



Tamil Information Centre

தமிழ் தகவல் நடுவம்

Committed to Human Rights and Community Development

Mr. Maina Kiai

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

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**Appeal to the UN Special Rapporteur on the
Rights to Freedom of Peaceful Assembly and of Association**

Date: 30 November 2012

Subject: The Right to Freedom of Peaceful Assembly and Association in Sri Lanka

Appeal made by: Tamil Information Centre

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The Tamil Information Centre (TIC), established in 1981, is a non-profit community organisation based in London, UK. The TIC works to address the challenges that face the Tamil speaking community in Sri Lanka to ensure that their rights are protected and promoted and their freedoms are recognised and respected. TIC's mission is to empower people, particularly those suffering persecution and subjected to human rights abuses, by valuing the distinct identities and differences among them and improving the quality of life through access to knowledge.

The TIC assists victims, mobilizes public opinion, supports initiatives to assist the victims, brings pressure on perpetrators to stop violations and seeks improved standards and obligations to provide care and protection to the people. It also promotes people's institution-building and management and helps to strengthen advocacy and lobbying.

Methodology

Through its extensive network of contacts, both individuals and organizations, within and outside Sri Lanka, the TIC compiles information. The TIC is in regular contact with them. The TIC has special procedures to ensure authenticity of information. In the preparation of this appeal, the TIC interviewed or consulted many individuals and organizations within Sri Lanka and outside. The TIC has received first-hand information on the matters referred to in the appeal.

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Appeal to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association

1. Restrictions on the Right of Peaceful Assembly and Association in Sri Lanka

- 1.1 The government of Sri Lanka and the military apparatus continue to disallow and prevent peaceful assembly; using force and intimidation to bring an end to assemblies where they occur. This is occurring despite President Mahinda Rajapaksa's public declaration in May 2009 that the Liberation Tigers of Tamil Eelam (LTTE) has been destroyed and normalcy restored throughout the island. The removal of the Emergency in August 2011 confirms the government assessment that the security threat no longer exists. Restrictions on the right of peaceful assembly ought to have ended with the removal of the national state of emergency. The Tamil population in the Northern Province suffers disproportionately under the restrictions in place but it is a national problem which affects the entire citizenry.
- 1.2 The Sri Lankan Constitution guarantees the freedom of peaceful assembly and association as fundamental rights in Chapter III, Article 14 (1). Restrictions on these freedoms would be warranted, according to Article 15, only where prescribed by law in the interests of racial and religious harmony, national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. With the end of the war, there is no longer any justification for the restriction on freedom of the peaceful assembly and association of citizens. They are democratic rights and provide the only means for many Sri Lankans to peacefully express their discontent with government policy and their experience of the post-war environment. The suppression of peaceful assembly in practice means the suppression of criticism and the paralysis of civil society. Restrictions on association have the same effect.
- 1.3 Undue restrictions on the right to freedom of assembly have taken three forms in recent times in Sri Lanka: 1) the prevention of protest relating to disappearances and raising awareness on the persons who remain unaccounted for in the Northern Province; 2) the suppression of protest related to education and economic grievances in Southern Sri Lanka, using disproportionate force and intimidation; and 3) the attempt to undermine the practice of peaceful protest in governmental discourse. These restrictions are effected through violence and intimidation, in the wider context of fear and state terror.
- 1.4 Undue restrictions on the right to association have manifested in several forms also: 1) the right to associate is tightly bound with freedom of assembly – the Tamil population in the North are afraid to attend meetings and to associate with civil society actors; 2) the widespread existence of military informants which feeds the perception that every human interaction is under surveillance; 3) the surveillance of "rehabilitated" LTTE cadres, which has led to a stigma surrounding these persons and their families. Other members of the community feel that they are putting themselves in danger by associating with those previously linked to the LTTE. Social and political activity is rendered impossible.

2. The Prevention of Protest in the Northern Province

- 2.1 Since the end of the conflict 2009, protests in the Northern Province have been suppressed and disbanded by both police and military force and the threat of disappearances.

Since the end of the war, the main focus of Tamil protest has been the continued failure to account for the thousands of persons rendered missing in the years of war – as a result of conflict, displacement and state-orchestrated disappearances. The protests are also related to the huge loss of life at the end of the war, caused by the indiscriminate shelling of the Sri Lankan armed forces. Many human rights organisations and international organisations, including Amnesty International, Human Rights Watch, the International Crisis Group, and the United Nations and the ICRC, have insinuated and expressly stated that the actions of the state forces at the end of the

war in 2009 amount to war crimes and crimes against humanity, as laid out in the Rome Statute of 1998. The UN estimated, in its “Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka”, released in 2010, that up to 40,000 people may have been killed in the final 6-month phase of the war. The government’s own figures, compiled in its “Enumeration of Vital Events - Northern Province, 2011”, suggested that the figure was between 8,000 and 9,000.¹ Individual persons are not named in the government’s statistical analysis and thousands of families remain unaware of the fate of their loved ones. Protests calling for recognition and justice for the disappeared and missing have been suppressed by the military. Commemorative ceremonies and peaceful assemblies to memorialise the dead have been disallowed and public mourning is forbidden.

- 2.2 Permission to hold such peaceful assemblies and meetings is required from the military in the Northern Province. The government denies that permission is officially necessary but our sources state that unofficially, this permission must be sought and granted prior to organising the smallest meetings or assembly. This permission is not granted on the grounds of human rights issues or issues which criticise governmental actions, policy or failure. The protests that go ahead, often with great difficulty because of the restrictions imposed and dependent on the bravery of participants, are ignored by the state and Sinhala media. The inconvenient grievances of the Tamil population are ignored in the wider discourse of reconciliation and war-related triumph. The Tamil minority are not being sincerely included in the reconciliation process and their suffering is compounded by the inability to organise socially and politically.
- 2.3 The fear of abduction, torture and enforced disappearance is deeply embedded in the psyche of the Sri Lankan people, particularly the Tamils. Such atrocities have been documented for decades by domestic and international human rights organisation and cases are not investigated and largely unresolved. The phenomena of “white van” disappearances occur to this day and have risen exponentially in the post-conflict environment. To date in 2012, nearly 60 people have been reported as being forcibly disappeared. These incidences have led to a paralysis of civil society activism due to fear of reprisals. The normalization of state terror in this manner means that peaceful assemblies on important issues are not attempted.

In late 2011, two civil society activists disappeared. The two men were responsible for organising protests seeking to draw attention to the thousands of people who remain missing after the war disappeared. Lalith Kumar Weeraraj was instrumental in setting up groups of “Families of the Disappeared” and organising protests by these groups. Kugan Muruganandan is also an active member of the “Movement for People’s Struggle” and the “We Are Sri Lankans” projects. They had on previous occasions been threatened by the police while putting up posters relating to disappearances, attacked by a group of unidentified “thugs”, reportedly in full view of the police and military, indicating their acquiescence, approval and possible complicity. They were also on a previous occasion taken in by police and interrogated without charge, in secretive circumstances. Efforts to lodge formal complaints with the police were refused and the men were warned to discontinue their work, which is considered to be anti-government.

The disappearance of the two activists shocked both national and international human rights defenders. The symbolic nature of the incident caused first outrage and a further shut-down in civil society activity, as fear spread amongst the burgeoning community of human rights defenders.

- 2.4 Suppression of protest on these issues means suppression of the issues themselves, where people are fearful for their lives in attempting to raise awareness. Our informants note the lack of space for initiatives on civilian casualties and missing persons, and the related helplessness and fear of the Tamil population.

¹ The figures in the EVE state that “other” deaths (as opposed to “natural deaths”) in 2009 came to 7,934, while the cause of 715 other deaths was “not stated.”

3. Disproportionate Use of Force in Response to Peaceful Protest

- 3.1 The year 2012 has seen the eruption of popular protest in Sri Lanka on two primary issues – 1) a price hike on fuel introduced in February and 2) a lack of funding granted to educational institutions and increasing privatisation and governmental interference in those institutions.
- 3.2 During the fuel hike protests, teargas was deployed on peaceful assemblies of protestors and disproportionate violence by police was reported. There were protests all over the country, particularly in Colombo, the capital city, and in fishing villages and towns, where the fuel hike would hit the industry severely. The protests were led in some parts by the main opposition political party, the United National Party (UNP), and in some places led by local community leaders and trade unions. The peaceful protests contested this hike, which was introduced suddenly and without warning, and called for a reduction and for subsidies. In a fishing village named Chillaw, a fisherman was killed by police. He was shot during peaceful participation in the protests and his death caused further mass unrest. Many people were injured in the violent response of police to the assemblies.
- 3.3 Academics in Sri Lanka went on strike in June 2012, with union leaders citing a need for increases in salary and overall expenditure on education, and a stop to political meddling in educational affairs. Students joined in their peaceful protest, peaking in a 2,000-strong protest in Colombo on the 23rd of August and a 3,500-strong protest on the 29th of August. Tear gas, water canons and baton charges were used against the peaceful demonstrators by riot police on the latter occasion. The government's response to these strikes was to shut down universities indefinitely – a move which lasted nearly three months.

The Asian Human Rights Commission have noted, in response to the actions of the police during the education protests, that *“(i)t has become the usual practice of the Sri Lankan authorities...to use violence to stop such protests and thereafter blame the protestors for instituting the violence themselves. Even the slightest space for democratic protest is denied to protestors who take to the streets on the basis of very genuine demands”*.²¹

4. Undermining the Practice of Protest

- 4.1 Paradoxically, the democratic practice of protest has been deprecated and belittled and painted as inappropriate when seeking change within a democracy by the Sri Lankan state media. During the fuel price demonstrations, negative comparisons were drawn with the Arab spring uprisings, stating that this kind of protest was not necessary in Sri Lanka as the democracy in place is strong and functioning. Protest against the government therefore ought not to be practiced and can have terrible results, as this death in Chillaw demonstrates.
- 4.2 The government also sought to delegitimise the protests by stating that they were not organic, authentic reactions from the population but rather that they were orchestrated by opposition politicians trying to test out their popularity and use the opportunity to gain political advantage. The UNP are the primary opposition to the government party and partook in the protests on a visible level.
- 4.3 The same reasoning was put into play against NGOs and “foreign elements.” NGOs, particularly in Chillaw, were blamed for organising protests and attempting to breach the peace, trying to bring back terrorism and throw the state into a situation of anarchy and lawlessness. This fits within the wider official movement against NGOs, with the government making it very difficult for these organisations to operate. An atmosphere of mistrust in the wider population towards international organisations has emerged, largely led by state discourse, thereby undermining any critical statements or reports on human rights abuses which are produced. Their activities, objectives and funding are constantly called into question, with the intention of linking them with the LTTE, especially the diaspora groups which are consistently referred to as the LTTE rump, despite most having no direct connection with the LTTE.

² Press Release, “Sri Lanka: Four Protests And The Results”, [Asian Human Rights Commission](#), 11 September 2012

The President in a November statement accused civil society human rights groups of “various misinformation campaigns and political conspiracies aimed at destabilising the country”, and expressly accused them of being funded by terrorists. This form of discourse puts all critics of the government who work in the human rights realm at risk and amplifies the national security paradigm. It both prevents and undermines the peaceful assembly of civil society groups and the general on issues of human rights and other political and socio-economic problems. There is a stigma attached to association with these groups and fear exists that taking part in public assemblies and demonstrations will have very real repercussions.

5. The Right to Association in Sri Lanka

- 5.1 The right to freely associate is extremely restricted in the Northern Province in Sri Lanka by the overwhelming presence of fear related to incidents of state terror such as disappearances and violent attacks. Political and social activism is impossible in this situation. Attempts to establish a sense of normalcy in the Province are stunted by the large numbers of military servicemen present in the region and the reported network of military informants. The informants are reportedly both retired military and ex-LTTE cadres recruited by the armed forces to carry out intelligence work. All organisations in the Province have been instructed to inform and invite the military to their meetings and functions. This surveillance is carried out covertly in order to prevent any LTTE resurgence. The effect of the surveillance has been to cripple normal community relations as neighbours suspect each other and feel unable to speak freely.
- 5.2 The rehabilitated LTTE cadres who have been released back into society are suffering due to this situation. Other members of society are not happy to associate with these persons or their families. They fear that they will fall under state surveillance in the same way if they are to speak to or interact with these persons. People avoid a connection with the LTTE as far as possible. As a result of this, the ex-LTTE cadres are stigmatized, isolated and in a very vulnerable social position.

6. The Tamil Information Centre appeals to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association to,

a) conduct a country visit to Sri Lanka and investigate

- i) the restrictions on assembly and association outlined within this submission;
- ii) the conditions of state terror, including harassment, intimidation, disappearances and killings which give rise to the paralysis of assembly and association;
- iii) allegations of disproportionate force against protestors; and
- iv) the appropriateness of the methods of surveillance used by the government;

b) urge the Sri Lankan government to

- i) respect the rule of law and abide by the provisions of international law and the constitution of Sri Lanka, and respect the Sri Lankan people’s right to freedom to peacefully assemble and associate;
- ii) remove all the current impediments to the Sri Lankan people in the enjoyment of legitimate rights and freedoms, including the cessation of all violence and intimidation perpetrated against citizens;
- iii) investigate and prosecute any disproportionate use of force used by the police and armed forces in response to peaceful assembly;
- iv) dismantle the network of covert intelligence agents in the Northern Province in the interest of allowing normal community relations to resume;

- v) recognise that the rights to freedom of peaceful assembly and of association are essential components of democracy, and not a threat to democracy;
- vi) allow individuals to express their political opinions, engage in civil society activism and make demands on the government in relation to the disappeared, to quality of life concerns and to their social, economic and cultural rights.

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