

UN Human Rights Council: Third regular session: Compilation of statements by Amnesty International (including joint statements)

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Statement on the Commission of Inquiry and the International Independent Group of Eminent Persons (IIGEP) established by the Government of Sri Lanka to Investigate Allegations of Human Rights

Item 2: Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled "Human Rights Council": Other issues

Delivered by *Patrizia Scannella* on Friday, 1 December 2006

Mr. President,

The human rights situation in Sri Lanka has been marked by decades of impunity for perpetrators of violations of international human rights and humanitarian law. In this regard, the creation of a Commission of Inquiry could be timely and potentially valuable.

Unfortunately, the Government of Sri Lanka has cut too many corners in establishing its current national Commission and the accompanying International Independent Group of Eminent Persons. Amnesty International is concerned that serious shortcomings in the mandates of the Commission and the Group of Independent Persons will undermine their effectiveness.

Mr. President,

I will mention only some of our concerns today. Others are addressed in a document of 17 November(2) that we have recently circulated to missions in Geneva.

In sum, Amnesty International is concerned that the current terms of reference for the Group of Eminent Persons will undermine its independence, effectiveness and ability to publish its findings.

We understand that the Commission has been established under the Commissions of Inquiry Act No. 17 of 1948. The 1948 Act grants the President wide discretionary powers over the Commission that if exercised could undermine its independence and impartiality. Even the appearance of this discretion will harm the Commission's credibility.

The terms of reference for the Commission and the Group of Eminent Persons do not sufficiently address protection for complainants, witnesses, those conducting investigations and others involved in the investigations.

The Group of Eminent Persons' terms of reference provide that the Secretary to the Ministry of Justice will be the head of the Group's secretariat and representatives of the President and other ministers will be attached to the secretariat. These provisions, which give the government control of the administrative functions of the Group of Eminent Persons, will undermine the Group's independence and consequently the Commission's. They create the impression, if not the reality,

that the Group's movements and actions will be closely monitored or supervised by government officials.

The publication of the final report of the Group of Eminent Persons will, according to its terms of reference, be subject to the exclusion by the President of "any material which in His Excellency's opinion may be prejudicial to, or absolutely necessary for the protection of, national security and public order". While we recognize that in certain instances security issues may arise, we are concerned that this provision is excessively broad and allows for censorship of the Group's report or parts of it.

In concluding Mr. President,

The logic and experience of war prevails today in Sri Lanka. Each side believes that it can win, but civilians lose their lives, their property, their livelihoods. Amnesty International emphasises that the Commission and the Group of Eminent Persons do not address the need for an effective and on-going international human rights protection presence that can also investigate human rights abuses in Sri Lanka. Amnesty International therefore urges the Government of Sri Lanka and all parties to the conflict to cooperate with the international community to put in place effective measures to protect civilians, and deliver them justice, without delay.

Thank you Mr. President