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

Written statement* submitted by Association Thendral, 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.

[30 May 2021]

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



Arbitrary Detention of Tamil Political Prisoners, Need to release the Tamil political prisoners

For decades, Tamil political prisoners in Sri Lanka have been systematically abused and discriminated against by the Sri Lankan Genocidal state, which assumes they have links to the Tamil Resistance group, the Liberation Tamil Tigers of Eelam (LTTE). Some of these prisoners have had no such links. These prisoners have been subjected to arbitrary detention and torture and many have since been released without charge.

Following the end of the civil war in 2009 and the eradication of the LTTE, there was wide spread expectation that the Sri Lankan government would release the political prisoners it had imprisoned and repeal its draconian laws, including the Prevention of Terrorism Act (PTA) and Emergency Regulations, which had allowed for the detention of prisoners for long periods of time - up to 15 years in some cases – often without judicial oversight or trial.

The family members of Tamil political prisoners, some of whom have been detained for years, as they demanded the Sri Lankan government abolish the Prevention of Terrorism Act (PTA) and release their relatives.

Tamil Political prisoners family members had many rally last year, which included men, women and the children of political prisoners, chanted slogans and carried placards which read, "Release political prisoners without condition" and "Do political prisoners not deserve pardons?".

The continued plight of Tamil political prisoners was thrust into the limelight for almost 10 years, on June 26 2012, when a riot broke out at Vavuniya Prison. About 200 prisoners were involved in the riot, which was staged to protest against the transfer of three prisoners from Vavuniya prison to the Terrorist Investigation Division run detention facility in Boosa (not to be confused with the regular prison at Boosa), a place notorious for torture. Police and the army were brought in to quash the uprising, followed by severe torture of detainees, resulting in 28 detainees being injured. More than 15 sustained severe injuries and two of them died as a result.

This report discusses the Vavuniya riot and its aftermath. After conducting interviews with at least five of the families of those who are currently imprisoned and two families whose sons have died while in prison custody, and collecting testimonies from a social worker who has interviewed some of the prisoners' families, the following themes emerge:

- torture
- detention without judicial oversight
- detention without trial
- the transfer of inmates to prisons around the country without any reasons
- limited access to families
- lack of information for families from authorities regarding the condition of prisoners
- denial of access to those killed in police custody

Tamil Civil society has sent many urgent appeals to the UN Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions of the UN Human Rights Council, at end of November 2020, following the aftermath of the Mahara Prison Complex riots that killed 11 inmates and injured 107, as of 2 December.

Moreover, around 12 suicides have been reported this year in prisons, with most appearing to be suspects who are alleged to have used and/or traded drugs and/or illicit liquor.

“It appears that prison authorities are not providing professional support and care for such persons and not putting in place adequate mechanisms to prevent suicides. There are also concerns about the lack of nutritious food, the restricting of visits from family members without adequate alternative communication facilities, and the deployment of special

commandos trained for armed conflict to prisons,” noted by human rights activist from the ground.

Though there were some prisoners released immediately after our letter, large numbers of new inmates were admitted to prisons afterwards. It appears that prisoner releases and preventing the Covid-19 outbreak in prisons had been forgotten until the outbreak of Covid-19 in prisons last month. It was only just before the latest killings that the media reported that some measures may be taken in the coming days to release prisoners.

Eight of those killed were subsequently reported to have tested Covid-19 positive and we are also worried that if their remains are cremated, that may hamper criminal investigations to hold those responsible accountable.

Tamil political prisoners – some of whom have been held for up to 24 years – are being held in prisons where others have been infected with coronavirus and face “imminent danger of spreading it further among them,” warned Illankai Tamil Arasu Kachchi (ITAK) leader Mavai Senathirajah, in a letter to Sri Lanka’s president.

“In foreign countries such persons under detention for long time are being temporarily released by order of Courts and continued to under detention in their own homes and some prisoners are bailed out/set free subjected to conditions dictated by courts,” said Senathirajah.

“As it is now even some prisoners/suspects held in prisons are also already infected with corona virus and others are faced with imminent danger of spreading it further among them,” he continued. “The relatives of these prisoners are not being allowed to visit them at present and as a result they are being subjected to severe mental pain and stress.”

Situation of Kanagasabai Devadasan

Kanagasabai Devadasan, a Tamil political prisoner from Colombo who has spent 12 years in jail has written a letter to Sri Lankan president Gotabaya Rajapaksa, requesting him to expedite the court hearing of an appeal he had filed against the allegations that incarcerated him or otherwise raise his sentence to capital punishment and "hang him immediately".

"I, Kanagasabai Devadasan, 63, have been imprisoned for 12 years on the basis of the Prevention of Terrorism Act. The Colombo High Court ordered a 20 years and life-time imprisonment sentence for the HC 6194/12 and HC 5638/11 cases filed against me," Devadasan wrote in his missive.

Apprising the President that he had appealed against the judgement, Devadasan highlighted the dither and delay that characterised court proceedings vis-à-vis his case.

"With an intention to bring it (the hearing) to an end expeditiously, I have been advocating for myself in both cases. Still, the hearing of both cases have been totally disrupted due to the unnecessary delay caused by court procedures and the coronavirus,".

As a result, Devadasan emphasised in his letter that he has been denied the right to prove his innocence in the court of law and said that ‘my fundamental rights are being blatantly violated.’

Also pointing out Rajapaksa's lack of response to his previous, private request, Devadasan explained the reason why he felt the need to make this letter public. "I wrote a letter to you from prison six months ago, explaining my situation. Unfortunately, I have still not received a response to it. Hence, due to the lack of any other option, I make this letter public."

Subsequently, laying out his requests to Rajapaksa, Devadasan asked the Sri Lankan president to pass an order expediting the hearing of his appeal in the courts. "Otherwise," he wrote, "allow me to obtain bail for these two cases."

"Should you believe it is not within your powers to fulfill these two requests," Devadasan proceeded, "please use the powers granted to you by the constitution to raise my sentence to capital punishment, brand me a “war-criminal” and order that I be hanged in public immediately."

Devadasan ended his letter by requesting that no one try to dissuade him from the decision he has made. "I need justice or death. That is all."

The draconian Prevention of Terrorism Act (PTA) has been used by the Sri Lankan government as a tool to oppress Tamils. Devadasan's plight signifies the abysmal conditions of the Sri Lankan criminal justice system, especially the prisons, that overtly disfavours Tamils. It is also indicative of the atrophy of Sri Lankan judiciary which has served to disadvantage Tamils over the Sinhalese.

Recommendations;

- Repeal the Prevention of Terrorism Act, or bring it in line with Sri Lanka's international treaty obligations
- All political prisoners should be released or charges should be brought against them before a specified date. In case of future arrests, they should be charged or released within a short period, such as 3 months after arrest
- Publish a list of all political detainees being held around the country under the PTA or those previously arrested under the Emergency Regulations
- We urge the UN Special Rapporteurs to inquire into the latest incident and to call on the Government to practice, restrain and abide by national and international laws when responding to any tensions in prisons.
- Put a halt to the state's use of torture as a method of interrogation or punishment

Gouvernement en Exil du Tamil Eelam, GLOBAL TAMIL MOUVEMENT, NGO(s) without consultative status, also share the views expressed in this statement.