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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of internally displaced persons.

REFERENCE: UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (26-18)
LKA 2/2014

10 February 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the human rights of internally displaced persons pursuant to Human Rights Council resolutions 16/16, 16/4, 24/5, 16/5, and 23/8.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **alleged acts of intimidation and reprisals, including death threats, directed against human rights defenders working for the National Fisheries Solidarity Movement, including in some instances in connection to the visit of the United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay, to Sri Lanka from 25 to 31 August 2013.**

The National Fisheries Solidarity Movement (NAFSO) coordinates fishermen lobbying the Sri Lankan government on ways to implement environmentally-responsible practices in coastal areas. NAFSO also advocates for the protection of land rights of plantation workers. Additionally, it works on assisting displaced communities to return to land which they have been displaced from.

Mr. Selvakumar Krishnapillai is the Batticaloa District Coordinator for National Fisheries Solidarity Movement (NAFSO). He works with the families of the disappeared and internally displaced persons since the Sri Lankan civil war.

Ms. Sanja Sandanadas is a Field Officer of the National Fisheries Solidarity Movement (NAFSO). She also works with female-headed households, including households where the husbands or sons have been forcibly disappeared or killed.

Mr. Sanjewa Sampath Jayawardena Mudyanselage is District Coordinator for the National Fisheries Solidarity Movement (NAFSO). Mr. Mudyanselage has supported the peasant farmers in Hirudeniya in relation to their land rights campaign.

Mr. Jude Besil Sosai Anthirai works on the Mannar District Fisheries Solidarity project at the National Fisheries Solidarity Movement (NAFSO).

The case of Mr. Selvakumar Krishnapillai.

According to the information received:

In connection with the visit of United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay, to Sri Lanka from 25 to 31 August 2013, Mr. Selvakumar Krishnapillai organized a group of twelve people from Batticaloa District to travel by bus to Jaffna on 27 August 2013. Their purpose was to present Ms. Pillay with a petition on the disappeared and displaced people of Batticaloa District.

On 3 September 2013, while travelling to the NAFSO monthly meeting in Negombo, Mr. Krishnapillai was allegedly questioned by two men in plain clothes at Kopaveli junction. They allegedly asked about his whereabouts on 29 and 30 August 2013, demanded to see his identification card, and demanded that he provide them with his mobile phone number. The two men reportedly told Mr. Krishnapillai to present himself at the Ministry of Defence branch office, near the Kardiyannaru Police Station, after his visit to the NAFSO head office in Negombo.

On 5 September 2013, Mr. Krishnapillai reportedly received a phone call from the Ministry of Defence requesting that he reports to Kardiyannaru Police Station on 6 September 2013. As he did not receive a formal letter of request, Mr. Krishnapillai did not present himself at the Ministry of Defence or at Kardiyannaru Police Station, and reportedly received another phone call asking why he had not presented himself. On 7 September 2013, two men allegedly came to Mr. Krishnapillai's home and questioned him for two hours about his personal and family history details.

The case of Ms. Sanja Sandanadas.

According to the information received:

On 22 August 2013 at 1:30 p.m., two officers from the Criminal Investigation Department (CID) allegedly visited the home of Ms. Sanja Sandanadas. As Ms. Sandanadas was not at home at the time, the CID officers reportedly interrogated

her father, allegedly asking questions about the type of work that she is engaged in, as well as the sources of her information.

It is reported that the two officers returned at 6:15 p.m. the same day and at that point questioned Ms. Sandanadas herself. When Ms. Sandanadas enquired as to why they were questioning her, the officers produced a letter from the CID head office. Reportedly, Ms. Sandanadas was not shown the letter, but the officers told her they were questioning her as she was organizing people to meet Ms Navi Pillay during her visit to Sri Lanka. Further, the officers reportedly told Ms. Sandanadas that she was suspected of carrying out anti-government activities, and of affiliation to the Liberation Tigers of Tamil Eelam (LTTE).

The officers reportedly told her not to organize any events or protests during the visit of Ms. Pillay to Sri Lanka, and Ms. Sandanads reportedly indicated she would not do so. The two CID officers allegedly informed Ms. Sandanadas that they wanted to be informed of any potential protests or human rights activities during Ms. Pillay's visit.

On 4 October 2013, it is reported that the same two CID officers visited the house of Ms. Sandanadas while she was attending the NAFSO monthly meeting in Negombo. It is reported that no formal complaint has been submitted for fear of repercussions against her family.

The case of Mr. Sanjewa Sampath Jayawardena Mudyanselage

According to the information received:

On 12 October 2013, five individuals reportedly came to Mr. Mudyanselage's home in Kurungale District and questioned him about his activities in relation to the mobilization of the Irudeniya community of Kurunegala district in preparation for the Food Sovereignty Week of Action. Further, they reportedly asked about the events' funding, involvement of other organizations, and about any political affiliations of the activities. Four of these individuals were allegedly from the Presidential Investigation Unit, whilst the other was reportedly a CID officer known to Mr. Mudyanselage. They allegedly threatened him and advised him to immediately stop his campaign for the peasant farmers of Hirudeniya.

It is alleged that they also informed him that Mr. Mudyanselage's family should not return to Hirudeniya. The five individuals also questioned him about other staff working for NAFSO. Since then, the officers have reportedly called Mr. Mudyanselage's mobile phone approximately once a fortnight, enquiring about the work he is carrying out.

The case of Mr. Jude Besil Sosai Anthirai.

According to the information received:

On 21 February 2013, Mr. Jude Besil Sosai Anthirai organized a protest for members of Mannar fisheries asking the authorities to intervene in the Indian trawling issue.

On 7 March 2013, Mannar Citizens' Committee travelled to Colombo in order to submit a petition to the UN compound. However, it is reported that their buses were blocked north of Vavunia. Mr. Anthirai coordinated a silent protest demanding the freedom to make contact with the UN.

On 6 June 2013, Mr. Anthirai received a call from an unidentified person and was allegedly threatened that he would be abducted or disappeared if he continued his work advocating for human rights. He was also told that he would be watched everywhere he goes.

On 27 August 2013, Mr. Anthirai organized people from Mannar to hold a demonstration in Jaffna during the visit of Ms. Pillay to Sri Lanka. It is reported that the protesters were pushed back and yelled at by the police.

On 13-14 November 2013, Sri Lankan police and military officers allegedly prevented Mr. Anthirai and others from travelling to the Human Rights Festival in Colombo. After being stopped in Kattai Addaman, they reportedly organized a small protest.

On 15 November 2013, Mr. Anthirai participated in a silent protest and to submit a petition to the Prime Minister of the United Kingdom. However, the Sri Lankan police reportedly prevented the protesters from giving the Prime Minister the petition. It has been alleged that police officers attacked members of the crowd, and that members of the crowd, including Mr. Anthirai reacted to this in self-defence.

On 21 November 2013, a man who identified himself as a CID officer from Mannar reportedly made a phone call to Mr. Anthirai while he was at Puttlam on his way to Negombo. The man allegedly told Mr. Anthirai that he should already have been abducted in a van. He further told Mr. Anthirai that he should resign from NAFSO if he wanted to see his children again and that the following day would be his last day.

On 22 November 2013, Mr. Anthirai submitted a formal complaint to a police officer in Mannar whilst on a silent march. On 23 November 2013, police officers reportedly visited his home and questioned his wife about the alleged death threats that Mr. Anthirai had received two days previous. On the same date, at around 6pm, it is alleged that his wife was monitored by two unknown individuals who came to his home.

On 10 December 2013, NAFSO and the Citizen Committee of Mannar met with Mannar Senior Superintendent of Police (SPP) and other officers in a meeting in Mannar. The police discovered that the SIM card from which the threatening phone calls came was registered in the name of a deceased individual.

Grave concern is expressed about the physical and psychological integrity of members of NAFSO given the allegations of acts of harassment and intimidation against them. Profound concern is expressed at the fact that some of the harassment was allegedly carried out by self-identified police personnel. Grave concern is also expressed that in some cases, members of NAFSO might have been experiencing acts of reprisals for cooperating or trying to cooperate with the United Nations, including its mechanisms and representatives in the field on human rights, specifically in connection with the visit of United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay, to Sri Lanka.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the following provisions of the International Covenant on Civil and Political Rights:

- article 19, which provides that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”;

- article 21, which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”; and

- article 22, which provides that “[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we would like to further refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Regarding allegations received indicating that the situation of members of NAFSO is linked to their activities in defence and promotion of human rights, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state the right of everyone to promote and to strive for the protection and realization of human rights and fundamental freedoms and the prime responsibility and duty of States to protect, promote and implement all human rights and fundamental freedoms as well as to create the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the mentioned Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

In addition, we would like to recall that in the Declaration on the Protection of all Persons from Enforced Disappearance, adopted by General Assembly resolution 47/133 of 18 December 1992, it is stated that States must take steps to ensure that persons involved in investigations [of cases of disappearance], including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal. It also stated that States must take steps to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

Further, we would like to recall that in its resolution 21/4, adopted without a vote, the Human Rights Council urged States to take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation, persecution, reprisals or ill-treatment to which they might be subjected, paying special attention to women as relatives of disappeared persons in the context of their struggle to resolve the disappearance of members of their families.

We also wish to recall the provisions of resolution 24/24 of the Human Rights Council, which, inter alia, reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights (OP1), and regional mechanisms, and calls upon all States to review legislation, policies and practices that have the effect of undermining unhindered access to and communication with international bodies, and to avoid adopting any such new legislation (OP2).

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate what specific measures have been adopted to protect human rights defenders working on assisting displaced communities to return to land which they have been displaced from.
4. Please indicate what measures have been taken to ensure that the legitimate rights to meet freely and assemble peacefully are respected and that the physical and psychological integrity of those exercising these rights are guaranteed.
5. Please provide detailed information concerning measures which are taken to prevent human rights violations being perpetrated by members of the security forces, particularly members of the military intelligence services.

6. Please indicate what measures have been taken to ensure that human rights defenders can carry out their legitimate activities in a safe and an enabling environment; this includes through open and unhindered access to international human rights bodies such as the United Nations, its mechanisms and representatives in the field of human rights, without fear of harassment, stigmatization or criminalization of any kind.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Chaloka Beyani
Special Rapporteur on the human rights of internally displaced persons

