

Mandate of the Working Group on Enforced or Involuntary Disappearances

REFERENCE: UA LKA 1/2016:

8 June 2016

Excellency,

I have the honour to address you in my capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, pursuant to Human Rights Council resolution 27/1.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning [REDACTED], a key witness in a case of enforced disappearances in Sri Lanka, who is currently being court-martialed by the Sri Lanka Navy.

According to information received:

[REDACTED] is a witness in a case of enforced disappearances investigated by the Criminal Investigation Department (CID) of Sri Lanka. He reportedly provided evidence indicating he had been stationed at the Trincomalee Navy camp and had seen, and even tended to the injuries, of three men that had been allegedly abducted and disappeared by the Navy in 2010.

It is reported that, due to the threats received following his statement, [REDACTED] sought to send his family to Australia, and had repeatedly requested for leave for this purpose, which was refused by the Navy. Therefore, he finally left with his family without applying for leave, yet sending word that he would be away for two weeks and providing his return flight details. He was reportedly detained at the airport upon his return to the country on 9 May 2016.

According to information received, the case on which [REDACTED] had provided evidence is the case against [REDACTED].

a Navy Commander who was investigated after the Navy reportedly found in his possession the National Identity Cards of four Tamil men who had reportedly disappeared in 2010 in "white van abductions" in Colombo. [REDACTED] was allegedly also found in possession of a passport that did not belong to him, as well as a mobile phone, over 1 million rupees in promissory notes, and 450 rounds of live ammunition. When the CID reportedly traced the names on the four National Identity Cards ID cards and the passport found in the possession of [REDACTED], they identified them as belonging to 5 young men whose families had lodged police complaints involving "white van abductions". It is reported that while [REDACTED] was allegedly involved in such "white van abductions", he was charged only in relation to illegally possessing ammunition, and is currently out on bail.

The investigations by the CID reportedly also led to a Navy Captain and a Navy Commander who stated that an additional 11 men had been abducted by the Navy. Furthermore, the CID reportedly received an anonymous letter which indicated that 28 young men in total had been abducted by the Navy of whom 17 were taken to the Trincomalee camp. It is also reported that the CID traced several calls received by the families of the disappeared men in the days following their abductions. The calls were allegedly traced back to phone numbers belonging to navy officers. Allegedly, some families had paid ransom to the officers of up to Rs 200,000 each. It was later reported that the CID had also found a vehicle belonging to one of the abducted men at the Trincomalee Navy camp, yet with fake documents and registration.

It is reported that the Senior State Counsel who was working for the Attorney General's Department at the moment was accused of attempting to interfere with the witnesses, one of them being [REDACTED]. It is also reported that this same person is the prosecuting officer in the current case against [REDACTED]. When the counsel for [REDACTED] reportedly objected to this person being the prosecuting officer in the case, the latter refused to recuse himself and was supported by the three member bench.

According to the information received, on 25 May 2016 the CID sent a request to the Navy Commander to interrogate [REDACTED]. However, on 26 May a response was received from the Navy Commander indicating that [REDACTED] was being court-martialed and "was to be found guilty", despite the fact that the court martial was only to begin on 3 June 2016.

There is therefore concern that [REDACTED] guilt has been pre-determined and may be used to silence him regarding the enforced disappearances cases. Fears have also been expressed as regards his life and physical integrity, as he has been the subject of death threats in the past.

In connection with the above alleged facts and concerns, I would like to refer article 13 (3) of the Declaration on the Protection of all Persons from Enforced Disappearance, states 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".

I would also like to recall that, in its resolution 7/12, the Human Rights Council urged Governments 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. The protection of families of disappeared persons should be carried out regardless of the existence of criminal investigation.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, I 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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and trial of [REDACTED]
3. Please provide information on any investigation and judicial or other enquiry that have been undertaken in relation to these allegations. If no enquiries have taken place or if they are inconclusive, please explain why.
4. Please explain what measures have been taken to ensure the physical and mental integrity of [REDACTED] and his relatives.
5. Please provide information on any general measures taken to ensure the protection of victims and witnesses of human rights violations in Sri Lanka, including enforced disappearances.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and 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 my highest consideration.

Houria Es-Slami
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances