

AMNESTY INTERNATIONAL

Public Statement

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Sri Lanka: Amnesty International urges effective action to end impunity

Amnesty International made a statement in the following terms today during the third session of the United Nations Human Rights Council.

Amnesty International recognises that the human rights situation in Sri Lanka has been characterized by decades of impunity for perpetrators of violations of international human rights and humanitarian law. In this regard, the creation of a Commission of Inquiry could be a timely and potentially valuable undertaking. However, the organisation is concerned that the Government of Sri Lanka has cut too many corners in establishing its current national Commission of Inquiry and the accompanying International Independent Group of Eminent Persons (IIGEP).

Amnesty International takes this opportunity to mention some of its principal concerns. Others are addressed in the document, *Sri Lanka: Observations on a Proposed Commission of Inquiry and International Independent Group of Eminent Persons*, (AI Index: ASA 37/030/2006) dated 17 November.

Amnesty International is concerned that the current terms of reference of the IIGEP will undermine its independence, effectiveness and ability to publish its reports at its own discretion.

Amnesty International is aware that the Commission of Inquiry has been established under the Commissions of Inquiry Act No. 17 of 1948. The organisation is concerned that among other provisions, the 1948 Act grants the President a wide discretion that, if exercised, could undermine the Commission of Inquiry's independence and impartiality, as well as its ability to inspire public confidence, and could undermine the willingness of the public to engage with the Commission of Inquiry and to come forward with evidence.

Amnesty International emphasises that protection of complainants, witnesses, those conducting the investigation and others involved in any way, will be a critical element for the success of the Commission of Inquiry and the IIGEP. The implementation of practical measures of protection will need to be the subject of serious and detailed discussions between the government and the Commission of Inquiry and IIGEP prior to beginning investigations.

The terms of reference of the IIGEP provide that the Secretary to the Ministry of Justice will be the head of its Secretariat and similarly that representatives of the President, the Minister of Disaster Management and Human Rights, the Attorney General and the Secretary to the Ministry of Foreign Affairs will be attached to the Secretariat of the IIGEP. Amnesty International is deeply concerned that these provisions, which give the government control of the administrative functions of the IIGEP, will undermine its independence and consequently that of the Commission of Inquiry, and create the impression, if not the reality, that the Group's movements and actions are closely monitored by, if not under the supervision of, government officials.

The publication of the final report of the IIGEP will, according to its present terms of reference, be subject to the exclusion by the President of "any material which in His Excellency's opinion may be prejudicial to or absolutely necessary for the protection of national security and public order". While Amnesty International recognizes that in certain instances security issues may arise, the organisation is concerned that this provision is excessively broad and allows for censorship of the Group's report or parts of it.

The Commission of Inquiry must have the credibility and confidence of all parties to the conflict and sections of society to be able to conduct meaningful investigations, obtain critical testimony or information from witnesses and gain the acceptance of its recommendations by all relevant parties. To this end, members of the Commission of Inquiry should be international experts, chosen for their recognised impartiality, integrity and competence. Crucially, they should be, and be seen to be, independent of any institution, agency or individual that may be the subject of, or otherwise involved in, the inquiry, including the Government of Sri Lanka. Amnesty International does not believe that the IIGEP observing an essentially national inquiry can serve as a substitute for the independence, real and perceived, of the Commission of Inquiry itself.

Amnesty International wishes to emphasise that the Commission of Inquiry and the IIGEP do not address the need for an effective and on-going international human rights protection presence that can also investigate human rights abuses in Sri Lanka. Amnesty International therefore urges the Government of Sri Lanka and the international community to cooperate with all parties to the conflict to put in place effective measures to address this need without delay.

Background

On 4 September 2006, the President of Sri Lanka announced that the government would invite an international, independent commission to probe abductions, disappearances and extra-judicial killings in all areas of the country. However on 6 September 2006, the President announced that instead he would invite an International Independent Group of Eminent Persons to act as observers of the activities of a national commission of inquiry. Amnesty International was invited by the Government of Sri Lanka to provide recommendations on these proposals. These are set out in a public document, *Sri Lanka: observations on a Proposed Commission of Inquiry and International Independent Group of Eminent Persons*, (AI Index: ASA 37/030/2006), 17 November. This document has been sent to those governments that were approached by the Government of Sri Lanka to nominate individuals for the IIGEP. This document can be found on Amnesty International's website at:

<http://web.amnesty.org/library/Index/ENGASA370302006?open&of=ENG-LKA>