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**HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S
ATTENTION**

**Written statement* submitted by Asian Legal Resource Centre (ALRC), a non-
governmental organisation in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 August 2007]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Human Rights Council must act on killings and forced disappearances in Sri Lanka

The Asian Legal Resource Centre (ALRC) is gravely concerned by the insufficient action on the part of the Human Rights Council to address the growing problem of extra-judicial killings and forced disappearances in Sri Lanka. The ALRC has alerted the international community, including the Human Rights Council concerning this growing and extremely grave situation on numerous occasions. For example, the issue of disappearances was communicated as a written statement to the 4th Session of the Human Rights Council. This written statement can be found at: <http://www.alrc.net/doc/doc/hrc04/ALRC-SHRC-04-12-2007-SrLanka-Disappearances.doc>.

However, despite ongoing killings and disappearances in the country, the Human Rights Council has thus far failed to take sufficient measures to ensure that the Government of Sri Lanka, which is a member of the Human Rights Council, puts a halt to these most serious human rights violations.

According to a report published on August 23, 2007, by three well-known civil society groups - the Civil Monitoring Mission, Law Society and Trust and the Free Media Movement - there have been 547 cases of killings and 396 cases of forced disappearance in the period from January to June, 2007. Despite the high number of victims included in the report, its authors have stated that the report is not intended to be an exhaustive list. The authors have announced the publication of their report in a statement online:

http://www.freemediasrilanka.org/index.php?action=con_news_full&id=698§ion=news

According to the report, concerning the killings:

“The largest proportion of people killed in the first six months of 2007 were Tamil – 70.7% across the island, as compared with 9.1% Sinhalese and 5.9% Muslims. The gravity of this situation becomes even more pronounced when considered against the fact that the Tamil people make up only 16% of the total population. Men were killed in much larger numbers than women – 89.9% vs. 9.7%.

By district, Jaffna was worst affected by killings (23.2%), followed by Batticaloa and Vavuniya (21.5% and 21.3% respectively).

The data on humanitarian workers and religious leaders killed reflects the overall trends in killings, with Tamils disproportionately affected as compared with Muslim and Sinhalese. Killings of this category of persons were highest in Trincomalee, during the period 1 January 2006 to 21 August 2007. However, it is notable that religious leaders of three of the four main faiths of the island have been killed since last year – Father Jim Brown (August 2006), Selliah Parameshwaran Kurukkal (February 2007) and Ven Handungamuwe Nandarathna Thero (March 2007).”

Concerning force disappearances, the report states that:

“As with killings, Tamils suffered disproportionately from abductions – 64.6%, compared with 3% Sinhalese and 3% Muslims. Men represented nearly 98% of all missing persons. By district, Jaffna was again worst affected by disappearances (49.5%). However Colombo was next worst affected, at 17.7%,

underlining the concern expressed by many local NGOs at the situation with respect to this particular violation.

Nearly 19% of persons abducted were taken from their homes. The vast majority of these were in Jaffna, however there were a few abductions from home in other parts of the country. Where times were specified, these were for persons who disappeared in Jaffna, which has been under curfew since before January 2007. Roughly 5% of all persons abducted were persons abducted from home during curfew in Jaffna – in an area allegedly under government control, this points to the possibility of government inability or unwillingness to keep all its citizens safe.”

This report raises serious concerns about the Sri Lankan government’s ability and willingness to investigate killings and forced disappearances, the capacity of the Sri Lankan policing system to investigate such gross abuses of human rights, the responsibilities of the prosecuting branch of the state, which is organised under the Attorney General's Department, and the role of the judiciary in dealing with such serious crimes and abuses of rights.

The report is addressed to the Presidential Commission of Inquiry, which is assisted by the International Independent Group of Eminent Persons (IIGEP); the report raises very serious questions about the functioning of the entire criminal justice system in Sri Lanka.

It has repeatedly been pointed out by human rights organisations that if the State has the willingness to investigate all killings and forced disappearances, the system does have the capacity to enable this. However, the capacity of the investigation mechanism into all crimes, including forced disappearances, has been paralysed due to deliberate political interference throughout the system. The incapacity that the Sri Lankan State exhibits concerning the prompt and competent investigation and prosecution of all of these cases has been created deliberately. Inaction against gross abusers of human rights has been deliberately designed. On the basis of this deliberate inaction, the State is complicit in ensuring impunity, which in turn serves as an encouragement for the further perpetration of such gross abuses.

The Presidential Commission of Inquiry has the mandate “to obtain information, investigate and inquire into alleged serious human rights violations arising since August 1, 2005.” However, this commission’s work depends on the actual will and capacity of the existing investigation mechanisms within Sri Lanka. At issue at present is also the extent to which this commission is willing and able to carry out the mandate it has received.

Questions have also been raised concerning the extent to which local civil society actors and the international community are willing and able to intervene in order to break the deadlock created by a dysfunctional criminal justice system that is being further disrupted by the political complicity of the State, which is not fulfilling its duty to act in the face of gross abuses of human rights. The IIGEP’s presence in Sri Lanka for the last several months has only been used by the State to give the appearance that it is in fact doing something to take address human rights violations. However, in reality, no such corrective process is taking place. Local civil society actors and the international community’s actions need to be developed to be sufficient to evoke a response that is capable of breaking the designed inaction on the part of the State. This is the only way

to stop such gross abuses of rights and to ensure justice to all who have become victims of such killings and forced disappearances.

The problem of forced disappearances is not limited to Sri Lanka in Asia. The ALRC's sister-organisation, the Asian Human Rights Commission, issued a statement to mark the International Day of the Disappeared on August 30, 2007, which can be found at:

<http://www.ahrchk.net/statements/mainfile.php/2007statements/1169/>
