



INTERNATIONAL COMMISSION OF JURISTS

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COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

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Sri Lanka:

ICJ issues statement regarding investigation into killing of 17 ACF aid workers

The International Commission of Jurists (ICJ) today issued the following statement:

The ICJ has issued two reports of Michael Birnbaum, QC, its observer to the inquest and investigation into the killing of 17 *Action Contre la Faim* (ACF) aid workers in Muttur in August 2006: the first in April 2007, with an "Addendum" issued in June 2007.

The ICJ welcomes the proposal of the Minister of Disaster Management and Human Rights, made on 29 June, that the Australian Government further assist the investigation by recommending a ballistics expert who could consult with Australian pathologist Dr. Dodd (who observed the re-examination of the bodies in October 2006) and Sri Lankan officials, and that the Government of Sri Lanka will immediately make available to the Australian authorities additional material they have requested.

The ICJ seeks a productive engagement with the Government of Sri Lanka, with the aim of helping to ensure that those responsible for such killings are brought to justice. The ICJ provided the Government with a draft of its "Addendum" report 18 days before it was published, inviting any comments, which would be reflected in the final text. The ICJ is disappointed that the Government chose not to provide any comments before the report was published.

The ICJ considers that what is important now is to establish beyond doubt the calibre of the weapons used to kill the 17 aid workers. This is of vital importance as it may help to identify the killers. As suggested by Michael Birnbaum QC in his second report, a crucial step in establishing the calibre of the weapons will be to compare all available photographic material related to the ballistics evidence, with the exhibits submitted to the Government Analyst.

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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The ICJ recognizes the inherent difficulties of investigating serious crimes in the context of the armed conflict in Sri Lanka. Nevertheless, in light of the concerns summarized below, the ICJ considers that the investigation should now be intensified to ensure that the truth is revealed and that those responsible are brought to justice. The ICJ looks forward to the implementation of the commitment made by the President of Sri Lanka in a meeting with the ICJ Secretary-General in June, that the Government will establish a taskforce within the regular justice system to vigorously renew the investigation.

The following paragraphs summarize the concerns of the ICJ about the investigation into these killings, as set out in its two reports.

There are serious concerns about significant flaws in the police investigation, reflecting a lack of impartiality, transparency and effectiveness, as well as about the ballistics evidence:

- Official police reports indicate that from the outset, prior to any investigation, the police had decided that the LTTE were responsible for the killings.
- The collection of evidence has been incomplete and inadequate. In particular, as of March 2007, eight months after the killings took place, the ICJ was informed by the CID that no member of the Sri Lankan security forces had been interviewed nor any Tamil, apart from the family members of those killed. The ICJ has sought an update from the Government on the investigation. The Sri Lankan security forces will need to be extensively questioned about their knowledge of the killings and surrounding circumstances, especially those present in Muttur around the time of the killings. The local Tamil community should also be interviewed, as well as further interviews with other members of the community. This will require extensive questioning of people who were in Muttur at the time and the establishment of an effective witness protection programme.
- There is an urgent need to investigate and clarify if a 5.56 mm bullet was recovered from the skull of one of the victims. Dr. Dodd, an independent, Australian pathologist who was invited by the Government to observe a re-examination of the bodies in October 2006, concluded that one 5.56 mm projectile was removed from the skull of one of the victims. The Government Analyst was provided with the ballistics exhibits removed from the bodies during the re-examination and prepared his report dated 19 February 2007 which was submitted to the Kantale Court on 7 March 2007. In his report he identifies only 7.62 mm bullets or parts of bullets.
- On two occasions the police did not comply with orders of the Magistrate in charge of the inquest that were designed to guarantee the integrity of the evidence. Firstly, the Magistrate had ordered that the ballistics exhibits should be brought to the Court by the pathologist, Dr. Waidaratne. But on 6 December 2006 the exhibits were brought to the Court by a Criminal Investigation Department (CID) officer. Secondly, the CID failed to comply with an order that the sealed exhibits should be opened only in the presence of an Australian expert observer.

Since the killing of 17 ACF aid workers, extrajudicial killings of humanitarian workers have continued. According to the Sri Lankan Consortium of Humanitarian Agencies, at least 30 people working for local and international humanitarian NGOs have been killed since April 2006.¹ A recent example is the killing of two Sri Lankan Red Cross workers on the weekend of 2 June 2007. It is essential that when such killings occur, the truth should be revealed, those responsible brought to justice and families of victims should receive reparations. The ICJ considers that the failure to ensure justice after such appalling human rights violations can only fuel the conflict.

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¹ See report of the International Crisis Group, *Sri Lanka's Human Rights Crisis*, June 2007, p.15.

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