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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the situation of **Mr. Wickramasinghe Arachchige Ranjith Chandrasiri Perera**, aged 47, a Lieutenant Colonel of the Sri Lankan Army, who lives in Army quarters at Kendalanda, Homagama, and is a permanent resident of Diayatalawa in Badulla District. In 2009, Mr. Wickramasinghe served as a Commander of the Transit Army Camp at Ratmalana.

According to the information received:

On 14 May 2009, at around 11:30 a.m., Mr. Wickramasinghe was arrested by police officers of the Criminal Investigation Division (CID) and the Colombo Crime Division of Sri Lanka. Mr. Wickramasinghe was not presented with an arrest warrant nor was he informed of the reasons for his arrest. It is alleged that he was told about being accused of involvement in a "crime against the State" which he reportedly denied. It is reported that Mr. Wickramasinghe's detention may have been linked to his previous affiliation, as a military officer, to General Sarath Fonseka, the former Military Commander of the Army who later ran as opposition presidential candidate.

It is further reported that Mr. Wickramasinghe was taken to an unknown location and a few hours later transferred to the Colombo Crime Division (CCD) in Dematagoda. Mr. Wickramasinghe was reportedly severely assaulted while at the CCD. He was later brought to the Harbour Police Fort Colombo where he remained detained until 23 June 2009.

On 23 June 2009, at around 10:30 a.m., Mr. Wickramasinghe was blindfolded and taken to an unknown location in a vehicle. Upon arrival he was allegedly severely beaten until he fainted. When he regained consciousness he was unable to stand up due to sustained injuries. Later the same day he was taken back to the CCD in Dematagoda.

On 24 June, at 10:30 a.m., Mr. Wickramasinghe was produced before a doctor who advised the police officers to immediately transfer him to a civilian hospital. At 15:30 p.m., he was taken to the Intensive Care Unit (ICU) at the National Hospital of Colombo but was later transferred to Military Hospital, Galle Face Colombo, where he remained until 14 July, when he was again taken back to the CCD.

Mr. Wickramasinghe remained detained at the CCD until 19 September 2009, when was transferred to the CID police headquarters where he remained in detention until 14 August 2010.

On 14 August 2010, Mr. Wickramasinghe was produced before the Magistrate's Court of Colombo, remanded and sent to the Magazine Prison in Colombo. Reportedly, at no point did the magistrate ask about the length of his detention and the treatment he was subjected to.

It is reported that Mr. Wickramasinghe identified CCD and CID police officers as those who had allegedly tortured him. He had subsequently filed a complaint before the Supreme Court, under the registry number SCFR/879/2009.

It is further reported that on an unknown date, Mr. Wickramasinghe was produced before the Chief Consultant Judicial Medical Officer (JMO). Reportedly, the medical examination offered physical evidence that was consistent with the alleged violations.

It is reported that Mr. Wickramasinghe is currently being held in detention at the Magazine Prison Colombo. To date, reportedly, he has not been communicated the charge brought against him.

In view of the allegations that Mr. Wickramasinghe remains detained at the Magazine Prison Colombo, serious concern is expressed about his physical and mental integrity.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of Mr. Wickramasinghe. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth *inter alia* in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Wickramasinghe is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

With respect to the allegation according to which Mr. Wickramasinghe was severely assaulted while at the CCD, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would like to draw the attention of your Excellency's Government to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture.

Furthermore, we would also like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture."

We would also like to draw the attention of your Excellency's Government to article 14 of the CAT, which provides that victims of torture should have the right to redress and adequate compensation.

In this regard, we would also like to recall paragraph 7e of Human Rights Council Resolution 16/23, which urges States "(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and

adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken.”

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Wickramasinghe 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 a recurrence of these acts.

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 Mr. Wickramasinghe 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. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Wickramasinghe and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
4. Please provide the details, and where available the results, of any investigation, medical examinations, 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.
5. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate whether compensation will be provided to Mr. Wickramasinghe.
7. Please provide information on the measures taken to ensure the safety of Mr. Wickramasinghe.

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.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment