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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Asian Forum for Human Rights and Development, 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.

[4 September 2014]


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

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## **Threatened, harassed and restricted: anti-disappearance campaigners in Sri Lanka<sup>1</sup>**

Asian Forum for Human Rights and Development (FORUM-ASIA) notes with deep concern that in Sri Lanka families of disappeared persons<sup>2</sup> are subjected to a consistent pattern of threats, restrictions and harassment, designed to restrain them from seeking truth, justice and accountability. In this regard, Tamils in the North have been obstructed from coming to Colombo while events related to disappearances organised in Colombo and in the North of the country have been disrupted by mobs. During such mobs attacks the police have remained as spectators failing to act meaningfully. Disappeared persons have also been ridiculed as secretly living overseas by Members of Parliament and senior government officials<sup>3</sup>. Those who testified before the Presidential Commission of Inquiry have also been harassed, intimidated and obstructed. Human rights defenders, media entities, members of the clergy and diplomats supporting families of disappeared persons have also faced harassments, threats, surveillance and false allegations. Most of those affected have been Tamils from the North, but few Sinhalese families of disappeared persons from Colombo have also been targeted. Below are examples of such incidents that took place between November 2013 and August 2014.

- **Disruption of a meeting of families of the disappeared at the Centre for Society & Religion in Colombo (August 2014)**

A gathering was organised at the Church run Centre for Society & Religion (CSR) in Colombo to share experience and discuss difficulties faced by families of the disappeared in the presence of civil society organisations, Christian clergy, lawyers, and diplomats.<sup>4</sup> The meeting had to be canceled when a mob led by a few Buddhist monks entered the premises forcefully. The Police was informed but they refused to provide protection to the meeting and the participants. Instead of dispersing the mob that had entered the building forcefully, the Police asked the meeting to be canceled and families of the disappeared to be sent home. Some

1 INFORM Human Rights Documentation Centre (Inform), a member organisation of FORUM-ASIA in Sri Lanka, associates itself with the this submission.

2 Tens of thousands of people have disappeared in Sri Lanka since the 1970s. Most families of disappeared have also complained to domestic and international bodies, the Police, National Human Rights Commission, International Committee of the Red Cross and many have also filed habeas corpus cases in Sri Lankan courts. However, the number of cases where families were able to know the truth or obtain justice is not known and believed to be negligible. The present Presidential Commission of Inquiry looking into disappearances in Sri Lanka has reported receiving 19,284 complaints from all parts of the country till July 2014. (<http://www.ft.lk/2014/07/19/disappearances-commission-receives-19284-complaints/> [accessed August 19, 2014]). The Presidential Commissions of Inquiries which looked at disappearances between 1988 to 1994 looked at 37,662 ([http://www.hrw.org/node/62398/section/4#\\_ftnref13](http://www.hrw.org/node/62398/section/4#_ftnref13), footnote 13 [accessed 21st August 21, 2014]). An article on disappearances reported that the International Committee of the Red Cross (ICRC) was reported to have documented 1134 cases of disappearances in 2006, and 571 in January-April 2007, that according to Police Head Quarters (quoted in a report in the Thinakkural newspaper of 1<sup>st</sup>September 2008,) 1000 civilians had been abducted during the first 8 months of 2008, 1229 during 2007 and 1,160 in 2006, the Lessons Learnt & Reconciliation Commission (LLRC) had received complaints of 3,596 disappearances out of which, 1018 were initially arrested by the military and the Chairman of another Presidential Commission to probe abductions, disappearances and killings was reported to have stated that 711 disappearances reported between January 2006 and February 2007, remain unresolved. (<http://groundviews.org/2013/08/30/sri-lankas-disappeared-visit-navi-pillay-and-another-commission-of-inquiry/>). The UN Working Group on Enforced and Involuntary disappearances had received 12,536 cases from Sri Lanka with 5,731 remaining outstanding, both of which are the second highest number it has received in its 34 year old history from across the world (Ref. A/HRC/27/49 dated 4<sup>th</sup> August 2014, available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Pages/ListReports.aspx>)

<sup>3</sup> <https://www.youtube.com/watch?v=WKPXiaoubj0> (from 16.50 to 17.42) [accessed August 20, 2014]

<sup>4</sup> <http://groundviews.org/2014/08/07/mob-disrupts-meeting-of-families-of-disappeared-police-government-hound-participants/> [accessed August 18, 2014]

organisers and participants were also asked to go to the Police station. This inaction is of course in heavy contrast to the way the Police and the Army act against those who peacefully protest against the government.<sup>5</sup>

**a) Before the meeting: Intimidation and surveillance (August 2014)**

Prior to this meeting, some of the participants had received intimidating calls from persons claiming to be from the Criminal Investigation Division (CID) of the Police. One of the North based organisers of the event was asked by an anonymous caller whether he is taking families of disappeared to Colombo. A fax was sent around by a person falsely claiming to be the main organiser with misleading information about the event<sup>6</sup>. Police officers had also visited the premises in which the families were to be accommodated and had asked to be informed once the families arrive.

**b) After the meeting: False allegations (August 2014)**

The day after the incident, one of the leaders of the mob made a series of false accusations against families of disappeared persons and anti-disappearance campaigners<sup>7</sup> in Sri Lanka. While declaring all families of being family members of dead Liberation Tigers of Tamil Eelam (LTTE)<sup>8</sup> members the leader accused human rights defenders who campaign against disappearances of being against the country and providing shelter to the LTTE<sup>9</sup>. Around this time Police officers had also made visits to check whether the families of the disappeared had gone back home or were still at the CSR. .

- **Disruption of a human rights festival focusing on disappearances during the Commonwealth Heads of Government Meeting (CHOGM) in Colombo (November 2013)**

On 14<sup>th</sup> November 2013, Bodu Bala Sena (BBS), a Buddhist extremist group, disrupted a human rights festival organised in parallel to the Commonwealth Heads of Government Meeting (CHOGM) by the main opposition party of Sri Lanka, United National Party (UNP) and civil society organisations.<sup>10</sup>

- **Police obtain a court order against a vigil related to disappeared persons during CHOGM (November 2013)**

On 14<sup>th</sup> November, the police obtained a court order against any type of protests in Colombo city on 14<sup>th</sup> and 15<sup>th</sup> November 2013, preventing a vigil that was planned with the participation of families of disappeared persons.<sup>11</sup>

<sup>5</sup> In 2011 (Katunayake), 2012 (Chilaw) and 2013 (Weliweriya), the Police and Army had shot and killed those protesting for protecting pensions, cheaper fuel for fisherfolk and clean drinking water. Several other protesters have also been attacked by the Police.

<sup>6</sup> <http://groundviews.org/2014/08/07/mob-disrupts-meeting-of-families-of-disappeared-police-government-hound-participants/> [accessed August 18, 2014]. The fax falsely claimed the meeting was to discuss how to send information to the UN investigation into allegations of war crimes and asked media to give coverage to the event when it was actually an invitation only, closed door meeting.

<sup>7</sup> These included the Catholic Bishop of Mannar, Rt. Rev. Dr. Rayappu Joseph, who has made number of submissions on disappearances to Sri Lankan Commissions of Inquiries, Rev. Fr. Sebamalei, Rev. Fr. Sathivel, Dr. (Ms.) Nimalka Fernando, Brito Fernando and Ruki Fernando

<sup>8</sup> LTTE (Liberation Tigers of Tamil Eelam, a party to Sri Lanka's recent civil war – banned as a terrorist organisation in Sri Lanka and several other countries – facing, alongside the government, allegations of serious international humanitarian law violations according to the UN and rights groups both domestic and international) used to honour fallen members as “great heroes”

<sup>9</sup> <http://groundviews.org/2014/08/07/mob-disrupts-meeting-of-families-of-disappeared-police-government-hound-participants/> [accessed August 18, 2014]

<sup>10</sup> <https://www.youtube.com/watch?v=dPIkC-8QjUM> [accessed August 18, 2014]

- **Obstructions against families of disappeared traveling to Colombo to participate in a human rights festival during the CHOGM (November 2013)**  
Before the human rights festival began,<sup>12</sup> on 13<sup>th</sup> November 2013, family members of the disappeared from the North were prevented from traveling to Colombo to participate in the human rights festival mentioned above.<sup>13</sup>
- **Obstruction of a protest by family members of the disappeared in Jaffna (November 2013)**  
Police beat, pushed and insulted families of disappeared persons, Christian clergy-members, politicians and activists during a peaceful protest held to draw attention to disappearances, during the visit of the British Prime Minister to the Northern city of Jaffna, .<sup>14</sup>
- **Obstruction of family members of the disappeared from handing over a petition to the UN (March 2013)**  
On 5<sup>th</sup> of March 2013, Police stopped approximately 600 persons, comprising Tamil families of the disappeared from the Northern Province from traveling to hand over a petition on disappearances to the UN office in Colombo.<sup>15</sup> Police had also threatened bus drivers not to take the families to Colombo. In contrast, another protest which demanded investigations into the disappearance of Sri Lankan military personnel and those forcibly recruited by the LTTE, were allowed to go ahead in Colombo on the same day.<sup>16</sup>
- **Intimidation of protesters on disappearances in the North (June 2014)**  
A protest was held on 5<sup>th</sup> June 2014 by the Tamil National Alliance (TNA) and the Tamil National People's Front (TNPf) with the participation of families of the disappeared to pressure the government to expedite legal processes<sup>17</sup>. Organisers claimed that people who took part in their protest were threatened by the military and told not to join the protest.<sup>18</sup>
- **Delays in court cases related to disappearances**  
There have been numerous delays in habeas corpus cases filed by family members of disappeared persons especially due to: the State not filing objections in time; Police officers and Ministers summoned not appearing before courts; State Counsel not turning up; Magistrate not being present; and more recently, due to a decision by the Judicial Services Commission to appoint a special Magistrate to hear some of the cases<sup>19</sup>.

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11 <http://groundviews.org/2013/11/14/commonwealth-human-rights-principles-in-sri-lanka-in-the-weeks-before-chogm/> [accessed August 20, 2014]

12 Mentioned above

13 <http://www.rightsnow.net/?p=4028> [accessed August 19, 2014] and <http://groundviews.org/2013/11/14/commonwealth-human-rights-principles-in-sri-lanka-in-the-weeks-before-chogm/> [accessed August 20, 2014]

14 <http://groundviews.org/2013/11/16/british-prime-minister-and-tna-leaders-shun-families-of-disappeared-in-jaffna/> [accessed August 19, 2014] & <https://www.youtube.com/watch?v=6A-Yh3QdEj8> [accessed August 19, 2014]

15 <http://groundviews.org/2013/03/07/police-detains-families-of-disappeared-from-northern-sri-lanka-and-prevents-peaceful-protest-and-petition-to-the-un/> [accessed 20 August 2014]

16 Ibid.

17 <http://newsfirst.lk/english/2014/06/relatives-missing-persons-stage-demonstration-mullaitivu/38670> [accessed August 19, 2014]

18 <http://sundaytimes.lk/news/pro-anti-protests-mullaitivu.html> [accessed August 19, 2014].

19 In the case of the disappearance of Mr. Prageeth Eknaligoda, Anura Shantha Jayasundara, a Police officer failed to appear before the courts 11 times and the former minister of Media, Mr. Lakshman Yapa Abeywardena twice. State Counsel and a Magistrate had not turned up for some case hearings of habeas corpus cases filed by family members of persons who had disappeared

- **False allegations that a disappeared journalist is living overseas<sup>20</sup> (July 2013)**  
Government Member of Parliament, Mr. Arundika Fernando stated in parliament in July 2013 that he saw disappeared journalist / cartoonist Mr. Prageeth Eknaligoda in France. During the weekly cabinet press briefing, the government's media spokesperson, Minister Keheliya Rambukwella explained what Mr. Fernando meant by seeing Mr. Eknaligoda was that "he saw him somewhere in France but could not remember exactly where"<sup>21</sup>
- **Misinformation on disappearances and damaging allegations against anti-disappearance campaigners on State Media**  
When a community based activist in a low income area in Colombo area was abducted and released due to protests by his community, the state owned and controlled Independent Television Network (ITN) portrayed it as a case where the abductee had routinely returned home, alleging that claims of abduction were attempts to mislead the people by those who are part of an international conspiracy to spread propaganda against Sri Lanka.<sup>22</sup>
- **Preventing families of disappeared person from attending religious services (May 2014)**  
Mrs. Ananthi Sasitharan, Northern Provincial Councilor from the Tamil National Alliance and the wife of an L.T.T.E leader who has been missing since his surrender to the Sri Lankan Army on 18<sup>th</sup> May 2009, has not been allowed by the military to enter the Hindu temple in Keerimalai to conduct rituals and remember relatives killed in the war and her disappeared husband.<sup>23</sup>
- **Obstructions and harassment of those testifying before the Presidential Commission of Inquiry into disappearances**  
Families of disappeared persons have alleged that the government had obstructed, misled and harassed them during hearings held in Northern towns such as Kilinochchi and Mannar by the Presidential Commission of Inquiry into disappearances<sup>24</sup>.

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after surrendering to the Army at the end of the war in May 2009. These cases were also delayed due to the state not filing objections in time.

20 "The Legal Advisor to the Cabinet, Mohan Peiris (who has since been appointed as Chief Justice), told the UN Committee against Torture, that Prageeth Eknaligoda was living overseas. He recanted this later by telling courts that he doesn't know where Prageeth is, and that 'God only knows' where he must be." <http://groundviews.org/2013/08/30/sri-lankas-disappeared-visit-navi-pillay-and-another-commission-of-inquiry/> [accessed 21 August 2014]

21 <https://sunandadeshapriya.wordpress.com/2013/06/06/7542/> [accessed August 18, 2014].

22 <http://www.col4neg.net/newspage/itn-news/itn-7-news-15-02-2014.html> (from 9.02 to 11.54). Mr. Samaradheera Sunil, also known as "Wanathe Sunil", had been abducted after he had a confrontation with the Secretary of Ministry of Defense and a brother of the President), regarding the dispute on government's proposed new housing scheme for residents of Wanathamulla, Colombo (Details available at <https://www.youtube.com/watch?v=LEndUABOcVc> [accessed August 18, 2014]& <https://www.youtube.com/watch?v=0JC0zFQIbgk> [accessed August 18, 2014])

23 <http://srilankabrief.org/wp-content/uploads/2014/08/Repression-of-Dissent-in-Sri-Lanka-May-2014-English.pdf> , p. 15 [accessed 21 August 2014]

24 It has been reported that the Criminal Investigation Department (CID) inquiries into disappearances after many years of waiting, had been scheduled at the same date, time and place that the Presidential of Commission of Inquiry into disappearances was being held. Military personnel alleging to represent the Commission had gathered data from family members of disappeared, registered them, and requested them to sign English forms, which they did despite not understanding the content of the document. Officials who identified themselves as representatives of the Ministry of Defense had prevented officers of the Legal Aid Commission from observing the process from 19<sup>th</sup> January 2014 onwards. Only incomplete, inaccurate and summary interpretation was provided. Its alleged that the interpreters preempted answers to questions and that they even argued with complainants and were

## Recommendations

- The UN Human Rights Council should strongly condemn the persistent restrictions, threats, intimidation and harassment faced by families of the disappeared in Sri Lanka
- The UN Working Group on Enforced and Involuntary Disappearances should engage the Sri Lankan government on both individual cases as well as larger trends and patterns mentioned in this submission,
- UN officials, particularly those based in Colombo as well as UN members states, including those with diplomatic missions in Colombo, should engage the Sri Lankan government on cases of disappearances and support efforts of family members towards truth, justice and accountability for disappearances.
- The Sri Lankan government must uphold its international obligations and protect families of the disappeared who are searching for their loved ones. It should further disclose, at the earliest, any information it may have on disappeared persons, cooperate with relevant UN mechanisms and swiftly take necessary steps to hold accountable all those responsible for the many cases of disappearances in the country.

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often hostile with testifying family members and that the transcription of Tamil testimonies to English was done to prevent the families checking the information recorded from them. When the hearings of the Commission was being held in Kilinochchi in January 2014, family members of disappeared persons from Kilinochchi district were visited in their homes by officials alleging to represent the Commission, who had requested and recorded the personal information of their disappearances' cases and later summoned the families to the military run "Harmony Centre", to meet representatives of the various Ministries and who informed that they would be offered compensation for disappeared relatives and requested to fill in another form. Human rights defenders who had observed the Commission sittings had reported that only nine families accepted compensation along with a death certificate and that on the same day, they were taken to attend a ceremony officiated by the son of the President, Member of Parliament for the Hambanthota District Namal Rajapakse. <http://groundviews.org/2014/02/13/hearings-of-the-commission-to-inquire-into-the-complaints-regarding-missing-persons/> [accessed August 19, 2014]. More recently, Commission sittings held in a government office very close to a military camp in Puthukkudiyiruppu saw the lowest attendance of families of the disappeared (This information was based by an observer who has attended to all the hearings of the commission in the North and the East)