



General Assembly

Distr.: General
27 August 2014

English only

Human Rights Council

Twenty-seventh session

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 Legal Resource Centre, a non-governmental organization in 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.

[25 August 2014]

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

GE.14-14905 (E)



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Sri Lanka: Enforced Disappearances and Extrajudicial Killings

1. Although, technically speaking, enforced disappearances and extrajudicial killings are two distinct categories of gross violations of human rights, these two categories often overlap in Sri Lanka. Often, what get classified as enforced disappearances are kidnappings followed by interrogation, which often involve the use of torture and ill-treatment, followed by executions done in secret and, finally, the secret disposal of bodies. Despite several commissions looking into involuntary disappearances having made extensive observations and recommendations on the nature of enforced disappearances in Sri Lanka and ways to avoid the same, successive governments have failed to implement these recommendations. The following are observations and recommendations from ALRC to the Council on the issue of enforced disappearances in Sri Lanka.

2. Successive governments have refused to make Sri Lanka a signatory to the International Convention for the Protection of All Persons from Enforced Disappearances. This refusal to become a party to the convention has arisen from the premise that forbidding enforced disappearances is an undue restriction on the police, military, and other law enforcement agencies. The government's approval for resorting to enforced disappearances under certain circumstances is implied in the government's refusal to become a party to this convention. This position is contrary to the government's obligations under international law and under the normal obligations of legitimate governance. As long as the government of Sri Lanka refuses to become a signatory to this Convention, it is justifiable to accuse it of being complicit in allowing enforced disappearances.

3. Sri Lanka's justice system has not developed an effective mechanism for investigating and prosecuting enforced disappearances. Due to the failure to develop an effective law enforcement mechanism, capable and willing to investigate enforced disappearances and prosecute perpetrators, the government can be justifiably accused of overtly and covertly pursuing a policy of allowing enforced disappearances.

4. In Sri Lanka, there prevails a climate of fear, wherein relatives of victims of enforced disappearances are intimidated away from making complaints and pursuing justice in relation to enforced disappearances. So long as such a situation of fear and intimidation prevails, the government of Sri Lanka can be accused of encouraging the practice of enforced disappearances.

5. Ever since the resolution entitled "Promoting reconciliation, accountability and human rights in Sri Lanka" was passed at the Human Rights Council, there has been heavy propaganda. This propaganda has painted anyone wishing to give evidence before the committee assigned by the council to investigate into human rights abuses under the said resolution, or wishing to assist victims and relatives, as being unpatriotic and, therefore, deserving of reprisals from the government and its supporters.

6. There have been mob attacks, some led by Buddhist monks, on several meetings organized by civil society groups, to express solidarity with the families of disappeared persons. The government, in its failure to enforce the law against such attackers, has encouraged a policy of intimidation against the families of the disappeared, as well as civil society organisations that are merely carrying out their obligations to extend support to families of victims of gross violations of human rights.

7. Fear of abductions, which may be followed by enforced disappearances, prevails in all parts of the country, in particular, in the North and the East. It has virtually become an invitation for serious reprisals, to be witness to a crime allegedly committed by the police, military, or other government agency. The government's propaganda machinery, through the media, has been mobilized to carry out a campaign against persons who wish to give evidence as witnesses to enforced disappearances and other human rights abuses. Allowing such propaganda to take place through its media channels gives rise to a justifiable accusation that the government is involved in the suppression of persons who wish to become witnesses against crime, particularly in incidents of gross violations of human rights.

8. The fear of reprisals prevalent in the country is an obstacle to any attempt at accountability and reconciliation in Sri Lanka. By allowing such a state of fear and intimidation, the government can be justifiably accused of openly acting against every initiative towards accountability and reconciliation.

9. Besides enforced disappearances, there have also been other forms of extrajudicial killings. One such form is through torture at the police stations. The case of Sandun Malinga, a 17-year-old boy who was tortured and later killed at Kandaketiya Police Station, is one such extrajudicial killing through torture. Another form of extrajudicial killings is shootings by police officers, who have recently been issued with guns through an order of the Ministry of Defence. Two such killings are that of 24-year-old Subash Indika and 19-year-old S.M. Kelum Subasinghe. Further, there have been several killings of suspects in police custody by officers under the pretext of self-defence. As a general rule, no serious inquiries into allegations of such extrajudicial killings have resulted.

10. The Asian Legal Resource Centre respectfully submits that one of the major causes of enforced disappearances, as well as extrajudicial killings, is the virtual collapse of the public justice system within Sri Lanka, due to politicization of the police, prosecutorial branch, and the judiciary, which, in turn, is a result of the authoritarian form of government that has developed due to the 1978 Constitution and reinforced by the 18th Constitutional Amendment. We further submit that until this constitutional framework favouring authoritarianism is dismantled, enforced disappearances and extrajudicial killings will likely continue with impunity.
