United Nations A/HRC/16/NGO/111

General Assembly

Distr.: General
25 February 2011

English only

Human Rights Council
Sixteenth 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 International Movement Against All Forms of Discrimination and Racism (IMADR), 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.

[14 February 2011]

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

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Promotion and protection of human rights – Challenges of post war Sri Lanka

The International Movement Against All Forms of Discrimination and Racism (IMADR) wishes to bring the attention of Human Rights Council (HRC) to the failure of the government of Sri Lanka (GOSL) to fulfil pledges given under the UPR and the responsibilities undertaken in the resolution of 11th HRC Special Session.[1] Testimonies made by individuals and organisations representing the voices of people in the North and East during the sittings of the GOSL's Lessons Learnt and Reconciliation Commission (LLRC) bear witness to the prevalent culture of impunity, collapse of the rule of law and the systemic nature of repression carried out to curtail democratic and fundamental rights. In fact the Human Rights Charter is still pending and the GOSL's position was made very clear with the non-appointment of the Minister for Human Rights. Further the 18th Amendment to the constitution has removed any expectations related to the independence of the Human Rights Commission.

Issues arising from LLRC Testimonies

The testimonies bear witness to security and protection concerns during the 30 years of the protracted war in Sri Lanka. Little or no effort was made by either the LTTE or the GOSL to address grave violence experienced thousands of people. The evidence given before the LLRC is very clear in their demand for justice and reparation.

1. Militarisation and security concerns

While there is suffering caused by the LTTE and other armed groups, the state military and their secret agents are more feared by the people. It is reported that, in some areas in the North, civilians cannot go back to their home lands because their houses and lands are occupied by military. The reported moves to provide military personnel with land for settlement in the North and East will exacerbate tensions and is an impediment in the reconciliation process. "it is dangerous to speak about human rights. Therefore, it must be enforced at this moment if we are looking for a period of peace, so that every citizen may respect the rights of one another. Human rights have been violated with impunity by the Security Forces and unidentifiable groups and persons, especially in the North and East. This state was worsened by the State sponsorship of Para-Military Groups …"[2]

2. Extra-judicial killings

A list of 166 people who had been reported killed during the last phase of the war was handed over to the LLRC by the Catholic Diocese of Mannar, though the number is not complete. It is further stated that "Thousands of persons have been reported killed during the three decade old war from the North and East, most of them, since 2007 and particularly in the last five months of war in 2009. This includes a large number from the district of Mannar. Rev. Fr. Pakiaranjith, a priest of our diocese was also killed on 26th September 2007 in Vellankulam Road near Thunnukai, while he was taking assistance to displaced

[1] A/HRC/8/46, paras. 82-112 and A/HRC/S-11/2, chapter I

[2] Testimony of the Bishop of Batticaloa Kingsley Swampillai to LLRC

people."[3] There are reports and eyewitness testifying that hundreds of thousands of persons have been killed during the three decade of armed conflict, especially in the North and East.

3. Arbitrary detention

A list of 274 persons who have been reported as being remanded was submitted by the Catholic Diocese of Mannar to LLRC, while being aware that the actual number of persons in detention is much higher. Furthermore, it is stated that "There are thousands of LTTE suspects detained in prisons all over the country, such as in Welikeda in Colombo, Bogambara in Kandy, Jaffna, Batticaloa, Vavuniya, Anuradhapura etc. Almost all are Tamils. Most are detained purely on suspicion of links to the LTTE, with no charges brought for years. Others have been charged, but their trials are going on for years. Some of those, such as those detained in Omanthai in the Jaffna district under the Terrorist Investigation Department (TID), have been denied access to lawyers, ICRC and National Human Rights Commission and right to participate in religious services. Their relatives face a lot of problems visiting them and are often compelled to talk in inhumane manner through wire mesh, with more than 10 at a time in congested small room. There is no centralized list of detainees in each detention centre that relatives could refer to."[4]

4. Disappearances

A list of 100 disappeared has been prepared and submitted to LLRC during it's hearing in Mannar in the Northern Province. The actual number would be much more. We would like to present two testimonies here: "There are a large number of reported cases of missing, I am sure you must have given to hearing to the people where you have visited, and disappeared persons whose fate is unknown for many years Rev. Fr. Nihal Jim Brown who disappeared in Allaipiddy in Jaffna in August 2006 and Rev. Fr. Joseph Francis who was last seen in Vettuvikkal, Mullathivu in May 2009, at the tail end of the war. Actually he had been sighted little before the exit and while he was leaving the Omanthei camp and when he has been going out with others, he had been taken into custody by the Special Security Forces, and never heard of him since then."[5]

"I got married and was living at Madukarai in Mannar. When I was at Mannar I was informed that my mother was sick. On the 21st of May 2008 I came to Kilinochchi where my mother was living. I was there with my mother and my husband had come to take me back home to Killinochchi on 3rd June 2008. Since then he has gone missing. He was last seen at the Omanthai army check point."[6]

It should be noted that the request for the visit of the UN Working Group on Enforced or Involuntary Disappearances (WGEID) has been sent to the Sri Lanka government three times i.e. on 16 October 2006, 20 July 2009 and 16 August 2010. However, WGEID is still waiting for an invitation to conduct a county visit to Sri Lanka. The government has also yet to report on further implementation of the recommendations of WGEID emanating from its visits in 1991, 1992 and 1999.

5. IDPs and resettlement

Almost 20 months after the end of the war, most of IDPs still live under tarpaulin sheets without any housing. Others live in makeshift and temporary houses, mainly cadjan and tin

[3] Testimony of the Catholic Diocese of Mannar to LLRC
[4] Ibid.
[5] Ibid.
[6] Representation of Witness 5 in the Proceedings of public sittings of the LLRC (LLRC/PS/18-09-10/02

sheets. A limit of Rs. 325,000 is put for rebuilding a house, although it would be difficult to complete a good quality house with Rs. 325,000. The offer of the Indian government to build 50,000 houses is yet to materialise.

Long term IDPs including Muslims IDPs who were evicted in 1990s by the LTTE are not receiving any relief package nor included even in the UNHCR work plans. NGOs and INGOs have faced restrictions in carrying out humanitarian and development since the subjects has come under the purview of the Ministry of Defence and the Presidential Task Force.

6. Accountability:

The following evidence has been given during the sittings in Mannar on 10th January 2011: "Based on eyewitness testimonies, we believe thousands of people would have been killed in the last five months of war between January – May 2009 and we believe a large number of these people are also from the Mannar district. Based on information from the (government agents of) Mullativu and Killinochi about the population in Vanni in early October 2008 and number of people who came to government controlled areas after that, 146,679 people seem to be unaccounted for. According to the Kacheri, the population in Vanni was 429,059 in early part of October 2008. According to UN OCHA update as of 10th July 2009, the total number of people who came out of the Vanni to government controlled areas after this is estimated to be 282,380."[7]

"At the outset, we must express our disappointment that previous Commissions of Inquiry have failed to establish the truth into human rights violations and extrajudicial killings they were inquiring and bring justice and relief to victims and their families."[8]

7. Culture of impunity

"except in one case (rape and murder Krishanthy Kumarasami) no perpetrators have been convicted for numerous crimes such as extrajudicial killings, disappearances, torture, arbitrary detention, rape and sexual abuse. It is our belief that this culture of impunity over the years, led to more and more crimes against Tamil civilians during the course of the conflict."[9]

[7] Testimony of the Catholic Diocese of Mannar to LLRC
[8] Ibid.
[9] Ibid.