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HUMAN RIGHTS SITUATIONS THAT REQUIRES THE COUNCIL'S ATTENTION

**Written statement^{*} submitted by Amnesty International, 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 August 2007]

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

The Human Rights Situation in Sri Lanka

Sri Lanka: a continuing human rights crisis

Armed conflict in Sri Lanka between government forces, the Liberation Tigers of Tamil Eelam (LTTE) and other armed groups has escalated since April 2006 and is marked by widespread failures to respect human rights.[†] Grave violations of human rights and international humanitarian law by all parties to the conflict characterize the hostilities. Unlawful killings, abductions and enforced disappearances of civilians are daily occurrences. Several hundred cases of enforced disappearances and several hundred unlawful killings have been registered in the first six months of 2007.[‡] Amnesty International is also concerned about a rising incidence of killings of journalists by unidentified armed men, and tightened restrictions on freedom of expression.

Failure to protect civilians

There is an urgent need for sustained and effective protection for civilians. At least 4,000 people are reported to have lost their lives in the conflict since late 2005.[§] Amnesty International is gravely concerned that civilians have not just been “caught in crossfire”, but have been deliberately targeted by the security forces, the LTTE and other armed groups.

Amnesty International remains particularly concerned over the failure to protect civilians in the north and east of the country. The number of reported unlawful killings and enforced disappearances has increased amid a continued failure to identify and bring to justice those responsible for human rights violations. The National Human Rights Commission in Jaffna reported that in the first three weeks of August 2007 alone, 21 cases of enforced disappearances and 13 cases of unlawful killings took place. At least 290,000 civilians have been displaced due to ongoing military operations by both sides. The majority of those displaced are women and children. Humanitarian access to civilians has been severely curtailed and over 30 humanitarian workers have been killed since 2006. While the government has condemned acts of violence against humanitarian staff, there has been a marked absence of impartial, effective investigations leading to the prosecution of those responsible. Amnesty International urges the authorities to ensure the provision of appropriate assistance to the civilian populations in the north and eastern provinces and to cooperate fully in facilitating the work of humanitarian agencies.

Many internally displaced persons (IDPs) continue to live in fear, sustained in part by the LTTE’s continued involvement in widespread human rights abuses including unlawful killings and abductions. In addition to the threat of LTTE reprisals, many IDPs report that they are reluctant to return to their places of origin because of the threat of

[†] Amnesty International raised these concerns in a briefing “Sri Lanka: urgent need for effective protection of civilians as conflict intensifies” (AI Index: ASA 37/009/2007), released 5 April 2007.

[‡] The Law & Society Trust, Colombo, in collaboration with local partners in Sri Lanka including the Civil Monitoring Commission and the Free Media Movement, has compiled a working document listing 547 persons killed and 396 persons disappeared during the period January to June 2007. The document was submitted to President Mahinda Rajapakse in August 2007.

[§] BBC News South Asia, http://news.bbc.co.uk/2/hi/south_asia/2405347.stm.

forced LTTE recruitment of both adults and children. Amnesty International has repeatedly raised its concerns on this issue with the LTTE and urged the organization to fulfil its pledge to release all child soldiers.^{**}

The Karuna faction, a breakaway group from the LTTE,^{††} continues to recruit children in government-controlled areas, particularly in Batticaloa District. Amnesty International reported in April 2007 that humanitarian agencies in the East also report a number of incidents of extortion and threats by the Karuna faction.^{‡‡} Philip Alston, the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, said in 2006 that the government should publicly reiterate its renunciation of any form of collaboration with the Karuna group.^{§§}

Attacks on journalists

The number of attacks on journalists, particularly those considered part of the Tamil media, has escalated. Ten media workers have been killed since the beginning of 2006 and another journalist, a victim of an enforced disappearance, is presumed dead. There has been a serious failure by the authorities to conduct effective investigations leading to the prosecution of those responsible for such unlawful killings.

There are grounds to fear a return to a pattern of the security forces involvement in extrajudicial killing of journalists and others. In a recent illustrative incident, Sahathevan Deluxshan, 22, a media student at Jaffna University Media Research and Training Center and a part time journalist, was shot dead by unidentified men on 2 August 2007 in Jaffna town. Jaffna is a high security zone under the control of the Sri Lankan military and has a series of checkpoints to control the movement of armed groups. That the attack occurred during curfew hours provides grounds for concern that military personnel may have been involved or complicit in the shooting.

Restrictions on freedom of expression: the Emergency Regulations

The Emergency Regulations (ER), which lapsed during the 2002 ceasefire, were re-introduced in August 2005 after the assassination of Foreign Minister Lakshman Kadirgamar.^{***} In 2006 the government introduced a new set of ER to strengthen its already wide powers.^{†††} The new set of regulations allows the government to deploy the military and detain without charge anyone suspected of terrorist activities.

^{**} *'Sri Lanka: Amnesty International urges LTTE to live up to its pledge to end child recruitment'*, (AI Index: ASA 37/017/2007), 10 July 2007.

^{††} In 2004, former Tamil Tiger commander Colonel Karuna broke away from the Liberation Tigers of Tamil Eelam (LTTE) to form his own splinter group, Tamil Makkal Viduthalai Pulikal, or People's Liberation Tigers of Tamil Eelam (TMVP).

^{‡‡} *'Sri Lanka: Armed groups infiltrating refugee camps'*, (AI Index :ASA 37/007/2007), 14 March 2007.

^{§§} From the report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions' mission to Sri Lanka, UN Doc. E/CN.4/2006/53/Add.5, 27 March 2006.

^{***} The Emergency (Miscellaneous Provisions and Powers) Regulations (EMPPR), August 2005.

^{†††} Emergency Regulation (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) No. 7 of 2006.

Over many years Amnesty International has repeatedly expressed concern about certain provisions of the Emergency Regulations (ER) that threaten to impose unjustified and disproportionate restrictions on freedom of expression. Amnesty International remains concerned at the restrictions placed on civil and political rights under the Emergency Regulations. For example, Regulation 6 of the 2006 ER criminalizes, not only “terrorism” and “any specified terrorist activity,” but also “any other activity in furtherance of any act of terrorism or specified terrorist activity committed by any person, group or groups of persons.” Regulation 7 provides, among other things, that: *“no person shall... promote, encourage, support, advise, assist, act on behalf of; or organize or take part in any activity or event of, any person, group, groups of persons or an organization which acts in contravention of regulation 6 of these regulations.”*

Regulation 8 criminalizes “any transaction in any manner whatsoever,” with individuals or groups “which act[s] in contravention of regulations 6 and 7 of these regulations.” These provisions are very vaguely and generally worded, and therefore may be interpreted as criminalizing a wide range of activities, including media investigations and reporting. The organization is also concerned at their allegedly discriminatory application with regard to Tamils.

Combating impunity: the need for effective investigations

As human rights abuses in the context of the conflict have increased, Amnesty International is gravely concerned about a persistent climate of impunity reported by human rights activists and other civil society actors in Sri Lanka. The need for systematic monitoring and prompt, impartial and effective investigations remains acute. In response to international criticism of the human rights crisis in Sri Lanka, the government established a Commission of Inquiry (CoI) and International Independent Group of Eminent Persons (IIGEP) in September 2006. While Amnesty International welcomes steps to address impunity, it is concerned that the mandate of the CoI and IIGEP is limited to 16 cases (with the possibility of new additions) and cannot address the broader range of human rights violations, particularly the most recent incidents. It is cause for concern that the IIGEP may only advise the CoI and that the CoI is obligated to report only to the Sri Lankan President and is not formally part of the country’s justice system.^{***} The continuing absence of an operational witness protection programme poses a serious obstacle to the work of the CoI and other investigative bodies.

Amnesty International believes that other existing national monitoring and investigation mechanisms, such as the Sri Lankan National Human Rights Commission (HRCSL), are not provided with sufficient resources and do not have the capacity to address the current scale of human rights violations. The CoI cannot fulfil this role either, given its case-limited and retrospective scope.

^{***} See “Establishing a Commission of Inquiry into serious violations of human rights law and international humanitarian law in Sri Lanka: Amnesty International’s recommendations” (ASA 37/031/2006), 12 September 2006.

Amnesty International calls for an international human rights monitoring presence to support and augment the capacity of national bodies tasked with human rights protection. Amnesty International is convinced that international observers actively monitoring respect for international human rights and international humanitarian law by all sides would act as an effective deterrent to abuses and would contribute to a clear identification of suspected perpetrators. Monitors could independently investigate claims and counter-claims, reporting publicly on their findings and on the degree of cooperation (or lack thereof) of the parties in conflict. As stated by Louise Arbour, the High Commissioner for Human Rights, in her address to the UN Human Rights Council in September 2006: "There is an urgent need for the international community to monitor the unfolding human rights situation as these are not merely ceasefire violations but grave breaches of international human rights and humanitarian law".

The scheduled visit to Sri Lanka by the High Commissioner for Human Rights in October can be an important step in assisting the government of Sri Lanka to develop programmes to protect human rights. Amnesty International urges the Human Rights Council to also support the people of Sri Lanka by addressing the situation of human rights in Sri Lanka without further delay.
