

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of 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; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
LKA 4/2012

12 September 2012

Excellency,

We have the honour to address you in our capacity as 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged surveillance and intimidation of **Dr. Nirmal Dewasiri**, and the attempted abduction of Mr. **Shantha P. Wijesooriya**.

Dr. Nirmal Dewasiri is a human rights defender and President of the Federation of University Teachers Unions (FUTA) and Secretary of the Arts Faculty Teachers' Association of the University of Colombo. His activities include campaigning for better working conditions for university teachers and in calling against the privatisation of university education in Sri Lanka.

Mr. Shantha P. Wijesooriya is a human rights defender and investigative journalist at online news website Sri Lanka X News. He is also a member of the Editorial Board at Mawbima Newspaper, where he previously worked as an investigative journalist, covering human rights violations including enforced or involuntary disappearances. He also previously worked as an investigative journalist at online news website Lanka-e-News from 2007 to 2011, covering human rights topics such as judicial corruption and the need for judicial independence, trade union issues and political party campaigns. He is also a committee member of the Sri Lanka Working Journalists Association (SLWJA), which campaigns against State suppression of the media and attacks against journalists by State actors.

Case of Dr. Nirmal Dewasiri

According to the information received, on 19 June 2012, two men, who identified themselves as members of the Ministry of Defence, were witnessed close to Dr. Nirmal Dewasiri's home enquiring about Dr. Dewasiri and his daughter. It is reported that the two men requested the license plate number of Mr. Dewasiri's vehicle, which was not parked at his house at the time. On 20 June 2012, the wife of Dr. Dewasiri reportedly received a letter stating that she should convince her husband to cease his trade union activities. That evening, an unmarked jeep was witnessed parked adjacent to the family home.

On 22 June 2012, FUTA held a press conference expressing concern at the alleged surveillance and intimidation of Dr. Dewasiri. It is reported that at approximately 12:30 p.m. that day, Dr Dewasiri received a threatening phone call while on his way to the University of Colombo. The person allegedly identified himself as one of the men who had visited his neighbourhood and subsequently threatened Dr. Dewasiri that if he did not stop his trade union activities, his family would be harmed. Sources indicate that Dr. Dewasiri filed two complaints to the police regarding the above mentioned incidents; on 21 June 2012 at Maharagama Police Station and on 22 June 2012 at Kurunduwatta 7 Police Station respectively.

Case of Mr. Shantha P. Wijesooriya

According to the information received, on 29 June 2012, the Criminal Investigation Department raided the offices of Sri Lanka X News and the officers of its associate website Sri Lanka Mirror. Computers were seized and nine staff members were reportedly arrested and subsequently released on bail.

On 5 July 2012, Mr. Shantha P. Wijesooriya was in the Colombo suburb of Nugegoda, when he noticed that he was being followed by a white van. Reportedly, he changed his route in order to avoid the van, and while doing so, two unidentified persons attempted to grab him. It is alleged that one of the persons caught Mr. Wijesooriya by his shirt and attempted to drag him towards the van. The journalist reportedly managed to kick the person and escape. He subsequently submitted a formal written complaint by registered post to the Inspector General of Police regarding the abduction attempt. It is reported Mr. Wijesooriya is currently in hiding as he fears for his life.

Sources indicate that journalists at Sri Lanka X News have been subjected to threats and intimidation since 2008. The threats reportedly increased during 2009 and 2010, due to articles published by the news website which expressed support for opposition candidate General Sarath Fonseka, who stood in the January 2010 presidential elections.

In this regard, Mr. Wijesooriya was reportedly arrested at the offices of Lanka-e-News by Kirindiwala police on 25 April 2011, and charged with contempt, allegedly following an article published on the Lanka-e-News website. Despite providing apologies and the publication of retractions on the news website, bail was refused and Mr. Wijesooriya was detained at Mahara Prison for seventeen days until his release. Reportedly, the Officer in Charge of the Kirindiwala police

warned Mr. Wijesooriya of a possible plot to abduct him if he had been released earlier. Sources report that Mr. Wijesooriya was beaten by a prison officer during his detention, allegedly following an article he had written a month earlier concerning corruption and ill-treatment of prisoners and their families by prison officers at Mahara Prison. Furthermore, since September 2011, Mr. Wijesooriya and members of his family have reportedly received visits from military intelligence and CID officials, while unidentified individuals have asked about the journalist near his home on several occasions.

Mr. Prageeth Eknaligoda, a former colleague of Mr. Wijesooriya, was reportedly forcibly disappeared on 24 January 2010. His whereabouts remain unknown. In March 2010, Chief Editor of Sri Lanka X News Mr. Sandaruwan Senadheera was allegedly forced to leave Sri Lanka due to repeated threats and intimidation by State Intelligence officers.

Concern is expressed that the above mentioned allegations may be directly related to the alleged victims' peaceful and legitimate human rights work, in particular Dr. Nirmal Dewasiri's trade union activities and Mr. Shantha P. Wijesooriya's work as an investigative journalist working on human rights issues. Grave concern is particularly expressed for the physical and psychological integrity of Mr. Wijesooriya, and that his alleged abduction attempt forms part of a series of serious human rights violations against online journalists in Sri Lanka, that includes forced disappearances, attempted abductions, threats, surveillance and harassment.

While we do not wish to prejudge the accuracy of these allegations, 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 that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as 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 Declaration:

- 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.

- article 12 paragraphs 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 this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "Everyone 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."

We would further like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that "Everyone 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".

The Special Rapporteur on the rights to freedom of peaceful assembly and of association makes specific reference to paragraph 63 of his first thematic report A/HRC/20/27, which states that "[t]he right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence ... notably for unionists."

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 cases accurate?

2. Please confirm the receipt of the reported complaints lodged by the alleged victims.

3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please clarify whether compensation has been made available to the victims' families.

6. Please clarify whether protective measures will be put in place in place to guarantee the physical and psychological integrity of Dr. Nirmal Dewasiri and of Mr. Wijesooriya.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected 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.

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

