

Solidarity Action for Truth and Justice in Sri Lanka

I. Introduction

Enforced disappearance is defined in the International Convention for the Protection of All Persons From Enforced Disappearances (ICPAPED) as, “the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State (e.g. paramilitary groups), followed by the refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.”

A multitude of violations

The act violates a multitude of human rights of persons. Apart from the direct victim, their families and loved ones are left with dealing with the reality that a family member has gone missing. Among the human rights violations suffered are the following:

1. The right to recognition as a person before the law;
2. The right to liberty and security of the person;
3. The right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment;
4. The right to life, when the disappeared person is killed;
5. The right to an identity;
6. The right to a fair trial and to judicial guarantees;
7. The right to an effective remedy, including reparation and compensation;
8. The right to know the truth regarding the circumstances of a disappearance.

For the families and loved ones, the following are among the economic, social and cultural rights that are violated:

1. The right to protection and assistance to the family;
2. The right to an adequate standard of living;
3. The right to health;
4. The right to education.

Continuing violation, prolonged grief

Apart from the mentioned violations, the families also have to cope with the loss and the lack of closure. The violation has a continuing nature and unless the fate and whereabouts of a person has been found out, the victim is considered “disappeared”. This situation is unlike other violations such as extra-judicial killing wherein the fate of victims are immediately known, bodies are recovered and the families have time and places to grieve, remember the victim and proceed with the process of healing and closure.

The continuing character of disappearances prolongs the grief of the families whose closure is not assured unless the truth about what actually transpired with their missing loved ones

is discovered. The families are subjected to extreme psychological tensions, often swinging from hope to despair which may stretch out for years. Such emotional trauma can lead to cases of clinical depression or psychosis.

Some of the manifested symptoms of post-traumatic disorder observed from the families of the disappeared includes the prolonged longing for the missing, denial and inability to accept the disappearance, continuing flashbacks, nightmares and memories, guilt, extreme emotions such as anger, sadness, anxiety as manifested through disturbances of sleep patterns, loss of interest in living, tiredness, and paranoia.

Sri Lanka's disappearances and threats to human rights defenders

Cases submitted from Sri Lanka to the United Nations Working Group on Enforced or Involuntary Disappearances (UN WEGID) reached 12, 473 cases from the year 1980 to 2012 of which 156 are female.

Activities conducted by family members of the disappeared are consistently harassed by security forces and in worse situations, families and human rights defenders were held and detained.

On 27 October 2012, a gathering of members of Families of the Disappeared and Right to Life was conducted in Negombo. Local police started detaining family members and leaders of Right to Life over a screening of a documentary which showed the struggles of the families of Sri Lanka's disappeared.

600 families of the disappeared from North and Northeast part of the country were mobilized in 5 March 2013 by the Association of the Families Searching for the Disappeared Relatives. The group intended to join a symbolic gathering of family members in Colombo to submit a petition before the UN office. However, the families from the North and Northeast were blocked in Vavuniya by the Sri Lankan police and were prevented from participating in the Colombo campaign action.

During the UN HCHR Commissioner Navi Pillay's visit in August 2013, she was severely branded as an LTTE supporter after criticizing the human rights record of Sri Lanka. Families of the disappeared and civil society groups were similarly harassed.

In a campaign action to demand for justice during the 2013 Commonwealth Heads of Governments' Meeting in Sri Lanka in AFAD Council Member and Chairperson of Families of the Disappeared (FOD) Brito Fernando was branded as a supporter of the Liberation Tigers of Tamil Eelam (LTTE) ideology and was threatened along with other civil society leaders. HRDs such as President of the International Movement Against All Forms of Discrimination and Racism (IMADR) Nimalka Fernando, Professional Web Journalists' Association (PWJA) Convener Freddy Gamage, wife of disappeared journalist Prageeth – Sandya Ekneligoda, Secretary of Committee to Investigate Disappearances (CID) Sunandram Mahendran were among those publicly branded as traitors or LTTEE supporters.

Another incident occurred when Balendran Jeyakumari and her 13-year old daughter were arbitrarily arrested and detained on 13 March 2014 in Killinochchi. Balendran Jeyakumari's

husband disappeared during the war against the Liberation Tigers of Tamil Eelam (LTTE). She had 3 sons and 1 daughter. Her two sons were killed during the war while another son disappeared after surrendering to the Sri Lankan army. She has actively campaigned against disappearances as a woman human rights defender and worked with other families of the disappeared.

Two human rights defenders responded to the arrest of Balendran. Prominent human rights defender Ruki Fernando¹ and Father Praveen Mahesan, OMI ² travelled to Killinochchi to document the incident and assist the Balendran and her daughter, however, they were similarly arrested and detained on 16 March 2014. During their days in the custody of the Terrorist Investigation Department (TID), both were prevented access to their lawyers and family members. While they were released on 19 March 2014, the intimidation and harassments continue with court orders restricting their travel abroad, confiscation of laptops, hard drives, among others and prohibiting them from issuing statements to local and international groups including the media.

The increasing harassments against the families and human rights defenders are occurring amidst the backdrop of the discoveries of mass graves in Mannar, Matale and Puthukkudirippu-Mullaitivu which if investigated and studied properly can lead to their identification of disappeared victims from the late 80's and conflict period with the LTTE. As such graves are discovered, increasing international attention is being directed to support the proposed UK-US resolution before the UN Human Rights Council (UN HRC) for an international probe of the war crimes committed during Sri Lanka's conflict period. The proposed resolution is scheduled to be discussed and voted on this 26-27 March 2014.

Objectives

The Asian Federation Against Involuntary Disappearances (AFAD), the Families of Victims of Involuntary Disappearances (FIND) together with the Order of Friars Minor (OFM) are organizing campaign actions for truth and justice and Sri Lanka with the following objectives:

1. To express support for the campaign for truth and justice in Sri Lanka through the conduct of a public actions;
2. To mobilize family members as expressions of solidarity amongst families of the disappeared;
3. To generate media attention to highlight the issue of the continued detention of Balendran Jeyakumari, the intimidation and harassment of human rights defenders working for truth and justice, and the US-UK proposed resolution calling for an international inquiry on the war crimes committed in Sri Lanka.

¹Ruki Fernando is the human rights adviser of Inform - Human Rights Documentation Centre in Colombo, the Chairperson of Rights Now and former Coordinator of the Human Rights Defenders Program of the Asian Forum for Human Rights and Development (FORUM-ASIA). He was awarded by the Bishop Tji Hak Soon Foundation with the Justice and Peace Award in 2009 in South Korea.

²Rev. Fr. Praveen Mahesan OMI, a human rights defender and the former director of the Centre for Peace and Reconciliation (CPR) based in Jaffna. Both were arbitrarily arrested in 16 March 2014 by the Terrorist Investigation Department (TID) and were not allowed access to their lawyers and family members.

Strategies and activities

1. Public campaign action

Protest action at the Sri Lankan embassy: 27 March 2014

AFAD together with its Philippine partner organization – Families of Victims of Involuntary Disappearance (FIND) will organize a public action in front of the Sri Lankan embassy in the Philippines on 27 March 2014.

The primary slogans for the public action will be the release of Balendran Jeyakumari and her daughter, ending the intimidation and harassment of human rights defenders and demand for justice for victims of enforced disappearances in Sri Lanka.

The families and other participants will carry photos of Sri Lanka's disappeared victims and placards. A placard for the release of Balendran Jeyakumari as well as ending the harassment for Ruki Fernando and Father Praveen Mahesan will be included in the campaign materials.

Proposed speakers during the program is FIND's Chairperson Nilda Sevilla, another family member of a disappeared, representative of local and regional organizations – PAHRA, Initiatives for International Dialogue, PCICC and Focus on the Global South and Order of Friars Minor (OFM). Tentative time of the program is 10:00 a.m. Philippine local time, and will last for 30 minutes.

The group shall also mobilize local and international media to provide coverage of the activity. The International Coalition Against Enforced Disappearances (ICAED) will also be mobilized to issue a statement in condemnation of the recent incidents.

Solidarity mass for truth and justice in Sri Lanka: 27 March 2014

A mass will be served at the Santuario de San Antonio Parish at Forbes Park, Makati, under the Order of Friars Minor- OFM (Franciscans), tentative time of the mass is at 11:00 a.m.

2. Online solidarity action

An electronic teaser of the campaign actions and poster of human rights defenders – Balendran, Ruki and Fr. Praveen will be posted in AFAD's Facebook and website.

Short video clips of Ruki's statements about enforced disappearances can be edited and shared in AFAD's social media accounts.

3. Long-term strategic solidarity campaign

The immediate activities for the week are also aimed to add to the current international pressure in support for the US-UK resolution for an international inquiry. After the UNHRC sessions, there is a perception that harassments against legitimate human rights defenders and voices of dissent will persist if not heightened. A more sustained strategic response is needed to continue the international attention and pressure to the worsening human rights situation in Sri Lanka.



Detained Balendran Jeyakumari with other family members of the disappeared.



Campaign poster of Ruki and Fr. Praveen

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