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Written statement submitted by Dominicans for Justice and Peace (Order of Preachers), Franciscans International (FI) and Pax Romana for the

**Eleventh Special Session on the Human Rights situation in Sri Lanka**

**Report on the human rights and humanitarian situation of Sri Lanka and steps forward.**

Geneva, May 2009

## **The human rights and humanitarian situation of Sri Lanka and steps forward**

Dominicans for Justice and Peace (Order of Preachers), Franciscans International and Pax Romana, submit this written statement for the Eleventh Special Session of the Human Rights Council on The Human Rights Situation in Sri Lanka.

### **A. Overview of the situation**

1. The fighting between the Sri Lankan Armed Forces and the Liberation Tigers of Tamil Eelam (LTTE) during the past months has led to the death of more than 6,400 civilians and 13,000 wounded. UNHCR estimated that some 230,000 have been screened and registered and that approximately 50,000 people are undergoing screening and registration at various points and awaiting transportation to the sites.<sup>1</sup> In the absence of any form of independent monitoring, there are serious concerns about the security and wellbeing of those being screened. Conditions at one of the known screening and registration centers, the Omanthai school, has been described by UNHCR as "sub-standard in terms of hygiene, health and shelter".<sup>2</sup> We are extremely concerned about the plight of civilians and wounded cadres; several sources have reported as being left behind in the areas of Mullativu district where the final battles were waged. Due to the lack of independent monitoring and the ban on journalists, it is impossible to know the fate of those who remained behind as hostilities came to an end.

### **B. Conditions inside government camps**

2. UN OCHA has reported that during the period of 27 October 2008-18 May 2009, 219,410 persons crossed to government-controlled areas from the conflict zone.<sup>3</sup> Due to recent restrictions, humanitarian agencies are not able to fully tend to the thousands of persons who are in these camps and in urgent need of assistance.<sup>4</sup>

3. Particular challenges are faced by Internally Displaced Persons (IDPs) in the district of Vavuniya, where a majority of the displaced population has been accommodated. UN OCHA reports that in Jaffna most international NGOs have not yet received official notifications granting them access to camps in the districts, despite the Security Forces Commander's assurance.<sup>5</sup>

4. In the last week, a number of UN and international humanitarian agencies have stated camps do not meet international standards on security and living conditions.

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<sup>1</sup> UNHCR briefing notes, 20<sup>th</sup> May 2009

<sup>2</sup> UNHCR briefing notes, 20<sup>th</sup> May 2009

<sup>3</sup> UN OCHA Situation Report no. 15, 19<sup>th</sup> May 2009

<sup>4</sup> See UNHCR briefing notes of 18<sup>th</sup> May, UN OCHA situation report no. 15 of 19<sup>th</sup> May and ICRC Interview of 20<sup>th</sup> May

<sup>5</sup> UN OCHA situation report no 15 of 19<sup>th</sup> May

The largest camp, Menik Farm is overcrowded—humanitarian agencies have called the government to move some of the IDPs into other camps in order to provide them with higher possibilities of an adequate access to diverse services.

### **Living conditions of IDPs: food and health**

5. IDPs are completely dependent upon humanitarian assistance for their needs. Overcrowding at the food distribution points have made searching for food an onerous task. The lengthy registration process to get food sets a further barrier in their enjoyment of their right to food. In their current unhealthy conditions, IDPs are suffering from malnutrition; the daily dose of rice is insufficient to feed them. WFP, as well as a number of other local humanitarian organizations, have worked hard to provide IDPs with food. Food rations distributed, however, continue to be less than what is needed by the population living inside camps.

6. With the number of limitations imposed on humanitarian agencies, less medical personnel and supplies have entered the camps. Medical facilities set up are overcrowded. Thousands of civilians are in need of urgent treatment for conflict-related wounds; yet continue to wait very long periods until they are treated. Furthermore, the population in camps is highly vulnerable to infectious diseases due to poor hygiene and the insufficient water available for personal hygiene. The lack of water puts the lives of IDPs at further risk.

7. The government must ensure its restrictions on humanitarian agencies' access and ability to work are not contributing to the worsening of conditions inside the camps. The government should not impose any further limitations on foreign agencies, particularly when current conditions indicate the standard of living is far below from the desired level for IDP habitation and the level of medical attention is inadequate.

### **Family separation and freedom of movement**

8. We are concerned at the prevailing separation of families and the impediments on the freedom of movement for IDPs inside camps who want to visit relatives outside camps. Freedom of movement has been restricted. However, the present curtails on the right to movement should not continue to occur; IDP camps are presently de facto detention centers, without following any local and international standards for arrests and detention. There should be no impediments on family reunification—especially for unaccompanied children.

9. Vulnerable groups of IDPs, including the elderly, persons with disabilities and pregnant women, who are still in camps, should be moved outside camps to locations where they can receive the needed care and attention, as current conditions cannot cater to their specific needs and may cause further suffering.

## **Children**

10. Since April, IDPs who gradually arrived in Vavuniya from the conflict zone were housed in 16 educational institutions depriving over 25,000 students of their proper education. In a number of camps, children education has not been prioritized. Education should be offered promptly respecting their particular sensitivities, including language and cultural background.

11. Many children continue to suffer from the separation from their parents or relatives. A number of children have become orphans and been separated from their families and neighbors while fleeing the conflict zone. The special needs and care for these children should be a priority for governmental agencies and international agencies working in the camps. Special measures are not in place for the thousands of very young children who have arrived unaccompanied. Their right to education, to special programs of child rehabilitation and measures to counteract the effects of a long, traumatizing, conflict should be taken up urgently. Children who have been forced to fight with the LTTE require special care. These children should not be treated as former combatants, but as victims in need of specialized programs.

## **Personal security**

12. Security concerns should not result in unjustifiable suffering. Civilians have borne the brunt of the conflict, and have been exposed to traumatizing events-with the loss of direct family, relatives and friends. Camps continue to be militarized due to the government's security concerns; however, the government must ensure civil authorities take control from the military if the camps are to satisfy minimum international standards, and if the population is to feel safer.

13. Screening processes should be carried out humanely and in a transparent manner with consideration for the vulnerable state of IDPs. The government must respond to the UN's request for UN independent officers to monitor the screening process to ensure it is carried out in accordance with the highest consideration for the human rights of IDPs.

## **B. Violations of international humanitarian law and HRC Resolution A/HRC/RES/9/9**

14. The Human Rights Council is mandated to address the impact of armed conflicts on the human rights of the civilian population through its Resolution A/HRC/RES/9/9. Violations of humanitarian law and human rights have taken place for a number of years, and have increased as the conflict intensified in the last months. The Council members have received detailed information of the situation in Sri Lanka yet were not willing to act promptly to ensure the Government of Sri Lanka be held accountable for violations committed during the armed conflict. Sri Lanka, as a member of the UN, is expected to take all steps necessary to ensure the protection of human rights during an armed conflict.

15. Whilst welcoming a Special Session on the human rights situation in Sri Lanka, we regret the Council's lack of prompt action when the situation in the Vanni—where hundreds of thousands of civilians were trapped inside the conflict zone, and thousands were injured and killed from shelling and use of heavy weaponry by both parties—required them to. All situations requiring the Council's urgent attention should be considered without distinction of any kind and based on the grave violations of human rights.

### **Independent Commission of inquiry**

16. As mandated by HRC's Resolution A/HRC/RES/9/9 on the "Protection of the human rights of civilians in armed conflict", the Council should establish a mechanism of inquiry to investigate allegations of war crimes and gross violations of human rights in the context of the conflict, and may continue to take place despite the end of hostilities. The Commission should also consider violations of human rights that took place outside the conflict area; in particular those perpetrated against human rights defenders - independent journalists, media institutions, human rights lawyers, religious leaders engaged in humanitarian and human rights work, aid workers, opposition parliamentarians, etc.

### **C. Future steps**

17. The government must ensure that any process of reconciliation involves all citizens of Sri Lanka, regardless of ethnic, religious and cultural background and that such process addresses the root causes of the conflict. No process taken forward should exclude any particular group.

18. The government must particularly ensure that persons who have been fleeing from the conflict, are informed of the government's future steps to ensure their safe return to their place of residence and origin; and what steps will be taken to ensure the full enjoyment of their rights.

**Dominicans for Justice and Peace (Order of Preachers), Franciscans International and Pax Romana call on:**

**The Sri Lankan government to:**

1. Respect the human dignity of the people of Sri Lanka, regardless of their background and origin;
2. Immediately allow humanitarian organizations and other appropriate actors, to access IDP camps, in order to ensure a prompt delivery of food, medicine water, sanitation facilities, tents and other essential supplies;

3. Prioritize family reunification of the IDPs through provision of data base of the IDPs in each camp. The Government of Sri Lanka should guarantee the freedom of movement of the people, especially in the efforts of family reunification;
4. Provide assistance to vulnerable groups in the IDP camps, especially children, children without parents, pregnant women, disabled and elderly people;
5. Ensure the return and resettlement of all IDPs and start the reconstruction process;
6. Investigate allegations of human rights violations inside camps, and take steps to ensure the respect of IDPs human rights; ensure camps are run by civil authorities, with a presence of military for security reasons only;
7. Grant permission for independent monitors to monitor screening processes to ensure the highest regard for the human rights of IDPs;
8. Ensure the protection of those with dissenting views and critical of the government and guarantee a secure environment for human rights defenders;
9. Revoke the Prevention of Terrorism Act and Emergency Regulations now in force;
10. Investigate prosecute and ensure convictions with regard to human rights violations reported since 2006, particularly killings and disappearances, and well known and high profile cases such as the killing of 17 aid workers of *Action Contre le Faim* (ACF), killing of 2 volunteers of Red Cross, disappearance of Fr. Jim Brown, killing of Ven. Nandarathana Theoro, Fr. Pakiaranjith and Fr. Karunaratnam, attack on Catholic Churches in Pesalai and Allaipiddy, killing of 5 students on the Trincomalee beach, among others;
11. Immediately disclose location of the three medical doctors who served thousands of injured civilians in the conflict zone till 15<sup>th</sup> May, and are now reported to be held incommunicado by the Terrorist Investigation Department and ensure they have access to family members and lawyers;
12. Address the root causes of the conflict through an inclusive and equal reconciliation dialogue with all actors involved. The government must ensure all victims of this conflict are equally involved in any reconciliation and reconstruction processes, including those who have suffered from the most recent conflict.

**The Human Rights Council to:**

Ensure it takes all measures to set up and facilitate the work of mechanisms that should be established to respond to gross human rights violations in Sri Lanka, including:

1. The setting-up of a field office of the Office of the High Commissioner for Human Rights (OHCHR), as recommended by Sri Lanka and international rights groups, several member states of the UN, the UN High Commissioner for Human Rights and the Special Procedures of this Council;
2. Assist and encourage the Government of Sri Lanka to set up an Independent Commission of Inquiry, to investigate all allegations of war crimes;
3. Dispatch a high level fact finding mission to Sri Lanka, comprising amongst others of relevant mandate holders of the Human Rights Council, with independent access to the zones where final hostilities took place and locations where displaced people are being held;
4. Ensure the implementation of the outcomes and Resolutions adopted at the Special Session are reported to the regular sessions of the Human Rights Council, starting from the 12<sup>th</sup> session.