

DOCUMENTS

Statement by Professor Phillip Alston, Special Rapporteur of the United Nations Commission on Human Rights on extrajudicial, summary or arbitrary executions.

Colombo, 6 December 2005

Permit me, first of all, to express my thanks to all those who met with me and provided me with information and insights in the course of my visit. The Government of Sri Lanka is to be commended for its positive response to my request to visit. I have received excellent cooperation from the government and this augurs well for its willingness to give careful attention to the issues that I will raise in my report.

In the course of a week and a half in Sri Lanka, I have had opportunity to visit and undertake extensive interviews in the south, the east and the north of the country. I have met with senior officials of government including the Minister of Foreign Affairs, the Attorney General, and Peace Secretariat; with Army Headquarters, the Inspector General of Police, and many of their commanders in the field; with representatives of political parties and civil society; with the Muslim Peace Secretariat and Muslim community leaders in Ampara; with senior representatives of the LTTE, both in Kilinochi and the East; with the Human Rights Commission of Sri Lanka, the Sri Lanka Monitoring Mission (SLMM) and members of the diplomatic community.

I recognized that my visit has come at an extraordinarily sensitive and critical time for the peace process. During the short period I have been here, there have been numerous killings in the north and east of the country, of both Tamil and Muslim civilians as well as members of the security forces and the LTTE. I condemn these attacks without reservation and urge all parties to take immediate steps to de-escalate the situation and to prevent this tide of violence from rising further, with catastrophic results for the country and its hopes of finding peace. In my discussion with Mr. Tamilchelvam, LTTE political wing, chief I stressed the difference between denying responsibility and denouncing such attacks, and called on the LTTE to signal unequivocally its rejection of such acts of violence.

I am an independent expert, appointed by and reporting to the UN Commission on Human Rights. My final report will be submitted in early 2006. I should emphasize that the comments included in this statement are only of a preliminary nature. My full and final report will be available within three months from now, on the website of the UN High Commissioner of Human Rights. Before the report is made public, the government of Sri Lanka will be given an opportunity to make observations on the report. I will also ask for further input from the LTTE and other parties.

The principle theme of my report is that extrajudicial killings, if left unchecked, have the potential to fatally undermine the peace process and to plunge Sri Lanka back into the dark days of all-out war. This conclusion has tragically been borne out by the developments of the recent days.

Neither of the principle parties to the conflict seems to give adequate recognition to the deeply corrosive impact of the killings that have been steadily accumulating and then accelerating throughout the course of 2005. These killings should not be thought of only in the cold and detached language and statistics of 'ceasefire violations', although they clearly are that. Nor should they be thought of only in abstract terms as violations of the international legal obligations of the parties, although they are that too. Most importantly, they are violating the right to life of a large number of Sri Lankans from all ethnic groups, and by undermining the peace process, putting at risk the lives of many more.

Both the government and the LTTE have signaled the need to review the implementation of the CFA and to strengthen international monitoring arrangements. But pending a resumption of contacts and talks on these issues, it is essential and urgent for all those involved to immediately adopt a range of confidence-building measures. These steps cannot wait until a major breakthrough is possible. But equally importantly, they will make it far more likely that such a development can occur.

In order to put an end to the killings, the key is to strengthen the accountability of those responsible. This involves a mix

of initiatives including: far more effective police investigations, a role for the SLMM that includes investigation as well as monitoring and unequivocal denunciation of killings by all parties. It is simply not enough for one party or another to throw up its hands and proclaim 'we didn't do it, and we can't really tell you who did'. Permit me to elaborate briefly.

The upsurge in extrajudicial killings has been accompanied by a vacuum of investigative responsibility. The Sri Lanka Police have lost much of their appetite for serious investigations. While the difficulties presented by the environment in which they work must be acknowledged, they have in too many cases simply become a recording agency. This deters witness from coming forward, and leaves the groups involved free to accuse one another regardless of the facts which might emerge from serious investigation.

The LTTE, for its part, issues frequent denials of killings and then contents itself with accusing the Karuna faction or other groups of acting in cahoots with the security forces to perpetrate most such killings. These denials do not appear credible to most observers and are contradicted by evidence collected during my visit that suggests the LTTE has either been directly involved or has given protection to the perpetrators in some cases. At the same time, the security forces find it convenient to downplay the significance of the Karuna faction by dismissing many incidents as being LTTE related and suggesting that it is irrelevant whether the LTTE or Karuna was responsible. This ambivalence toward the Karuna faction is reflected in the weak response of the government to the relevant killings, despite firm official instructions and denials of involvement.

The failure to effectively investigate the killings has resulted in many areas of the north and the east – whether controlled by the government or by the LTTE- becoming zones of impunity for killers with different motivations and affiliations. This in turn generates inflammatory and often contradictory rumors that risk giving way to cycles of retaliation.

A case in point is the attack last month on the Akkaraipattu mosque which killed 6 persons and seriously wounded 29 others. This was a particularly heinous act, involving the violation of a place of worship and an assault on innocent parties at prayer, and it has led to further convulsions of

violence between the Muslim and Tamil communities in the East. I was able to visit the mosque, meet with representative of the community and victims of the attack, and I do not exclude that there were many complex elements at play in the incident. But no such elements can excuse such an act. And unless crimes of this kind are properly investigated, and those responsible held to account, they will only fuel the cycle of retaliation and violence. With that in mind, I call on the Police to effectively investigate this attack. I must also note that, while the LTTE has denied its involvement in this attack, it has not taken the further step of unequivocally denouncing this act of killing.

The absence of effective investigation has placed considerable pressure on the SLMM to fill the vacuum. But its mandate has sometimes been interpreted excessively narrowly and in a way that makes it also appear to be mainly a recording agency. While it has made an invaluable contribution over its nearly four years in existence, it is time to reinforce its vital work. It should be accorded a stronger and better-equipped role to enable it to carry out more in-depth monitoring of killings and to publicly report its findings of the facts in different cases. The Minister of Foreign Affairs said the government had a long standing desire to strengthen the effectiveness of monitoring arrangements. And Mr. Thamilselvam indicated to me that the SLMM's role should be upgraded and 'given teeth.' While the parties should continue to explore other, specialized models for human rights monitoring, strengthening the role of the SLMM on these issues would be an important first step in promoting respect for human rights and building confidence among the parties and the people.

I want to conclude by emphasizing that, while my mission has been designed primarily to ascertain the facts in relation to extrajudicial executions, I have seen many encouraging developments during my stay. In the tsunami-affected areas of Batticaloa, I saw fishermen back in their boats and some housing construction under way. Even in Killinochi, I saw new buildings and businesses, suggesting that ordinary people are investing in peace. I met people from all communities who reject the path of violence and demand higher standards from those that claim to represent them. I have no doubt that with the requisite political will and the appropriate international support, the current cycle of killings and violence can be ended. ■