



**General Assembly**

Distr.  
GENERAL

A/HRC/6/NGO/10  
31 August 2007

ENGLISH ONLY

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HUMAN RIGHTS COUNCIL  
Sixth session  
Item 4 of the provisional agenda

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

**Written statement\* submitted by the International Educational Development (IED)  
Inc., a non-governmental organization on the Roster**

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

[30 August 2007]

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

### **Human rights and humanitarian law monitoring in Sri Lanka\***

1. At the Council's 2d session, there were a number of statements made about the urgent need to have effective United Nations human rights monitoring of the situation in Sri Lanka due to the serious deterioration of the cease-fire, the killings of humanitarian aid workers, aerial bombardments and other military operations directed at Tamil civilians, the dramatic increase of the numbers of war-displaced, blockage of food and medicine to Tamil areas, and other pressing concerns. In spite of the urgency, the Council deferred action on a proposed resolution, and instead granted the Sri Lankan authorities time to establish its own plan for international monitoring. Under this plan, the government of Sri Lanka would select a group of "eminent persons" from nominees submitted by countries chosen by the government to make such nominations. Eleven such persons were subsequently chosen, and the group, known as the International Independent Group of Eminent Persons (International Group) began work in February 2007. Costs for the International Group are borne by the European Commission.

2. A major problem with the plan and functioning of the International Group, aside from the fact that it did not even begin its work until February 2007, buying considerable time for the government of Sri Lanka, is that its mandate is seriously restricted: rather than monitor compliance with human rights and humanitarian law, it can only "observe investigations and inquiries conducted by the National Commission of Inquiry" established by the government of Sri Lanka in September 2006 while the Council was meeting. The International Group itself indicated that the government of Sri Lanka is trying to create the impression that the Group's mandate is far broader and includes "powers and resources to address on-going alleged human rights violations in Sri Lanka."<sup>†</sup> The National Commission has itself severely limited what it will investigate, so many of the serious violations that need investigating are not addressed at all by this process. Further, the International Group is limited to only monitor whether the National Commission's work is procedurally proper according to international standards, and cannot address the actual events being investigated. This places actual investigation of any of the many atrocities completely out of the reach of on-going international monitoring.

3. Further problems with this plan were apparent when the National Commission did not even begin any investigation at all until May 2007.<sup>‡</sup> It is clear that there are other problems as well: in its first interim report to the President, the International Group raised serious concerns about transparency, independence and witness protection provisions of the National Commission's program.<sup>§</sup>

4. Our most serious concern about this plan is that it has effectively stopped all of the normal human rights and humanitarian law monitoring that takes place under United Nations auspices. As we have pointed out in several written statements since the war

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\* The Association of Humanitarian Lawyers also shares the views expressed in this statement.

† International Independent Group of Eminent Persons, Public Statement of 11 June 2007.

‡ Idem.

§ Idem.

heated up again, most mandate holders of the United Nations system should undertake on-site investigations because of the many serious violations in Sri Lanka. Requests for visits by some mandate-holders have been impossibly delayed or denied. For example, while the government of Sri Lanka now plans to allow Manfred Nowak, the Special Rapporteur on Torture, to visit in the near future, this trip was originally planned to take place in early 2007. In our statements and in letters to the High Commissioner, we have also pointed out the urgent need for visits by the mandate holders on housing, food, displacement, racism, extreme poverty, freedom of the press, and others. Such urgently needed investigations by the mandate holders must take place and the Sri Lankan authorities should not be allowed to duck and delay because of the presence of the International Group which cannot investigate these matters.

5. We also urge the Council and the European Commission to consider modification of the terms and mandate of the International Group, not the least of which relates to its high cost relative to its actual utility. In our view, given the extreme limitation of the International Group's mandate, any number of non-governmental organizations with expertise in this type of monitoring (and there are many) could do the same work as the International Group and at considerably less cost. This is in no way meant to diminish the stature of the International Group or its individual members, but from a practical point of view, an 11 member group of this caliber as mere observers on procedural matters in a few "investigations" by an "interested" National Commission is an enormous drain of resources. We would urge that the International Group be given a general mandate to investigate humanitarian and human rights law violations and perhaps oversee NGOs who are willing to monitor the National Commission.

6. We welcomed the recent visit to Sri Lanka by Mr. John Holmes, the Assistant Secretary-General for Humanitarian Affairs, but regretted that the authorities did not allow him to visit the areas under Tamil control. How can the UN plan humanitarian relief for areas that they cannot visit? We have frequently pointed out the government authorities have severely restricted access and aid to the Tamil areas since the Tsunami - - even those areas under government control. The Sri Lankan government blocked much post-Tsunami relief to the Tamil areas, and never implemented the fair-share agreement (called P-TOMS) worked out between it and the Liberation Tigers of Tamil Eelam (LTTE). Expressions of concern raised by Mr. Holmes about the Tamil people and the appallingly high numbers of captured and/or killed aid workers resulted in serious attacks on him by Sinhala authorities.\*\* There are also effective aid organizations that have left or have restricted their activities due to fear.†† The nasty incident with Mr. Holmes follows many others against other UN officials. Indeed, any expression of concern for the Tamil people is met by strong attacks by government authorities.‡‡ In this light we encourage Mr. Novak to insist on investigating in the Tamil-controlled areas, and to remain undaunted in the face of any attacks on him.

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\*\* Mr. Holmes spoke of 30 aid workers killed since the hostilities began, but the figure is closer to 45.

†† Mr. Holmes visited Sri Lanka on the anniversary of an aerial bombardment of Tamil school girls who were taking a course in first aid, killing 61 girls, two of their teachers and wounding 129.

‡‡ We remind the Council that the vast majority of the killed, injured and displaced are Tamil civilians, as are those facing lack of food and medicines because of aid blockages.

7. We have received news that the High Commissioner plans a visit to Sri Lanka in the near future. We most strongly urge the Council to support such a visit, and to also consider urging a joint visit with Under-Secretary-General Deng, the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities and with Under-Secretary-General Egeland, the Special Advisor to the Secretary-General on Matters Relating to the Prevention and Resolution of Conflict. The Council must insist that the High Commissioner and any other United Nations staff who visit, be allowed visit the Tamil-controlled areas. The concerns raised about “safety” by the Sinhala authorities belie the fact that it is the Sinhala armed forces that carry out military operations against the Tamils in the Tamil areas, not the Tamil military forces. In our view, it is unlikely that the Sinhala forces would attack the High Commissioner.

8. The government of Sri Lanka has already backed the Human Rights Council and its mechanisms into a corner, making a laughing stock of them and nearly destroying UN human rights systems carefully built up since 1948. We expect that Council and its mandate-holders will resist further erosion of its credibility by ensuring that the government of Sri Lanka’s “free ride” is over. Strong, effective measures are needed to prevent the annihilation of the Tamil people and to facilitate a just peace. There is no more time to buy.

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