

**Mandates of the Working Group on Enforced or Involuntary Disappearances; 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 minority issues**

Ref.: AL LKA 1/2022  
(Please use this reference in your reply)

22 April 2022

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; 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 minority issues, pursuant to Human Rights Council resolutions 45/3, 41/12, 43/16 and 43/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged assault and excessive use of force by police officers, against relatives of disappeared persons during a protest in Jaffna, which resulted in the injury of several women, including Ms. Mariyasuresh Easwary and Ms. Jenitha Sivanandan. Both are human rights defenders from the Tamil minority.**

Ms. **Mariyasuresh Easwary** is the coordinator of the Mullaitivu Association for relatives of the enforced disappearances North and East Provinces, and Ms. **Jenitha Sivanandan** is the Secretary for Vavuniya and Vice President of the Association for Relatives of the Enforced Disappearances in the North and East Provinces.

The allegations received also refer to a context of increased surveillance and harassment of relatives of disappeared persons in Sri Lanka, including against members of the Tamil minority, and the obstruction of their activities by security agencies. Concerns over the excessive use of force by security forces has previously been raised by the Special Procedures in communication LKA 6/2020 and a Press Release on 8 April 2022.

According to the information received:

On 20 March 2022, relatives of disappeared persons attempted to stage a protest outside the Economic Centre in Matuvil, during a visit to Jaffna by the Prime Minister of Sri Lanka, Mr. Mahinda Rajapaksa.

Sri Lankan police officers were heavily deployed in the area to prevent protestors from surrounding the venue. Police forces allegedly formed a human chain to block their way and guarded the bus and other vehicles in which the protestors had arrived, preventing them from getting out of them, and interrogating some of the drivers.

Some protestors, who had managed to get out of the vehicles, called on the police forces to allow them to proceed with the protest, but remained blocked. The protestors were eventually allowed to go to the site of the event, but only once the Prime Minister had left the venue. Subsequently, some protestors tore down and burnt banners that had been erected ahead of the visit, to express their opposition to the government.

Police officers clashed violently with protestors, deploying excessive use of force to disperse them, resulting in several women being injured during the incident, with two having to be treated at hospital.

Ms. Mariyasuresh Easwary was slapped in the face by a police officer and was trampled with boots on her chest and abdomen. Ms. Jenitha Sivanandan was dragged and pulled by the hair by both male and female police officers, while they attempted to push her into a private vehicle. The injuries of both Ms. Easwary and Ms. Sivanandan required treatment at hospital, after which Ms. Sivanandan was visited at home by police and intelligence officers, who threatened her and coerced her into withdrawing her statement and complaints on the alleged assault.

Some local government officials of Jaffna were summoned by the police for questioning about their participation in the protest, their demands for justice for those who were assaulted by the police, and the tearing and burning of the banners which had been erected ahead of Prime Minister's visit.

This incident not an isolated event. It took place in a context of increasing surveillance, harassment, and intimidation of relatives of disappeared persons, including of Tamil families in the northern and eastern parts of the country, and human rights defenders working on disappearances, as well as efforts to block their memorialization initiatives and their right to freedom of peaceful assembly. Activists working in this region and relatives of the disappeared persons report that, prior to meetings, the women had received numerous calls from intelligence agencies asking them for information on the location of their meetings, the persons organizing them, and what is being discussed in them. This has led to many of these organizations and activists refraining from undertaking any visible programs.

Women in the north and east of Sri Lanka continue to experience insecurity. Thousands of them lost husbands and other family members to death or disappearance, while human rights abuses and violations ranging from sexual violence to land grabbing have continued. Members of these groups of relatives are under daily surveillance by government security forces, and are regularly visited by the police Criminal Investigation Department (CID), the Terrorist Investigation Department and the Special Task Forces.

The authorities now seek pre-emptive court orders against key activists, obstructing their right to freedom of peaceful assembly and of association, of movement, and of freedom of expression. In these court orders, magistrates have reportedly granted requests by the police to restrict victims' rights to

peaceful assembly in some cases up to a week, citing a number of domestic laws including the Prevention of Terrorism Act, or under the guise of Covid-19 restrictions.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern at the reported assault and excessive use of force by police officers, against relatives of disappeared persons and members of the Tamil minority, including human rights defenders Ms. Mariyasuresh Easwary and Ms. Jenitha Sivanandan, as well as the alleged increased surveillance and harassment of relatives of disappeared persons in Sri Lanka, and the obstruction of their activities, by security agencies. Should these allegations be confirmed, they would amount to violations of several critical rights protected under the Covenant on Civil and Political Rights (ICCPR), which Sri Lanka ratified in 1980, in particular article 2, 6.1, 9, 17, 19, 21 and 26.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 information on the grounds to prohibit a peaceful demonstration by families of disappeared persons on the occasion of the visit of the Prime Minister to Jaffna.
3. Please provide information as to why, instead of facilitating a meeting between these families and the President with a view to clarify the disappearance of their relatives, the police resorted to violence to suppress the protest, and physically assaulted two female leaders of the families of the disappeared.
4. Please provide information about whether any investigation and judicial or other inquiry has been undertaken into these allegations to clarify the facts, the circumstances, and the conformity of the police behaviour with existing law and procedures relating to the management of public protests. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please explain what measures have been taken to ensure the safety and protection of Ms. Mariyasuresh Easwary, Ms. Jenitha Sivanandan and the other injured Tamil minority women from intimidation and harassment.

6. Please provide information, including official documents, on existing applicable rules and procedures of engagement relating to the use of force by law-enforcement personnel in the context of peaceful protests and other protests.
7. Please indicate what measures have been, or are being taken to ensure that human rights defenders and civil society representatives, particularly women and those of the Tamil minority, in Sri Lanka are able to carry out their legitimate work, particularly when attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, in a safe and enabling environment without fear of threats, acts of intimidation or reprisals of any kind.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that necessary steps be taken to strictly prohibit, prevent and investigate any violence against peaceful demonstrators, especially the relatives of disappeared persons, whose fight to clarify the fate of their disappeared members should be the subject of particular government protection; and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations. In this regard, Ms. Easwary and Ms. Sivanandan should be provided special protection.

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

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Fernand de Varennes  
Special Rapporteur on minority issues

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Sri Lanka ratified in 1980. In particular, article 6 paragraph 1 of the Covenant, establishes that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life". Also, article 9 of the ICCPR provides that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. [...]". Article 17 provides that "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." And that "Everyone has the right to the protection of the law against such interference or attacks". We would like to remind that article 19 of the ICCPR guarantees the right of everyone to freedom of opinion and expression, stressing that this right can be subjected to restrictions only when they are "necessary for respect of the rights or reputations of others" and "for the protection of national security or of public order (ordre public), or of public health or morals".

We also make reference to article 21 of the ICCPR, and to General Comment no. 37 by the Human Rights Committee, which guarantee the right of peaceful assembly. Article 21 of the ICCPR notes 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. In his report, the Special Rapporteur on the rights to freedom of peaceful assembly and of association noted that States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards [A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1]. This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2 (1) of the International Covenant on Civil and Political Rights) [see also ICCPR, art. 26].<sup>1</sup> In its General Comment n°37, the Human Rights Committee states that recognition of the right of peaceful assembly imposes a corresponding obligation on States parties to respect and ensure its exercise without discrimination [ICCPR, art. 2 (1)]. This requires States to allow such assemblies to take place without unwarranted interference and to facilitate the exercise of the right and to protect the participants.<sup>2</sup>

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<sup>1</sup> A/HRC/41/41, para. 13.

<sup>2</sup> CCPR/C/GC/37, para. 8.

In addition, article 1 of the UN Declaration on Human Rights Defenders provides that “Everyone has the right, individually and 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”. Article 2 reaffirms each state’s “responsibility and duty to protect, promote and implement human rights [...]”. Article 5 reaffirms, in its paragraph c), the right “to communicate with non-governmental or intergovernmental organizations”. Article 6 states that everyone has the right to hold and disseminate information on human rights, as well as to form opinions on their observance. Article 9 provides that everyone has a right to an effective remedy and protection in the event of human rights violation, including through the right to file a complaint, to have a public hearing before an independent, impartial and competent judicial, to get the compensation due, and to communicate with international bodies. Article 12 provides that everyone has the right to participate in peaceful activities against violations of human rights and fundamental freedoms and that the State should ensure the protection of this right. Article 20 provides that everyone has the right to freedom of peaceful assembly and association

We would like to draw your attention on General Assembly Resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).

We also draw your Excellency’s Government’s attention to the provisions of the International Convention on the Protection of All Persons from Enforced Disappearances, which Sri Lanka ratified on 25 May 2016. In particular, we make reference to article 12, which reasserts that “any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation”; the complainant, witnesses and relatives shall be protected from reprisal in the wake of the complaint; States “shall take the necessary measures to prevent and sanction acts that hinder the conduct of the investigation”, and ensure it remains impartial. Article 24 reaffirms the right to know the truth regarding the circumstances of the enforced disappearance; States should take all necessary measures to protect this right, by conducting a thorough and impartial investigation and ensuring the victim obtains reparation. Article 24 (parr. 7), also refers to the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

We would like to also refer to United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, article 13 paragraphs 3 and 5 of the Declaration, which state that that steps shall be taken to ensure that “all involved in the investigation, including the complainant, counsel, witnesses and those

conducting the investigation, are protected against ill-treatment, intimidation or reprisal.” and 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.”

We also make reference to the Working Group’s General comment on women affected by enforced disappearances (A/HRC/WGEID/98/2), its report on Standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3, paras. 60-68), and its study on Enforced disappearance and economic, social and cultural rights (paras. 23-32).

Furthermore, we would like to recall that the Human Rights Council, in its Resolution 7/12, paragraph 4 alinea c), urges States to “prevent the occurrence of enforced disappearances [...]”; in alinea d) to “work to eradicate the culture of impunity for the perpetrators of enforced disappearances and to elucidate cases of enforced disappearances as crucial steps in effective prevention”; in Alinea f), 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 or ill-treatment to which they might be subjected”.

In addition, in its resolution 13/13, paragraph 6, the Human Rights Council urges States to “take timely and effective action to prevent and protect against attacks on and threats to persons engaged in promoting and defending human rights”; in paragraph 12, it urges to “investigate, in a prompt, effective, independent and accountable manner, complaints and allegations regarding threats or human rights violations perpetrated against human rights defenders or their relatives and to initiate, when appropriate, proceedings against the perpetrators so as to ensure that impunity for such acts is eliminated”.

Also, in resolution 33/2, paragraphs 1, 3 and 4, the Human Rights Council respectively “Condemns unequivocally all attacks and violence against journalists and media workers, such as [...] enforced disappearances [...]”, “Strongly condemns the prevailing impunity for attacks and violence against journalists, and expresses grave concern that the vast majority of these crimes go unpunished, which in turn contributes to the recurrence of these crimes”, and “Urges States to do their utmost to prevent violence, threats and attacks against journalists and media workers, to ensure accountability through the conduct of impartial, prompt, thorough, independent and effective investigations into all alleged violence, threats and attacks against journalists and media workers falling within their jurisdiction, to bring perpetrators, including those who command, conspire to commit, aid and abet or cover up such crimes to justice, and to ensure that victims and their families have access to appropriate remedies”.

We would further like to recall article 2 of the (ICCPR), according to which States must ensure that any person whose rights were violated has an effective remedy, and that the competent authorities enforce such remedies when granted. As established by the Human Rights Committee in its General Comment No. 31, States have an obligation to investigate and punish serious human rights violations, such as

torture, extrajudicial killings and enforced disappearances. Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties (paragraph 18).

We would further like to refer to the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes, as established in the updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of February 2005 (principle 2).

In this respect, we also refer to the General comment on the right to the truth in relation to enforced disappearance, issued by the Working Group (A/HRC/16/48, (para. 39).