only a small wound there now.

Regarding the inquiry he stated as follows:

There is no clear evidence yet, as to who had done this. In such a scenario, inevitably, the finger would be pointed at the incumbent government and the President. That doubt will remain until the real perpetrators are brought to justice³.

On 6th January, 2009, a group of armed men forcibly entered, attacked and caused serious damage to the MBC-MTV Transmission Station at Pannipitiya. This TV station is popularly known as Sirasa TV and transmits its programmes across the country. In the attack, which took place at around 2a.m., the intruders set the main control room on fire and then vandalized the entire complex.

Despite of many condemnations by local and international agencies and also despite of instructions by the Magistrate for the conduct of proper inquiries, no one has yet been brought to justice regarding this incident. The government alleged that the incident was an inside job for either political reasons or insurance purposes. However, despite of promises to investigate the crime nothing has happened so far.

Many journalists have received death threats and harassment and a considerable number of them have left the country in recent months. Although complaints have been made no successful inquiries have been conducted into these allegations.

A similar situation also prevails regarding crimes which may not be directed towards any political purpose. Sugath Nishanta Fernando was a small businessman living in Negombo just a few kilometers north of Colombo. He was a complainant in a bribery case against a police officer. His whole family was severely assaulted to intimidate them from giving evidence in this case following which they filed a fundamental rights petition before the Supreme Court. Thereafter, the family was threatened with death within 24 hours unless the petition was withdrawn. The victim wrote to the Inspector General of Police, the National Police Commission and the Human Rights Commission of Sri Lanka asking for witness protection. He did not receive any and was assassinated on the 20th September 2008. Even to date no successful inquiry has been conducted into the crime despite of Fernando's widow giving the names of the persons she suspected of committing the murder. She herself made complaints requesting witness protection because her life and those of her two children were in danger. However, she has received no protection and continues to live in hiding.

There were several attacks on lawyers who appear in cases of human rights abuse and bribery cases. On 27th September at 11:40 pm two hand grenades were thrown at the house of J.C. Weliamuna, a senior lawyer. The Bar Association of Sri Lanka itself demanded investigations. However, there is no indication of any inquiry being conducted into this matter. Four lawyers have complained about their names being placed in the Ministry of Defense website as lawyers

³ Who wanted to kill me – The Nation, 1st February

who regularly appear for alleged terrorists. The accompanying passage indicated that such a thing is an unpatriotic act thus, leaving them vulnerable to possible attacks on them. Despite of protests no inquiry has been conducted into this matter. A lawyer who received death threats on two occasions made complaints to the Inspector General of Police and the Bar Association, which in turn took up the matter with the government. His office, situated near his house was set on fire on the evening of the 30th January, 2009. Extensive damage was caused to property as well as the official documents of the lawyer including title deeds and law books. However, there has been no credible inquiry into this incident. Another lawyer, Mr. Mohotti, was threatened and humiliated at the Bambilipitya Police Station and the Bar Association complained to the government. Once again, nothing has happened.

These are but a few examples. The Asian Legal Resource Centre is aware that in thousands of cases involving matters such as murder, rape and offenses relating to private property, complaints have been made but no successful inquiries are made into these matters.

There are several reasons for such failures. The Sri Lankan parliament itself has admitted the politicisation of the police force and tried to remedy it by passing the 17th Amendment to the Constitution creating an independent authority, the Constitutional Council, to intervene on all major national institutions to reestablish a system based on merit. This Constitutional amendment is now being ignored. The term politicisation means direct commands given by politicians to the police thereby seriously disrupting the internal workings of this institution. Investigations into crimes can be disrupted by direct or indirect orders not to investigate. Besides this, the long neglect of the policing system and the collapse of internal discipline due to politicisation have also opened the way for interested parties to interfere so as to disrupt the administration of justice. Thus, virtually complainants into crimes can run the risk of bringing further troubles on themselves instead of having their complaints resolved. This has created a widespread sense of insecurity and as a result there is also a widespread reluctance to complain, even about serious crimes.

The ALRC strongly supports the position taken by ten UN experts who jointly made a statement on the 9th February, 2009, the concluding paragraphs of which are quoted below. We urge the Sri Lankan government to pay heed to the severe crisis pointed out by these UN experts.

Notwithstanding the severity of the abuses in areas of conflict, the Experts wish to highlight that the problem is deeper and more endemic. The conflict deflects attention from the impunity which has been allowed to go unabated throughout Sri Lanka. The fear of reprisals against victims and witnesses, together with a lack of effective investigations and prosecutions, has led to a circle of impunity that must be broken. The Experts continue to receive disturbing reports of torture, extra-judicial killings and enforced disappearances throughout the country.

The UN Experts strongly urge the Government of Sri Lanka to immediately take measures to ensure that effective remedial action can be pursued in support of the victims of human rights abuses and their families. They also highlight that thorough reforms of the general system of governance are needed to prevent the reoccurrence of further serious human rights violations. The Experts call for an immediate end to impunity and to

refrain from any reprisals. To strengthen the rule of law and to help ensure the safety and protection of the human rights of all persons in Sri Lanka, they continue to extend their offer of assistance to the Government.
