

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association;  
the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on  
minority issues; and the Special Rapporteur on the promotion of truth, justice, reparation and  
guarantees of non-recurrence**

REFERENCE:  
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on minority issues; and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 32/32, 25/18, 25/5 and 27/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the systematic and ongoing harassment and intimidation of **Father Elil Rajendram**, a Tamil Jesuit Priest and human rights defender, by Sri Lanka's law enforcement authorities in connection with his involvement organising a peaceful memorialization project for victims of Sri Lanka's armed conflict. Moreover, we are concerned about his possible imminent arrest, in view of the fact that he has been requested to hand over a list of the names of those carved on the stones in the memorial.

Father Elil Rajendram (Fr. Elil) is a renowned Tamil Jesuit Priest and a human rights defender based in the north of Sri Lanka. He serves as spokesperson of the Tamil Civil Society Forum, and he is the country director of Jesuit Refugee Service for Sri Lanka.

According to the information received:

In May 2017, Fr. Elil began organising a project to honour the memory of some of the victims of the final phase of Sri Lanka's armed conflict. The project involved laying a number of stones with the names of victims from the last phase of Sri Lanka's civil war carved on them, in the vicinity of St. Paul's Church in Mullivaikkaal. Families of victims were invited to the commemorative event on May 18th to lay these stones, engage in religious observances and mourn the dead. The names carved were given by community members.

In the first two weeks of May 2017, Fr. Elil and the stonemason hired to assist the project (a young Tamil man) were repeatedly harassed by military intelligence –

both with late-night anonymous phone calls, and through visits by the intelligence officers. Police also repeatedly visited them. In the few days leading up to May 16, 2017, Fr. Elil was visited 6 times by military intelligence officials and/or police.

On 16 May 2017, the stone carver was visited by military intelligence at about 12.00 p.m. who questioned him for some time. Afterwards, Fr. Elil was summoned by Police at 7.30 p.m. to the police station. Fr. Elil attended with a lawyer from Mullaitivu. Questions were posed by the police regarding whose names were being carved and whether they included the names of members of the Liberation Tigers of Tamil Eelam (LTTE). Fr Elil gave a statement for over half an hour.

On 17 May, sometime after 5.00 p.m., Police approached a Mullaitivu Magistrate requesting a ban on all commemoration events on land adjacent to St Paul's Cathedral, Mullivaaikkal East, the precise location where the memorial had been set up with some of the stones. The order was handed down by the Magistrate and Fr. Elil was informed of the order around 8.00 p.m.

On 18 May 2017, Police pasted notices on various places including on the statue on the land where commemorative activities were scheduled to take place and on a door of the church building. Police, using loud speakers, travelled around the area and announced that no one should go near the site and that no religious observances would be allowed.

The same day, 18 May, lawyers on behalf of Fr. Elil and others went to court to request the magistrate to rescind the order made the previous day. While the order was not withdrawn, a varied order was handed down by the Magistrate around midday, which permitted the commemoration event to be held inside of St. Paul's church grounds. Of note, the Assistant Superintendent of Police and Police Headquarters Inspector submissions in court centered around the possibility of LTTE names being on the stones' as posing a threat to National Security.

Around 1.00 p.m. on 18 May, Fr. Elil received a call from Vavuniya Superintendent of Police requesting him to go to Vavuniya to record a statement. Fr. Elil's lawyer asked the purpose for which he was being requested to do so. In the absence of a response, the lawyer informed Superintendent of Police that Fr. Elil would not come. That evening, around 8.30 p.m., the police presented Fr. Elil with a written summons in Sinhala, and returned within half an hour with a summons in Tamil. When he complied with the summons, he was subject to an interview which pursued the same line of questioning - whether LTTE names were on the stones.

On 19 May 2017 it was revealed that Fr. Elil was called to Vavuniya to provide a statement in relation to an internal inquiry the police had launched regarding the Mullaitivu police' handling of the case.

On 19 May 2017, police visited Fr. Elil's parents house in Ilavalai, Jaffna. Inquiries were made about their son's work, activism and whereabouts.

On 20 May 2017 Fr. Elil's received a written summons from Mullaitivu HQI to record a statement on 22 May 2017, in connection with the ongoing case. Police also questioned villagers in an intimidating way about the stone carving project. Area Grama Niladhari was also summoned to the Police station on the 22nd to record a statement.

During the evening of 21 May 2017 Deputy Inspector General (DIG) Welikanda telephoned Fr. Elil to inform him that he was not requested to go to the Mullaitivu police on the 22 May. However, he requested Fr Elil to submit a list of names carved on the stone to the police for the Terrorism Investigation Department for further investigation. DIG called Fr. Elil again at 9.00 p.m. to ask about the list. Fr. Elil responded that he still needed time to consult his lawyers, and that he would get back to the DIG by the evening of 22 May with his response.

After ongoing contact with the Human Rights Commission of Sri Lanka since the 16 May 2017, on 21 May an official complaint was filed with the Commission regarding the harassment of Fr. Elil.

On 23 May 2017 – Police asked the local Grama Sevaka to provide them with a list of the names from the stones, in order to ascertain whether any of them belonged to the LTTE. After consulting with his lawyers, Fr. Elil decided to submit the list of names on the morning of the 24th with a lawyer.

On 25 May, Fr. Elil attended Muullaitivu Police Station where, in the presence of his lawyer, he handed over the requested list of names to the Police. However, the Police then asked Fr. Elil to provide them with the addresses of the persons included on the list. Fr. Elil replied that he wasn't in possession of that information, so the Police said that they didn't want an incomplete list. The police also indicated to Fr. Elil that he cannot carve anymore stones until they have completed their investigation of all the names.

It is feared that in connection with the list of names handed over, Fr. Elil may be arrested under provisions the Prevention of Terrorism Act (PTA), which has been interpreted to consider any form of memory of fallen LTTE a threat to national

security. The PTA has been criticised for many reasons<sup>1</sup>, in particular as it has been routinely used as an instrument over the past decades as a means of silencing dissent. Of particular concern is that anyone charged under the PTA can be kept in continuous detention for 18 months without trial. In this connection, we note with alarm that the Terrorism Investigation Department, the primary institutional arm of the police dealing with PTA matters, has been introduced as a stakeholder in the police investigation.

While we do not wish to prejudge the accuracy of these allegations, we express our grave concern at the ongoing threats and intimidation of Fr. Elil for activities undertaken as a human rights defender. We are particularly concerned that in handing over the list of names, Fr. Elil may be arrested due to allegations that some of the names on the stones include former LTTE cadres, and that these charges may be brought under the PTA.

We are also concerned at the devastating effect that these threats and intimidation against Fr. Elil would have on the rights of victims' organisations and civil society movement that promote symbolic forms of reparation and memory initiatives in relation to the victims of the conflict in Sri Lanka. We recall that the right to truth and the right to know include State's obligations to preserve information on and facilitate the knowledge of past human rights violations, including measures aiming at preserving the collective memory and acknowledging the harm suffered. Intimidating those who are organizing the commemorations denies these basic principles and rights, creating an atmosphere of fear that would discourage other persons to organise or attend commemorative events. We recall the State's obligations to refrain from interfering in peaceful acts of commemoration, and its obligation to guarantee the safety and security of representatives of victims and civil society organizations in the enjoyment and promotion of the rights to truth, justice, reparation and guarantees of non-recurrence.

Recognizing that the individual affected is a member of an ethnic and religious minority in Sri Lanka, we would like to bring to your Excellency's Government attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to national or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

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<sup>1</sup> See for example the Comprehensive report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka, A/HRC/30/61, paras 20, 30 and 83.

In this context, we would like to also refer to the provisions of article 21 of the ICCPR, which state that the right of peaceful assembly should be recognized, and that 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. Additionally, under the provisions of article 22, everyone shall have the right to freedom of association with others.

Finally, we would like to further refer to the fundamental principles set forth in the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2, which state that everyone has the right 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.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 person in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide specific information on the police interrogations of Fr. Elias, as well as the current status of the legal proceedings against him, including any charges laid.
3. Please provide information on any measures that your Excellency's Government has taken or intends to take to bring Sri Lanka's legislation in conformity with international norms and standards, in particular in relation to the PTA.
4. Please indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fears of threats or acts of intimidation, harassment and prosecution of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to safeguard the rights of Rev. Fr. Elilrajan as well as all of those working with him to organise or participate in his commemorative event. In the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Rita Izsák-Ndiaye  
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