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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Joint written statement* submitted by Franciscans International, a non-governmental organization in general consultative status, 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.

[03 February 2020]

* Issued as received, in the language(s) of submission only.



Serious concerns about justice for 2012 Welikada prison massacre

Background

The 2012 massacre of 27 prisoners in the Welikada prison in Colombo, Sri Lanka, is the biggest massacre since the end of the war in May 2009, with the exception of 2019 Easter Sunday Bombings. It has been named as an emblematic case in reports by the UN High Commissioner for Human Rights to the UN Human Rights Council since 2015.¹ On 20th June 2016, the Committee for the Protection of Rights of the Prisoners (CPRP) published a detailed report on the case² and has since then kept the Office of the High Commissioner on Human Rights (OHCHR) informed of the developments.

In July 2019, the Attorney General Department was reported to have filed indictments against Mr. Neomal Rangajeewa (Inspector of Police, who was also called Narcotic Rangajeewa for his work with the Police Narcotics Bureau), Mr. Emil Ranjan Lamahewa (Former Deputy Commissioner at the Prisons Department) and Mr. Imaduwege Indika Sampath (formerly a staff at the Welikada Prison Intelligence Unit).³ Their trial was fixed to be heard before a three judge bench in High Court No.3 in Colombo from 14th October 2019.⁴ About 15 hearings have been held, and testimony of about 8 witnesses have been heard and subjected to cross examination. About 80 witnesses have been listed by the prosecution. Amongst the witnesses who have given testimony so far have been prison inmates who are eyewitnesses, families of victims and prison officials. One of the witnesses, Former Assistant Superintendent of Prisons, P.W. Kudabandara, was reported to have told the court that the Special Task Force (STF) commandos who entered the prison were referring to a “Gota’s list” while killing selected prisoners.⁵ By “Gota” he was referring to then Secretary to the Ministry of Defense and present President, Mr. Gotabaya Rajapaksa.

Key concerns since Presidential elections of 16th November 2019

Since the Presidential elections in November 2019, there have been series of development that may negatively affect the principles of natural justice and rule of law, in relation to the ongoing trial of this gruesome massacre.

- Within a week of the Presidential elections, media reported that the first accused, Inspector of Police, Mr. Rangajeewa, who was on bail on 26th September 2018, has been reinstated in his former post.⁶ He had been accused of threatening witnesses to the case and journalists reporting on the case.⁷ After his reinstatement, he has been posting indirect threats and messages to discredit a key eyewitness / activist of the case through social media.⁸ Mr. Rangajeewa has also posted his Facebook account,

¹ A/HRC/30/61 dated 28th September 2015 and all subsequent reports till 2019 - A/HRC/34/20 dated 10th February 2017, A/HRC/37/23 dated 25th January 2018 and A/HRC/40/23 dated 8th February 2019

² <https://srilankabrief.org/wp-content/uploads/2016/07/Welikada-Prison-massacre-report-final-20June2016.pdf>

³ <http://www.sundayobserver.lk/2019/07/21/news-features/indictments-served-welikada-massacre-accused>

⁴ <http://www.ft.lk/front-page/Welikada-Prison-massacre-trial-to-begin-on-14-Oct/44-684918>

⁵ <https://srilankabrief.org/2019/10/sri-lanka-stf-had-gotas-list-of-prisoners-to-be-killed-former-assistant-superintendent-welikada-prison/>

⁶ <https://www.newsfirst.lk/2018/11/22/ip-neomal-rangajeewa-reinstated/>

⁷ <http://www.sundayobserver.lk/2018/12/30/news-features/%C2%A0threats-against-witnesses-welikada-massacre-case>

⁸ For example, on 3rd January, he has shared a Facebook post which indirectly refers to a key eyewitness and activist perusing justice, Sudesh Nandimal, as a terrorist. The post refers to persons working in the Railway Department, and Nandimal is actually working in the Railway Department since 1996 till to date. The actual person whose face is circled is not Nandimal, but Nandimal had been arrested and released from prison in 2013. On 27th December, he has shared on facebook, a

portraying himself as being close to President Gotabaya Rajapaksa and newly appointed Secretary to the Ministry of Defense, Major General Kamal Gunaratne.⁹ We are concerned that this may negatively affect the witnesses and trial.

- We came to know that there were also attempts to reinstate the second accused, former Deputy Commissioner at the Prisons Department, Mr. Emil Ranjan Lamaheewa, at the prisons department. We immediately wrote to the Secretary to the Ministry of Justice, Human Rights & Legal Reforms, under whose purview the Prisons Department falls, communicating our concerns and requesting to halt this.
- The second accused, former Commissioner at the Prisons Department, Mr. Emil Ranjan Lamaheewa also has been given bail. Now we have come to know that the brother of this second accused, Assistant Superintendent of Police (ASP) Mr. Merrill Ranjan Lamaheewa is reported to have been assigned to the Criminal Investigation Department (CID) of the Police as Chief of the Murder Investigation Unit. It is the CID which did the investigations and will be submitting evidence to courts during the trial. Statements given by the witnesses are also kept in the CID. Hence, there is a clear conflict of interest as a brother of the second accused is leading a key section of the CID, the agency that did the main investigations leading to the trial. There is a real risk of witness' statements made to the CID being accessed by second accused and this may affect the trial negatively.
- We have also come to know that it is ASP Merrill Ranjan Lamaheewa (brother of second accused) that is questioning former head of the CID, Mr. Shani Abeysekera in a separate investigation against Mr. Shani Abeysekera. It is under Mr. Abeysekera's leadership that initial investigations of the prison massacre were conducted and the ongoing trial is based on some of the material evidence and information obtained during the investigation under Mr. Abeysekera's leadership. We fear this may affect testimony at the trial and further investigative work by junior officers of the CID or even deter them from testifying and carrying out any further investigations.
- On 30th December 2019, Saman Gamage, had reported in "Divaina" (Sinhalese newspaper) that two mobile phones have been found in the prison cell of an eye witness of the case, Bandula Senarath Liyanarachi.¹⁰ The journalist's writings have been consistently against pursuing justice for this prison massacre.¹¹ We consider his reporting on the case as deliberate disinformation, aimed to discredit a key witness of the prosecution. According to Evidence Ordinance, this witness can be recalled by courts and we are concerned that this type of false media reports and allegations may negatively affect the testimony of the witness. Lawyers for the aggrieved parties brought this to the notice of the Courts during the court hearing on 9th January 2019. We have also brought this to the attention of the Division for the Security of Victims and Witnesses through a letter dated 31st December 2019.
- The President and Secretary of the Committee for Protecting Rights of Prisoners, Mr. Senaka Perera, Attorney-at-Law, and Mr. Sudesh Nandimal, are facing police investigations and a court case, on contempt of court charges, instigated by Mr. Saman

media report from 19th February 2015, which says Nandimal was exploding bombs of the LTTE in the south and operating as a LTTE ("Sinhalese Tiger") even though Nandimal had already been released from prison in 2013.

⁹ For example,

<https://www.facebook.com/photo.php?fbid=165597138178447&set=a.111725196898975&type=3&heater>,

<https://www.facebook.com/photo.php?fbid=2824620620917706&set=a.235938929785901&type=3&heater>,

<https://www.facebook.com/photo.php?fbid=927879077590974&set=a.308035876241967&type=3&heater> and

<https://www.facebook.com/photo.php?fbid=927879264257622&set=a.308035876241967&type=3&heater>

¹⁰ <http://divaina.com/daily/index.php/puwath-2/37385-2019-12-27-13-06-72>

¹¹ For example, a detailed article he wrote for the "Divaina" painting the perpetrators of the killing as heroes <http://www.divaina.com/2012/11/12/feature02.html>

Gamage, a journalist attached to the “Divaina” (Sinhalese newspaper) newspaper, who has consistently been writing against justice for the Welikada massacre, as mentioned above.

We are concerned these developments may affect the testimonies, credibility and security of key eyewitnesses, investigators, activists and lawyers and urge Sri Lankan government to ensure an environment in which the trial can be conducted in an independent, credible and efficient manner. We also urge the High Commissioner and other UN bodies such as Special Procedures to closely monitor the developments related to this emblematic case and have a principled and consistent engagement with Sri Lanka authorities, including on the above mentioned concerns, to ensure justice for the victims and survivors of the massacre.

Committee for the Protection of Rights of the Prisoners in Sri Lanka (CPRP) without consultative status, also share the views expressed in this statement.