

Your Excellency,

We the undersigned, civil society organizations are gravely concerned by the widening human rights crisis and growing culture of impunity that cripples our country. We have made many representations regarding our concerns to the government of Sri Lanka through all appropriate channels. We have also approached the international community and the Office of the High Commissioner for Human Rights for support to prevent the violations. In the course of our work we encounter the unarmed civilians who are the victims and survivors of many brutal acts of violence and violation of rights on a daily basis, and join them in their search for justice and redress. The national mechanisms for protecting and promoting the human rights of all Sri Lankans have failed to provide justice and truth to the victims and affected communities, and given way to a culture of silence and impunity. It is this collective experience that compels us to appeal for enhanced international scrutiny.

In May 2008, the Government of Sri Lanka comes before the General Assembly of the UN seeking re-election to the UN Human Rights Council. As human rights defenders who have consistently campaigned for the strengthening of human rights protection in Sri Lanka, we believed our country's bid for a seat on the inaugural Human Rights Council in 2006 would lead to strengthening human rights protection in the country. It is with deep sadness and regret that we have now decided to make this appeal to the members of the United Nations General Assembly to oppose the re-election of Sri Lanka to the Council in 2008. The Government of Sri Lanka has failed in honouring the commitments made when it first gained membership of the Council in 2006 and, over the last two years, presided over a grave deterioration of human rights protection in the country.

According to the GA Resolution 60/251 creating the Human Rights Council, members "shall uphold the highest standards in the promotion and protection of human rights" and "shall fully cooperate with the Council." In considering whether a state should be elected to the Human Rights Council, member states are required to "take into account the contribution of candidates to the promotion and protection of human rights."

During Sri Lanka's two year tenure in the UN Human Rights Council, the human rights situation has worsened. The Government's unwillingness to take effective measures to address and prevent violations has made clear its inability to fulfill its pledges.

Its membership of the Human Rights Council has also coincided with the highest number of complaints of disappearances in the world being recorded from Sri Lanka, as reported by the UN Working Group on Disappearances in March 2008. In 2007, Sri Lanka ranked third in the list of countries where media persons are at risk. In 2006 and 2007, over 60 humanitarian workers were killed or "disappeared." These violations took place in the context of a return to war. In the human rights and humanitarian crisis that followed we have witnessed the violation of international humanitarian law by all armed actors, such as the failure to protect civilians, including the direct targeting of civilians. While we acknowledge that responsibility for all human rights violations does not rest solely with the Government, we note that the primary responsibility for the human rights protection of all its citizens resides with the State.

The President stands accused of violating the Constitution by failing to appoint the Constitutional Council, which is empowered to nominate the members of key independent commissions. One month after Sri Lanka's election to the Human Rights Council, his unilateral appointment of the head of the National Human Rights Commission undermined the legitimacy and credibility of our premier national human rights body. This action clearly violated the Paris Principles on the independence of national human rights

institutions and was one of the main reasons for the downgrading of Sri Lanka's Human Rights Commission by the International Coordinating Committee on NHRIs in December 2007.

The Government has permitted national security concerns to outweigh the protection of fundamental rights, particularly of minorities in Sri Lanka. Emergency Regulations currently in force enable arbitrary arrest and long-term detention without indictment, as well as torture. The fact that illegal detentions and torture also take place in cases not related to the conflict, only highlight the deep roots of the current human rights crisis. As noted by the Special Rapporteur on Torture, Manfred Novak, during his visit to Sri Lanka in 2007, the provisions of these Regulations as well as the absence of independent monitoring have led to severe abuses.

During this period there have also been serious allegations against members of the security forces, the LTTE and armed groups that operate with the tacit support of the government. The abduction and forced recruitment of children by both the LTTE and the TMVP, as borne out by UNICEF and reports of the Security Council's Working Group on Children and Armed Conflict makes clear that there has been no systematic effort by either group to end the practice and release all abductees.

Although there are several reports documenting the violations, the victims and survivors of most human rights violations are often afraid of making a formal complaint for fear of reprisals. This is especially true in cases of violence against women. Even in cases where complaints are lodged and in which eye witness and other reliable testimonies and evidence are available, the authorities have systematically failed to carry out effective and impartial investigations and inquiries that could lead to indictments and convictions of perpetrators of human rights violations. This has resulted in strengthening the culture of impunity and terror that actively deters victims and survivors of human rights violations from seeking justice and redress.

The Government has responded to mounting criticisms regarding human rights violations by appointing several Presidential Commissions. Among them is a one man Commission of Inquiry into Disappearances, the Presidential Commission of Inquiry to Investigate and Inquire into Alleged Serious Violations of Human Rights which includes the International Independent Group of Eminent Persons (IIGEP). None of these commissions have effectively engaged with the victims and affected communities nor have their investigations resulted in deterring human rights violations. There have been serious questions raised regarding the methods of work and independence of these mechanisms, as well as grave concerns regarding the lack of a credible witness and victim protection programme. Our main concern is that these commissions are symbolic, but empty gestures, that have failed to address the on-going human rights violations. In April 2008, the IIGEP announced that they would conclude their role as observers, pointing to "a lack of political will to support a search for the truth."

As a result of a ruling by the Supreme Court of Sri Lanka in 2006 which stated that accession by the Sri Lankan government to the first Optional Protocol of the International Covenant on Civil and Political Rights was unconstitutional and legally invalid, Sri Lanka's obligations under international human rights law are in question. This has contributed to the environment of impunity through non-implementation of the Views of the Human Rights Committee in Sri Lanka, with adverse impact on victims and survivors of human rights abuses.

The Sri Lankan Government points to the visits of several mechanisms of the Council, and of the High Commissioner for Human Rights to Sri Lanka in 2007 as a measure of its cooperation with the Council. However, the response of the Government to recommendations made at the end of these visits has been

often negative and sometimes even hostile. The most contentious issue has been the consistent call by all special mechanisms of the Council and by the High Commissioner for independent international monitoring of the situation on the ground through an enhanced and field-based presence of the OHCHR in Sri Lanka. The Government of Sri Lanka has repeatedly rejected this call and argued that effective national mechanisms for human rights monitoring already exist, and that they only require technical support.

We firmly believe that Sri Lanka fails to meet the standards for membership of the UN Human Rights Council. In addition, the Sri Lankan Government has used its membership of the Human Rights Council to protect itself from international scrutiny. However, at this juncture, only international scrutiny can protect the civilian population of our country from further violations. As such, we urge all member states of the UN to use the process of elections to the Human Rights Council as an opportunity to hold the Sri Lankan government accountable for the grave state of human rights abuse in the country.

We appeal to you to consider withholding support for Sri Lanka's re-election this year. By doing so, your government will send a strong message to the Government of Sri Lanka that it must reform its practices if it wants to continue as an equal partner in international institutions such as the UN. Technical assistance without political will cannot result in effective change in the human rights situation in Sri Lanka.

To re-elect Sri Lanka to the Human Rights Council in the present circumstances would amount to support for the undemocratic practices that have become a part of our everyday lives. Your rejection of Sri Lanka's bid for re-election to the Human Rights Council will reaffirm the faith that Sri Lankan civil society has placed in the international community, and could act as a powerful impetus for reforms in the country.

Date: April 28 2008

Signatory Civil Society Organisations

Association of Family Members of the Disappeared
Centre for Development Initiatives
Centre for Policy Alternatives
Centre for the Promotion and Protection of Human Rights
Sr. Noel Christine Fernando - Sramabimani Kendraya, Seeduwa
Human Rights Office, Kandy
INFORM Human Rights Documentation Centre
International Friends for Global Peace, Colombo
International Movement Against Discrimination and Racism
Mannar Women for Human Rights and Democracy
Muslim Information Centre
Rights Now – Collective for Democracy
Right to Life Human Rights Centre, Katunayake