

3rd December 2007

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Colombo 01.

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URGENT & IMPORTANT

**FAILURE TO EFFECTIVELY SECURE AND PROTECT THE FUNDAMENTAL RIGHTS OF
TAMILS IN THE CITY OF COLOMBO IN TAKING STEPS TO INVESTIGATE MATTERS
RELATING TO NATIONAL SECURITY**

We write with concern, to request you to take immediate steps to remedy and reverse the alarming developments outlined herein, to protect the rights and freedoms of innocent Tamil

civilians who are being prejudiced by certain steps being taken on the basis of investigations into terrorist activities in the city of Colombo.

We are reliably informed, that as of 1st and 2nd December 2007, over 2000 Tamils have been arrested in Colombo and its suburbs. Further news reports disclose that over 400 persons have been detained including 51 women in the Boosa camp in Galle (Copies of the relevant news reports in the *Thinakkural* and *Virakesari* newspapers dated 3rd December 2007 are enclosed herewith for your reference).

It is also reported that Tamil people in Colombo and suburbs were taken in five buses to the St. Michael's School in Colombo 3, many of whom were further detained elsewhere. A further, 300 Tamil people were detained at the Sinhala School on E.S Fernando Mawatha in Wellawatta. It has even been reported that a Tamil mother was detained at the Borella Police Station along with her children aged nine and five years.

The areas where Tamil people were detained are cited as Maradana, Pettah, Grandpass, Kotahena, Dehiwela, Pelawatte, Mirihana and Mount Lavinia. (A copy of a news report in *The Nation* newspaper of 2nd December 2007 is enclosed for your easy reference)

We note with grave concern that the general tenor and the manner of implementation of several recent measures professed to be steps to investigate terrorist threats to national security in the recent past have been inconsistent with and perilously impervious to the following basic realities:

- (a) A civilian who is a Tamil is not *ipso facto* a terrorist;
- (b) Tamil citizens are entitled to the same dignity, protections and freedoms in their country as citizens of any other ethnicity in a truly democratic, pluralistic society that upholds the rule of law;
- (c) Arrests of Tamil persons without 'reasonable suspicion' and with a view to 'seeing if they are terrorists' amount to a failure, refusal or callous disregard of (a) and (b) above;
- (d) Large scale operations in and around Colombo of the type carried out over the weekend of 1st and 2nd December 2007 on a 'search and see' basis jeopardize respect for and observance of the principles underpinning (a), (b) and (c) above and renders imminent an ongoing and continuous denial of the fundamental rights and dignity of Tamil citizens of Sri Lanka in and around Colombo;
- (e) 'Mass arrests and detentions' of persons of Tamil ethnicity have the effect of keeping innocent Tamil civilians under detention for unnecessary/inordinate lengths of time due to the time taken to take steps to 'investigate' such large numbers of people taken in 'with a view to seeing if they are terrorists'.

The aforesaid unacceptable, unconstitutional and unconscionable attitude that is reflected from the general treatment meted out to Tamil persons in Colombo and the alarming trend of disregard for the principles in (a) to (e) above, are perhaps best epitomized by a directive given by one Mr. Tennekoon, Superintendent of Police to Officers in Charge (OICs) of Police Stations in the Nugegoda area dated 10th November 2007, questioning what is perceived as 'inaction' by certain police stations in arresting 'Tamil people' on suspicion. The said directive requests the OICs to provide a written document justifying reasons for not arresting Tamil people in the area, under pain of adverse consequences in the absence of compliance. We have come to learn that this letter has been tabled in Parliament Mr. Lakshman Kiriwalla, MP, Mr. Lakshman Seneviratne, MP and Mr. Ravi Karunanayake, MP on or around 22nd or 23rd November 2007. In fact, many political parties and groups (both government and opposition –

and of many ethnicities including the majority Sinhalese) have decried even in Parliament, the degrading treatment being meted out to Tamils in and around Colombo.

(Enclosed herewith for your convenience are the following self-explanatory documents which set out and reflect the grave concerns expressed by Members of Parliament).

We request you to take steps to cancel the said purported directive, and request that a circular be issued to the Police and Armed Forces, informing them of the fact that no-one ought to be arrested without real and reasonable suspicion, and laying down transparent, reviewable and comprehensive procedure(s)/mechanism(s) in respect of all arrests made, to enable the prevention and effective redress of the violation of the fundamental human rights and dignity of all persons arrested on the basis of such real and reasonable suspicion. Such procedure(s)/mechanism(s) must necessarily involve and facilitate proper, adequate and effective supervision at all stages of arrest and detention to prevent abuses, to be acceptable.

In this regard, we advert with grave concern to the findings of the Special Rapporteur on Torture Mr Manfred Nowak, after a recent visit Sri Lanka from 1-8th October 2007 included ill treatment and torture by the police on detainees during inquiries to extract confessions and information. His statement details forms of torture and ill treatment that is regularly used including beating with various weapons, beating on the soles of the feet, blows to the ears, positional abuse when handcuffed or bound, suspension in various positions to name a few. Boosa detention camp is named as a place where such torture practices are fully manifested. The findings further state that conditions of detention centres are poor and overcrowded, the poor conditions in detention centres resulting in inhuman and degrading treatment. The findings also include various shortcomings by the government of Sri Lanka to prevent torture and combat impunity including the absence of an independent and effective mechanism to make regular and unannounced visits to all places of detention throughout the country at any time. (A true copy of the Press Release by the said Special Rapporteur on Torture on his visit to Sri Lanka which you are no doubt aware of is enclosed for your easy reference.)

Furthermore, we are alarmed to learn that after the 'operation' on 1st and 2nd December 2007 many of the persons who were arrested and detained were not informed of the reasons for their detention and subsequent arrest. Furthermore, we are alarmed to learn that the families of the detainees were not provided with information or receipt of the arrest as per the Presidential Directives.

Apart from negating the fundamental rights guaranteed to all citizens (including Tamils) under the Constitution of Sri Lanka, even according to international law, no one shall be subject to arbitrary arrest or detention and that no one shall be deprived of his liberty except on grounds according to established law. Further, international law further states that persons deprived of their liberty shall be treated with humanity and respect. (A true copy of Article 9 and 10 of the International Covenant of Civil and Political Rights (ICCPR) is enclosed for your convenience).

We draw your attention to the fact that the arbitrary arrest and detention of a large number of Tamils in Colombo and the suburbs is not legal, rational, justifiable or acceptable under national or international law. Moreover, such large numbers of persons being arbitrarily detained, leads to overcrowding and in many instances and ways, involves degrading, cruel and inhuman treatment.

In the circumstances, we write to request you to take immediate steps to remedy the grave and unconscionable harsh, unduly oppressive, overly broad, unreasonable and degrading drives and measures that have been observed in the recent past, and take steps as requested herein above, to protect the rights, security and dignity of civilians of Tamil ethnicity in and around Colombo.

We bring to your kind attention, the fact that such deplorable measures as the ones in respect of which remedy is sought hereby, only contribute to the degeneration of the rule of law and

the fundamental rights of Tamils in Sri Lanka and not to the real, genuine or lawful protection of anyone in the Republic of Sri Lanka.

In view of the urgency and the gravity of the prejudice caused by the current circumstances and the need to prevent the abuses and prejudice referred to herein, you are hereby requested to take immediate steps to halt the conduct of large scale and/or ad hoc and/or arbitrary arrests of persons of Tamil ethnicity in and around the city of Colombo, and to formulate a proper and transparent mechanism and procedures consonant with universally accepted human rights norms and Sri Lanka's international obligations, to duly and properly investigate terrorist activities with complete and unretarded safeguards that would effectively secure the fundamental rights (particularly the rights of freedom from degrading, cruel and inhuman treatment, unequal treatment, unlawful arrest and deprivation of personal liberty/detention) of Tamil civilians in and around the city of Colombo.

CENTRE FOR POLICY ALTERNATIVES