

General allegation

102nd session (3–7 February 2014)

Sri Lanka

127. The Working Group received information from credible sources concerning reported obstacles encountered in the implementation of the Declaration in Sri Lanka.

128. Sources reported that there were many problems with the Presidential Commission on Disappearances currently operating in the country.

129. It was reported that, the duration of the Commission was far too short, because to undertake a comprehensive inquiry process involving thousands of individuals wishing to give testimony, six months was an inadequate amount of time. It was alleged that the fact that Commission hearings began only five months after it was established, and that only a select number of applicants had been invited to appear before it, demonstrated that insufficient time had been allocated to the process.

130. It was reported that, given that the Commission would only cover cases of disappearance in the Northern and Eastern Provinces between 1990 and 2009, many cases reported in Colombo and other parts of the country in recent years would fall outside its scope.

131. It was alleged that the public information campaign had been inadequate and that many people in different places had not heard about the Commission or been provided with information on where, when and how to submit complaints. It was reported that there was considerable confusion among the families of the disappeared about how to submit a complaint, who would be able to appear before the Commission, and when and where the hearings would be held. It was also reported that military and plain-clothed security personnel had been registering people. Complaints were reportedly received because people had been asked to sign forms in English, which some could not read or understand, and that many had refused to sign, while others had signed despite the fact that they did not understand what they were signing. It was further claimed that very few people submitting complaints had received letters to appear before the Commission, and that the criteria for selection was unclear and not publicly available.

132. It was claimed that, for the process to be credible, the Commission should hear all those who have lodged a complaint about a disappearance, rather than just a sampling of cases, regardless of the time required to register and hear all complaints.

133. The source reported that, while some of the Commission's hearings had been held in public, in other occasions the hearings had been held behind closed doors, which diminished transparency and eroded public confidence in the process.

134. It was further reported that, on occasion, there had been an inadequate number of interpreters, and that those who were interpreting were doing so inaccurately and at times summarized, cut short the testimony of the complainants or pre-empted the answers to questions. It was also claimed that interpreters sometimes argued with people's account of what had occurred and exhibited excessive aggression when engaging with the complainants. It was also reported that there were many leading questions, that complainants felt that they were being cross-examined rather than being given the time and space to recount events, and that the focus of the questioning was consistently on the Liberation Tigers of Tamil Eelam (LTTE), resulting in inadequate attention being paid to other aspects of the testimony. It was further alleged that some officials tasked with gathering information and completing the forms of the complainants did not speak Tamil and that the forms were in English. There were therefore claims that information had possibly been misunderstood and forms completed erroneously.

135. The source claimed that there ought to be a comprehensive public information campaign conducted well in advance of scheduled hearings. It was suggested that not only local officials should disseminate the information but also that provincial and national dissemination campaigns should be carried out as well. It was also stated that a process should be established to prepare families to appear before the Commission, including by providing information on the documentation and supporting documents to be submitted with their complaints.

136. The source recommended that sufficient time should be provided for the dissemination, registration and preparation phases so that each complainant has the opportunity to appear before the Commission, and that people should be given information on what documents they need to bring, what the process would involve and for how long they would have to speak.

137. It was further stated that military and security personnel should not be involved in any of the processes of public information campaigns, registration, signing of forms or escorting people to and from the hearings. They should also not be allowed to take photographs outside the Commission as people enter, or be present while people are giving testimony to the Commission.

138. It was alleged that some people had been offered compensation and been promised 300,000 Sri Lanka rupees if they registered for a death certificate for their disappeared family member. It was further reported that, while some people had received compensation, it was unclear what criteria had been used to select these people and not others who had registered. It was therefore suggested that processes to provide relief for families of the disappeared should not be held on the same day as the hearings or at the same venue, as it created confusion. It was stated that this should not be a selective process, but that a clear reparations policy should be formulated. It was also argued that everyone should be provided information on how to gain access to compensation and that clear information should be given in advance to permit informed choices.