

*The Ambassador*



PERMANENT MISSION  
OF THE DEMOCRATIC SOCIALIST REPUBLIC  
OF SRI LANKA  
No 56, rue de Moillebeau  
1211 Geneva 19  
Tel: (022 ) 919 12 50  
Telefax: (022 )734 9084  
E-mail: mission.srilanka@ties.itu.int

HR/35

15<sup>th</sup> February 2013

Mr Olivier de Frouville  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Mr Frank La Rue  
Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

Mrs Maina Kiai  
Special Rapporteur on the Right to Freedom of Peaceful Assembly and of Association

Mrs Margaret Sekaggya  
Special Rapporteur on the Situation of Human Rights Defenders

**Draft Response for the Joint Urgent Appeal sent by UN Special Procedures**

01. I write with reference to your Joint Urgent Appeal dated 10<sup>th</sup> December 2012 addressed to me regarding the information you have received on the alleged arrest of members of the Asian Federation against Involuntary Disappearances (AFAD) in Colombo, Sri Lanka.
02. I wish to make the following observations on the contents of your communication under reference:
  - i. According to the information received from the authorities in Sri Lanka, the factual sequence of events with regard to this matter is as follows;
    - a. On 03<sup>rd</sup> December 2012, Mr. Nimal Lanza, a Provincial Council Member informed the Superintendent of Police, Negombo that Mr. Brito Fernando, a Trade Union leader and a group of foreigners had gathered at Lagoon View hotel, Negombo, and made a presentation of certain videos of H E the President of Sri Lanka.
    - b. On receipt this information, the Head Quarters Inspector, Negombo Police, visited the Lagoon View hotel in the night of 03<sup>rd</sup> December 2012 and ascertained that an organization called 'Right Law Collect Force Country' had organized the meeting.

- c. Mr. Sudharshana Abeywardhana Nishantha, an Attorney at Law explained the purpose of the meeting to the Police and he re-played the video at the request of the Police. It contained a videography of a series of meetings conducted by H E the President of Sri Lanka and Hon Maithripala Sirisena, a Cabinet Minister of the present government, in the year 1987, against the disappearance of persons.
- d. Mr. Sudharshana Abeywardhana Nishantha also showed the Police a book in Sinhala entitled 'Legalize the enforced disappearances as a legal offence' which had been published by an entity by the name of Families of Disappeared (FOD).
- e. **Since the Police were of the view that the persons who gathered at Lagoon View hotel had not committed any offence, the Police did not make any arrest in this regard.**

In this connection, the Government of Sri Lanka wishes to respond to the specific points raised in the Joint Urgent Appeal under reference:

The above information indicates that the information detailed in the case is not accurate. It may be further noted that Mr. Brito Fernando has made the following statement to "International Society for Human Rights", an NGO based in Stockholm on the same incident, thus contradicting the information detailed in the case as noted in the Joint Urgent Appeal.

"the officers also demanded a copy of the documentary. After being held in the Jeep for an hour the groups were eventually let go without arrest after the FOD chairperson Mr. Brito Fernando arrived and argued with the officer".

- 1. A complaint has not been lodged by or on behalf of the alleged victims
- 2. Does not arise
- 3. Does not arise
- 4. Does not arise

03. Having carefully ascertained the fact of the case under reference as detailed above, I also wish to draw your kind attention to the resolution 5/2 which established the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council;

- a. In the resolution, "Article 3 - General principles of conduct" (a) states that, the Mandate holders shall act in their independent capacity, and exercise their functions in accordance with their mandate, through a professional, impartial assessment of facts based on internationally recognized human rights standards, and free from any kind of extraneous influence, incitement, pressure, threat or interference, either direct or indirect, on the part of any party, whether stakeholder or not, for any reason whatsoever, the notion of independence being linked to the status of Mandate-holders, and to their freedom to access the human rights questions that they are called upon to examine under their mandate.

- b. The "Article 6 - Prerogatives" (a) states that, the mandate-holders shall always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources that they have duly-cross checked to the best extent possible.
- c. The "Article 10 - Urgent appeals" indicate that, the mandate-holders may resort to urgent appeals in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either eminent or ongoing damage of a very grave nature to victims that cannot be addressed in a timely manner by the procedure under Article 9 of the present Code (Article 9- Letters of allegation)

04. Furthermore, the Chapter II (B) (3) (paragraph 43) of the Manuel of operations of the Special procedures of the human Rights Council adopted in August 2008 states that urgent appeals are used to communicate information in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or ongoing damage of a very grave nature to victims that cannot be addressed in a timely manner by the procedure under letters of allegation. The intention is to ensure that the appropriate State authorities are informed as quickly as possible of the circumstances so that they can intervene to end or prevent a human rights violation.

However, in the present incident, there is no allegation of any person being subjected to prolonged detention, threat to physical integrity, safety or to their lives.

In the above context, the Government of Sri Lanka notes that, regrettably, the "Article 10 – Urgent Appeals" of the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council and the Chapter II (B) (3) (paragraph 43) of the Manual of Operations of the Special Procedure of the Human Rights Council have not been adhered to by the Special Procedures mandate holders under reference in this particular case, and it therefore does not warrant under any circumstances the issuance of an Urgent Appeal or a Joint Urgent Appeal.

In conclusion, the Government of Sri Lanka looks forward to continuing its constructive engagement with the special procedures mandate holders in adherence to the rules of procedure governing the Council and its mechanisms.



Ravinatha Aryasinha  
Ambassador/Permanent Representative