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**AMNESTY
INTERNATIONAL**



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OPEN LETTER

To Heads of Government attending the Commonwealth Heads of Government Meeting,

November 23-26, 2009, Port of Spain, Trinidad & Tobago

Dear Heads of Government

On the occasion of the forthcoming meeting of Commonwealth Heads of Government, Amnesty International would like to draw your attention to recent developments in Sri Lanka, and urge you to raise concerns regarding the human rights situation in that country with your Sri Lankan counterparts. In particular, we wish to alert you to continuing serious problems affecting the safety and dignity of Sri Lankans displaced by armed conflict. We also ask you to support our calls for greater accountability for abuses of human rights and humanitarian law suffered by Sri Lankan civilians.

Releases from Sri Lanka's camps for internally displaced persons have accelerated, but six months after the end of the war, Sri Lanka continues to confine people who fled fighting in closed displacement camps in uncomfortable and sometimes hazardous conditions. Camp shelters have deteriorated as Sri Lanka has entered the rainy season, and the UN reports that funds for shelter repair are running out. Amnesty International has a global campaign, "Unlock the Camps", (see <http://www.amnesty.org/en/news-and-updates/news/unlock-camps-sri-lanka-20090807>), calling on the Sri Lankan government to end its policy of forcibly confining people to camps, which amounts to arbitrary detention.

RESTRICTIONS ON FREEDOM OF MOVEMENT

Some 150,000 people displaced by war and living in government camps in Northern Sri Lanka are denied their basic human rights including liberty and freedom of movement. The camps remain military in nature. The military controls all decision-making related to management of the camps and the fate of displaced people in those camps; the military severely restricts the residents from leaving the premises even to seek medical care, and denies the displaced population basic legal safeguards.

While the government has widely publicised recent releases from the camps, Amnesty International has received reports that displaced people have been subjected to rescreening by local authorities to determine whether they had links to the Liberation Tigers of Tamil Eelam (LTTE). There are also reports that some people who have been released, have been denied necessary documents to ensure that they are safe from re-arrest.

The government has not alerted displaced people about impending releases or conditions in their places of origin that would enable them to make plans about their futures. Nor has the government given the displaced people clear information about their rights and obligations, their legal status or procedures for tracing family members. Displaced people have been given no voice in decisions regarding their release, return or resettlement. There is inadequate monitoring of the conditions of release, and of alleged return or resettlement.

The Sri Lankan government has prevented humanitarian organizations from talking to displaced persons, and obstructed their ability to conduct crucial human rights protection activities, such as providing legal aid or assisting with family reunification.

CONCERNS ABOUT SCREENING AND PROTECTION OF THE DISPLACED

The Sri Lankan government has legitimate security concerns, and there is a need to bring to justice members of both the LTTE and the Sri Lankan armed forces who engaged in abuse of civilians. Sri Lanka's displaced civilians suffered enormous physical danger and material deprivation during the war. As discussed below, both sides were accused of humanitarian law violations against these civilians, who were forced to remain at risk in the conflict zone by the LTTE, which used them as human shields against the approaching army. Adults and children were subjected to forced conscription.

Amnesty International stresses the need to ensure that in all cases, accountability is pursued through proper legal processes. Since the war ended in May 2009, many thousands of people detained in camps have been subjected to 'screening' by the security forces in an attempt to root out LTTE members. An estimated 12,000 people (including children) suspected of links to the LTTE have been arrested, separated from the general displaced population and detained by the authorities in irregular detention facilities, such as vacated school buildings. Amnesty International has received repeated, credible reports from humanitarian workers about the lack of transparency and accountability in the screening process, which is conducted outside of any legal framework and the increased dangers to detainees when they are held incommunicado. While screening is appropriate to ensure that LTTE combatants are not housed with the general camp population, proper procedures should be followed, and the screening process must not be used as an excuse for collective punishment.

The government denies independent monitors access to sites in the north housing adult LTTE suspects. Detainees have not been charged with any offense, and have been denied legal counsel and due process. Many are held incommunicado. UNICEF has access to former child soldiers detained in specialized "rehabilitation" camps for children, but there remains a need to verify that no children remain in facilities with adult detainees.

WAR CRIMES ALLEGATIONS AND ACCOUNTABILITY

Sri Lanka has recently emerged from more than twenty-five years of armed conflict between government forces and the LTTE. In the course of fighting, both sides violated humanitarian law. The LTTE forcibly conscripted adults and children, and forced civilians to travel with its retreating forces and to serve as a buffer against the approaching Sri Lankan army. Thousands of these civilians died when government forces fired artillery into areas densely populated with civilians who were forced to remain at risk in the conflict zone. The LTTE reportedly fired at and killed civilians who attempted to escape.

Impunity for violations of human rights and humanitarian law has been the rule rather than the exception in Sri Lanka. On 26 October, the Sri Lankan government announced the appointment of a committee of experts to investigate alleged humanitarian law violations committed during the war. The Sri Lankan government has a poor record of providing genuine accountability through similar mechanisms: it has often appointed ad hoc Commissions of Inquiry in the past when it received adverse publicity for serious violations of human rights, but none of these has advanced justice. The President's most recent proposal appears to be yet another attempt to deflect attention from repeated calls for an independent international investigation – calls supported by Amnesty International and many other international and domestic human rights organizations, and strengthened by the recently released report of the US Department of State's Office of War Crimes.

ATTACKS ON CRITICS AND CONTINUED RELIANCE ON SPECIAL SECURITY LEGISLATION

The Sri Lankan government continues to justify its abusive policies and silencing of dissent, under the pretext of countering the threat of terrorism. Special security legislation, such as the Prevention of Terrorism Act, and the Public Security Ordinance and its accompanying emergency regulations (intended for states of national emergency, but imposed almost continuously for decades), remains in place and grants extraordinary powers to the authorities to arbitrarily arrest and detain individuals almost indefinitely.

In September 2009, journalist J.S. Tissainayagam was sentenced to twenty years rigorous imprisonment under the Prevention of Terrorism Act for writing articles that criticized the Sri Lankan government's treatment of Tamil civilians during military operations in the East.

In addition to these restrictive laws and regulations, there is a pattern of regular threats and unchecked attacks against journalists (15 have been killed because of their reporting since 2004 and at least 11 have fled the country between June 2008 and June 2009), lawyers, witnesses against state forces, and human rights defenders by unidentified attackers presumed to have links to the state. The cumulative effect has eroded public faith in the justice system, and has also had a chilling effect on freedom of expression and association.

TIME TO ACT NOW

Your government could make a valuable contribution to improving the situation for Sri Lanka's war displaced and other Sri Lankans by raising these critical issues with your Sri Lankan counterparts during the course of the Commonwealth Heads of State Meeting and in subsequent communications.

Amnesty International welcomes your upcoming meeting as an important opportunity to urge the government of Sri Lanka to address, in particular, these urgent concerns:

- Restore the rights of Sri Lanka's displaced people to liberty and freedom of movement, ensuring that those held in Sri Lankan displacement camps are there voluntarily;
- Ensure independent access to, and monitoring of camps housing internally displaced people to protect them against human rights abuse, and ensure that their humanitarian needs are being met;
- Institute a consultative process with displaced people that allows them to make informed and voluntary decisions about return and resettlement;
- End arbitrary detention; ensuring that all "screening" and detention practices associated with the displaced population are transparent, and are carried out in accordance with legal safeguards and international human rights standards. Individuals affiliated with the LTTE arrested and accused of crimes, should be charged with legitimate offences, tried and prosecuted in accordance with the law and without recourse to the death penalty;
- Ensure accountability for abuses to guarantee effective investigations, due process and swift prosecution of all perpetrators, including those enjoying political influence and high social status;
- End reliance on legislation intended for emergencies that curtail enjoyment of basic rights and freedoms and subvert due process.

To accomplish the needed reforms and improvements, an independent field monitoring presence is required with a strong mandate to conduct investigations and assist the national institutions to deliver justice in relation to grave violations of human rights. To ensure independence, such a body must be empowered by an international mandate, not a presidential mandate.

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