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**HUMAN RIGHTS SITUATIONS THAT REQUIRE
THE COUNCIL'S ATTENTION**

**Joint written statement* submitted by Franciscans International (FI),
a non-governmental organization in general consultative status and
Pax Romana (International Catholic Movement for Intellectual and
Cultural Affairs and International Movement of Catholic Students),
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.

[18 February 2009]

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

The situation of civilians in the Vanni, Sri Lanka and the human rights situation in Indonesia, including the situation in Papua and West Papua

Franciscans International (FI), NGO in General Consultative Status, submits this written statement under General Debate Item 4, with respect to the deteriorating situation of civilians in **Sri Lanka's** ongoing conflict and an update on the human rights situation in the regions of Papua and West Papua and other issues of concern in **Indonesia**.

Sri Lanka

Franciscans International is deeply concerned by the consequences of the ongoing conflict on civilians in the region of the Vanni, Northern Sri Lanka. The risks faced by hundreds of thousands of civilians trapped in the region for months include: risk to life, forced displacement, lack of food or medical supplies, risk of life due to continuous shelling in safety zones, forced separation of family members, inadequate treatment of civilians in government camps, amongst others.

Attacks against civilians

FI strongly condemns all attacks against the civilian population. Acts of violence the primary purpose of which is to spread terror among the civilian population are strictly prohibited under customary rules of international humanitarian law. Attacks against government declared 'safety zones' are a breach of such provisions; irrespective of the party committing such an attack. Despite claims to the contrary, shelling still continues in areas where civilians are located. Reportedly, from 28 January until 2 February, there were more than 700 casualties and thousands of civilians were injured. We also condemn, the incident of 9 February 2009, in which an LTTE suicide bomber blew herself up as she was entering a government controlled camp for civilians, leading to 28 deaths and numerous injuries.

Franciscans International is aware that a number of large groups of civilians have already attempted to escape the Vanni but have been violently forced to return by LTTE cadres. Forcing civilians to stay in areas under LTTE control is an egregious act preventing victims from reaching safer areas. FI urges the parties to the conflict to allow civilians in the Vanni to safely leave the area.

The parties to the conflict must urgently allow and facilitate safe, immediate and unimpeded passage of humanitarian relief for civilians in need.

Screenings and confinement of civilians in camps

Taking into consideration security concerns expressed by the Government, and highlighting the clearing process which takes place on arrival at government-controlled camps, FI wishes to remind the Sri Lankan government that civilians should be treated humanely and with respect to their dignity and fundamental rights. Notwithstanding security concerns, civilians should not be treated as *prima facie* suspects and the screening should take place in accordance with international standards.

Reportedly, confinement and strict screening of civilians is taking place in government camps. Members of families are not able to access such camps to visit their relatives or provide them with necessary items. Children who are in need of treatment are taken to hospital and left on their own; while parents or relatives are taken away to government camps and are not able to leave.

The Representative of the Secretary General on the human rights of internally displaced persons (IDPs), reminded the government that IDPs, who are civilians and who retain their right to freedom of movement, must not be detained in camps.

Food and medical supplies

In September 2008, foreign NGOs as well as UN agencies were forced to leave the Vanni. Since then, there has been an acute food shortage and a lack of medical supplies. The delivery of emergency relief has been almost impossible due to the ongoing fighting. The situation aggravated in December 2008, when World Food Program (WFP) convoys stopped being able to reach the population as frequently as the need of the population required. The last food convoy to arrive in the Vanni was said to be on 29 January. All these factors have contributed to the deteriorating living conditions of all civilians living in the area. The parties to the conflict must urgently allow and facilitate safe, immediate and unimpeded passage of humanitarian relief for civilians in need.

Franciscans International calls on the Human Rights Council to:

- Urge both parties to respect the principle of distinction of civilians and ensure the treatment of civilians who arrive at camps is humane at all times. The human rights of civilians shall be fully respected;
- Urge the parties to the conflict to allow civilians in the Vanni to safely leave the area;
- Urge Sri Lanka to assume its responsibility vis-à-vis the protection of civilians, by *inter alia* ensuring the prompt delivery of emergency food and medical supplies;
- Call both parties to the conflict to grant humanitarian agencies immediate access to the Vanni in order to deliver emergency humanitarian assistance and to guarantee their security.

Indonesia

Indonesia was one of the very first countries to be reviewed under the Universal Periodic Review in April 2008, and subsequently by the Committee Against Torture in May 2008. Both exercises showed numerous remaining gaps and pending areas of work to improve its human rights record. Most notably, both reviews highlighted the urgent need for torture to be recognized as a crime; the need for accountability for past human rights abuses and the need to ensure human rights defenders act in a climate of protection and without hindrance to their work.

Despite Indonesia's commitments to work on these and other issues, the upcoming presidential elections have had an impact on human rights developments at the national level. Franciscans International urges the Government of Indonesia to make human rights a priority, independently of current electoral concerns. The government should particularly ensure a prompt response to issues and questions pending after its second periodic review of the Committee Against Torture in May 2008.

Papua and West Papua

Human Rights Violations

A number of cases were reported to OHCHR Special Procedures throughout 2008, showing that cases of torture and ill-treatment continue to be committed in the easternmost provinces of Indonesia. Among other cases, the violence against and beatings of prisoners (including, Filep Karma and Ferdinand Pakage- both considered political prisoners by Amnesty International) were reported and the case of a couple which was forced by Navy personnel to have sexual intercourse within the vicinity of the Naval Forces (May 2008).

During celebrations held in Wamena, West Papua, to commemorate the UN International Day on Indigenous Peoples, Mr. Otinus Tabuni, an indigenous Papuan, was shot dead. The incident took place after a separatist flag was raised during the ceremony. The Head of the District Police in Jayawijaya ordered the police to shoot warning shots. The police discharged itself of any responsibility but allegedly stated the type of bullet was similar to those used by the military. To-date, no further investigation has taken place.

Freedom of Expression

A series of protests took place throughout 2008, led by student organizations (supporting the *National Committee for the International Parliament for Papua*). In a number of occasions where permission to organise peaceful protests had been granted, a number of individuals were detained. The largest demonstration took place on 16 October 2008. As a result, 22 persons were arbitrarily detained. Mr Buktar Tabuni, a leader of the protest, was unfairly charged with treason, offence of attacking the police and with spreading hatred. The right to freedom of expression of indigenous Papuans should not be hindered by security forces.

Human Rights Defenders

Franciscans International positively welcomes the decision of the Jayapura State Court of 29 January to acquit Mr. Sabar Olif Iwanggin, human rights defender. Mr Iwanggin was suspected of being responsible for spreading hate messages accusing President Yudoyhono of plotting against indigenous Papuans. He was arrested on 27 October 2007 in Jayapura by the Anti Terror Special Force Unit 88 and was taken to Jakarta where he was interrogated. His trial began in Jayapura amidst accusations that the Prosecutor lacked evidence to try him. Although human rights defenders in Papua welcome this decision as a greater move towards justice, fabricated accusations against HRDs remains a source of concern.

Cases of Religious tension

Religious tension in Manokwari, Papua Province continued to rise. The government of Papua province and the central government should ensure adequate steps are taken to prevent cases of violence similar to those experienced in other Indonesian provinces. Any legislation passed should be in full respect of the diversity and plurality of religions recognized under Indonesian law.

Other areas of concern

The Case of Munir Said Thalib

We further note a backward step in reaching clarity on the case of the murder of Mr. Munir Said Thalib, a prominent Indonesian human rights defender. During the trial against Major General Muchdi Purwopranjono, a former deputy at the State Intelligence Agency (BIN), four witnesses from the State Intelligence Agency who had originally testified against him retracted their statements, after allegedly being intimidated during the trial process. The Court acquitted Gen. Purwopranjono due to lack of evidence, allegedly under political pressure. Gen. Purwopranjono is in the process of filing lawsuits against four witnesses who spoke against him (four prominent human rights defenders, including Mr. Munir's wife).

Reform of Law 7/1985 on Mass Organizations

At a turning point in the advancement of Indonesia's human rights obligations, Indonesia's Parliament is set to reform UU Ormas No. 8/1985 (which originally was meant to regulate "mass organizations"). This reform however, will affect Civil Society Organizations too as these are required to register with the Ministry of Internal Affairs, report their activities every six months and seek this Ministry's approval for foreign funding. A further reform would see the creation of a Committee overseeing the work of NGOs, and allowing it such broad powers as freezing external funding for NGOs, as well as the work of both national and international NGOs.

Such legal reform would represent a step backwards in Indonesia's international commitments and would question its adherence to its international human rights obligations.

Impunity

Franciscans International regrets the decision taken by the governments of Indonesia and Timor Leste not to carry out a criminal process against all Senior Commanders responsible for crimes against humanity and war crimes in Timor Leste. The findings of the Joint East Timorese and Indonesian Commission on Truth and Friendship highlighted the direct participation of Indonesian Commanders and soldiers in the egregious crimes committed in Timor Leste prior to its independence. Impunity is further apparent in Indonesia, where almost all Senior Commanders involved in such crimes have risen to the highest ranks of the military forces, after serving in both Aceh and West Papua.

Franciscans International wishes to express its concerns at the recent promotion of Col. Burhanuddin Siagian, who previously served as Chief Commander of the Resort Command (KOREM) of Jayapura. Col. Siagian was promoted to Inspector General of the Regional Military Command of Brawijaya/East Java in 2008. In May 2008, the Committee Against Torture was deeply troubled by evidence that Colonel Siagian, with an Interpol Red Notice, was serving in the Indonesian military forces.

Franciscans International calls on the Human Rights Council to:

- Urge the government of Indonesia to comply with its commitments with the Committee Against Torture and promptly submit pending information on its implementation of the Convention Against Torture;
- Encourage the government of Indonesia to carry out positive steps towards the full realization of the human rights of indigenous Papuans;
- Call on the government of Indonesia to ensure the transparency and independence of its judges.
