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Human rights situations that require the Council's attention

Written statement* submitted by Franciscans International, 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.

[6 February 2023]

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



Human Rights Situation In Sri Lanka: The Need to Ensure Accountability For The 2019 Easter Sunday Attacks [1]

1. Franciscans International with the support of Center for Society and Religion (CSR) would like to draw the attention of the Human Rights Council to the situation in Sri Lanka, in particular to the 2019 Easter Sunday attacks. On the 21st of April 2019, which was Easter Sunday, three churches and three major hotels in Sri Lanka were attacked by an Islamic terrorist group and around 269 people were killed and more than 500 were injured. However, 3 years after the Easter Sunday bomb attack, justice is being delayed for the victims and impunity prevails.

2. A presidential commission, a presidential committee, and a Parliamentary Select Committee were appointed to investigate the Easter Sunday Attacks. The report produced by the presidential committee was never published, while the Parliamentary Select Committee's report was fully published, and the presidential commission's report was partly published. On the 26th of January 2023, the Right to Information Commission directed the Presidential Secretariat to make the presidential committee report public before the 9th of February 2023 after hearing an appeal filed by the Center for Society and Religion (CSR).[2] However, none of the major recommendations from the published reports have been implemented to deliver justice for the victims.

3. There are several criminal cases filed by the State with regard to the main incidents related to the Easter attacks, but none of the cases have ended up with a conviction up to now, which means no one has been made accountable for the Easter attacks. as of now.

i. The criminal case number HC (TAB) 2972 in the Colombo High Court against 25 accused related to all the bomb blasts that took place on the 21st of April 2019, is the main criminal case at present relating to the Easter attacks. In this case, indictments containing 23270 charges were served to the accused on the 4th of October 2021 before a trial at bar. The case has been called several times throughout this period, but for several reasons including the huge number of charges and various practical difficulties such as lack of Tamil-speaking lawyers, non-availability of Tamil translations of the indictments, the trial has not commenced yet. It is due to commence on the 28th of February 2023.

ii. Indictments were served on the then Inspector General of Police (IGP) and then Defense Secretary over the criminal negligence with respect to the 2019 Easter attacks in two separate Trial at Bars at the Colombo High Court under the cases numbers HC (TAB) 2900/21 and HC (TAB) 2899/2021. [3] Both accused were acquitted by Courts on the 18th of February 2022 even without calling for evidence from the defense.

iii. Several other vital criminal cases were filed in relation to the Easter attacks, but most of these cases have seen very little progress.

Case No. HC 78/2021 was filed in Puttlam High Court against the attorney-at-law Hijas Hisbulla for his alleged connection to Save the Pearls Charity that had ties to one of the Easter Attack Bombers. This case is partly heard, and the Bar Association of Sri Lanka observes it. Case No. 188/2021 was filed in Puttlam High Court against three Maulawis in relation to an alleged propagating of extremism in a Madrasa school in Puttalam and it is at the pretrial stage.

Case No. 23084/22 was a private complaint filed on the 16th of September 2022 against former President Maithreepala Sirisena in the Fort Magistrate Court. In this case, the Plaintiff has alleged that during the Easter attacks the Accused has failed to discharge his legal duties as the Minister of Defense. The then President Maithreepala Sirisena filed the case Writ 354/22 on the 29th of September 2022 in the Court of Appeal alleging that the Order made by the Magistrate Court in Case No. 23084/22 issuing summons on him to be present before the Fort Magistrates Court on the 14th of October 2022 is illegal and the private complaint cannot be maintained. Both cases are pending in Courts.

In the Mawanella case bearing No. HC 4485/21, indictments containing 18 charges were filed against 16 Accused related to the vandalism of a Buddha statue in Mawanella. In this case, all the Accused pleaded guilty by 18th January 2023 and these accused are members of the terrorist group connected to the Easter Attack.

Case No. HC 148/2021 was filed against a young poet, Ahnab Jeseem under the Prevention of Terrorism Act with regard to a book published by him which was later found in a place that belongs to the 'Save the Pearl' charity that had ties to one of the Easter Attack Bombers.[4] This case is pending the commencement of the trial. Moreover, the trial is in the initial stages.

Case No. Puttalam/Tab/107/2021 is against 6 Accused concerning a training camp and explosives relating to Easter attacks discovered in Vanathavilluwa.

iv. On the 20th of April 2022, the Director of CSR, Fr. Rohan Silva, with several other religious filed a formal police complaint demanding the arrest of Nilantha Jayawardana, the former director of the State Intelligence Services (SIS), regarding the Easter attacks. On the 21st of May 2022, under the instructions of Fr. Rohan Silva, director of CSR, a lawyer sent a letter to the IGP demanding to take action for the said complaint. Police have not commenced any investigation regarding the complaint, and IGP has not even responded to the letter of demand.

4. In 2019 twelve fundamental rights applications were filed relating to the Easter Attacks by Petitioners aggrieved by these attacks. On the 12th of January 2023, after a lengthy hearing, a full bench of the Supreme Court ruled that Respondents had violated the fundamental rights of the Petitioners. Court ordered Former President Maithripala Sirisena to pay Rs. 100 million, Former IGP Pujith Jayasundara and Former director of State Intelligence Services Nilantha Jayawardene to pay Rs. 75 million each, Former Defense Secretary Hemasiri Fernando to pay Rs 50 million, Former director of National Intelligence Service Sisira Mendis to pay 10 million, and the State to pay 1 million as compensation to the victims. Court also ordered the State to take disciplinary action against the former director SIS Nilantha Jayawardana. [5] As of today, to the best of our knowledge, none of this has been complied with. We also note that the compensation ordered is relatively low compared to previous compensation awarded by the Supreme Court to victims of torture, considering the seriousness of the crimes and the large number of survivors, victims' families, and affected communities. There is also no direction to prosecute those responsible for the crimes and criminal negligence.

5. There are 182 civil cases in Negombo and 102 civil cases in Colombo filed for compensation pending respectively in district courts filed by the victims of the Easter attacks and the cases are still at the initial stages.

6. Reprisals against those seeking truth and justice for the Easter attacks have become common during the last 3 years. One of the specific targets has been the Director of CSR. A media report accused him and two other prominent advocates for justice for the victims of the Easter attacks, Rev. Fr. Julian Patrick and Rev. Fr Cyril Gamini, to conspire against the Catholic Archbishop of Colombo. Shehan Malaka, an outspoken youth activist publicly made an allegation of political conspiracy related to Easter attacks. He was later arrested and a case was filed against him in the Colombo High Court under case number HC 3791/22.

7. 220 dependents of the persons deceased in the Easter attacks have received 1 million Sri Lankan rupees for each person from the Sri Lankan government, but expenses for the funerals have been deducted from the 1 million. 508 persons injured during the attacks have received compensation from the government. The government has also provided houses for around 19 victims. Churches and other organizations have also provided financial assistance, houses, medical care, psychological care and education [6] to some of the families. [7] However, some victims based in tea estates in the central province have not received houses either from the government or from other organizations although they are one of the lowest income groups in the most vulnerable housing situation.

Recommendations

8. Considering the above, Franciscans International and CSR calls upon the United Nations High Commissioner for Human Rights and the members and observer States of the UN Human Rights Council to recommend the following to the Sri Lankan Government:

- To timely and duly investigate all the complaints submitted to the police on cases related to the Easter attacks.
 - Take steps to implement the Supreme Court judgment in the Fundamental Rights cases SCFR 163/2019 and others.
 - To investigate, identify and eventually to prosecute all those who planned the Easter attacks, especially those most responsible, based on principles of command responsibility and who were directly involved as well as assisted them.
 - To prosecute all the political leaders, State Officials, Police, and intelligence Service Officials who did not prevent the Easter attacks.
 - To expedite all Court cases connected to the Easter attacks.
9. Franciscans International and CSR calls upon UN member states to
- Prosecute the perpetrators of the Easter attacks in their own jurisdictions
 - Observe significant trials in Sri Lanka related to the attacks
 - Ensure the protection of activists, witnesses etc. related to the Easter attacks
 - In the failure of proper investigation of Easter Attacks, urge the government to get the assistance of international investigation mechanism.
10. Franciscans International and CSR calls upon the UN High Commissioner for Human Rights to
- Include the latest development of the case of Easter attacks to the Human Rights Council in his reports and updates.
 - Include the latest development of the Easter attacks in the Office of the High Commissioner for Human Rights (OHCHR) evidence gathering project

[1] This statement is supported by Center for Society and Religious (CSR)

[2] 31 January 2023, Prez. Secretariat directed to release Malalgoda report on Easter Attacks, <https://www.themorning.lk/articles/NKtMF6aEkwh5pIOqdTSF>

[3] 6 July 2022, Easter Attacks: Court serves charges on Pujith and Hemasiri, <http://www.adaderana.lk/news/77358/easter-attacks-court-serves-charges-on-pujith-and-hemasiri>

[4] 1 February 2023, A message from the media asking for the protection of Ahnaf Jazeem, <https://www.aithiya.lk/english/a-message-from-the-media-asking-for-the-protection-of-ahnaf-jazeem/>

[5] 31 January 2023, Supreme Court order Sirisena, Ex-Police Chief & others to pay compensation for Easter Attacks Victims, <https://www.newsfirst.lk/2023/01/12/breaking-supreme-court-order-sirisena-ex-police-chief-others-to-pay-compensation-for-easter-attacks-victims/>

[6] 12 July 2022, Navaly Church Bombing – 25 Years On, <https://groundviews.org/2020/07/07/navaly-church-bombing-25-years-on/>

[7] 12 July 2022, Houses from the Prime Minister to the victims of the Easter attack <https://www.aithiya.lk/english/houses-from-the-prime-minister-to-the-victims-of-the-easter-attack/>