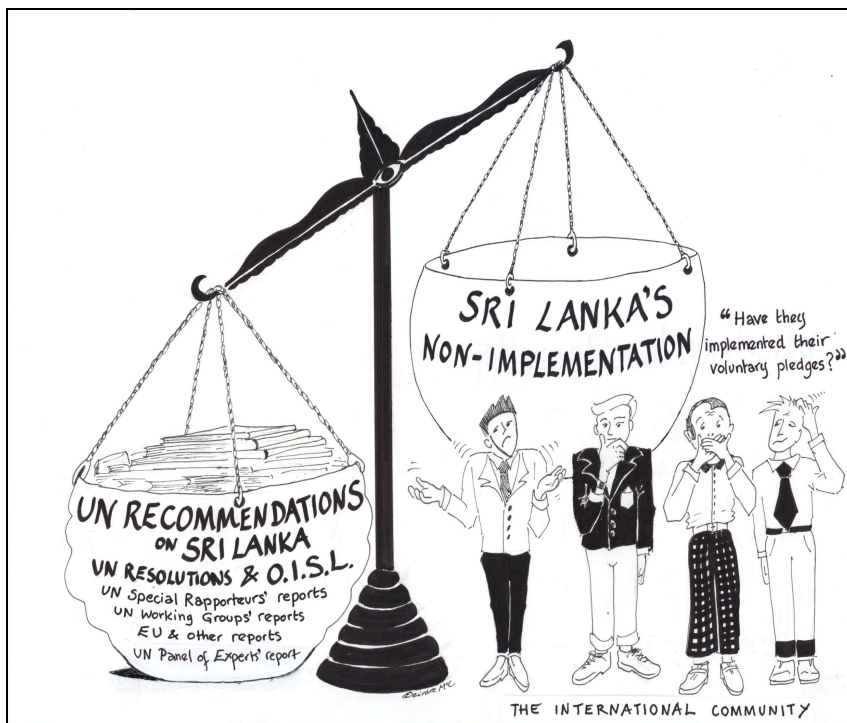


SRI LANKA

NON - IMPLEMENTATION OF UN RECOMMENDATIONS, RESOLUTIONS AND VOLUNTARY PLEDGES!

APPEAL TO THE UN HUMAN RIGHTS COUNCIL
34th session



TAMIL CENTRE FOR HUMAN RIGHTS – TCHR

CENTRE TAMOUL POUR LES DROITS DE L'HOMME – CTDH

CENTRO TAMIL PARA LOS DERECHOS HUMANOS

(Established 1990)

TAMIL CENTRE FOR HUMAN RIGHTS – TCHR (Established in 1990)

WEBSITE : www.tchr.net

TCHR PARTICIPATION IN UNITED NATIONS WORLD CONFERENCES AND OTHER MEETINGS

- * TCHR participated in the International Association of Democratic Lawyers – IADL Conference on 50th anniversary of the UN Covenants on Human Rights in Lisbon Portugal – November 2016
- * On 24 June 2009 TCHR was invited to have discussion with the EU Commission's three appointed independent external experts (regarding GSP+ benefits) – on the lack of effectiveness of Sri Lanka's implementation of certain core human rights conventions.
- * TCHR was a registered participant in the World Social Forum 2009 in Belem, Brazil Jan 27- Feb 1, 2009.
- * TCHR officially participated in the 61st annual DPI/NGO conference in UNESCO, Paris, 3-5 Sept. 2008.
- * TCHR was a registered participant in the European Social Forum 2008 in Malmo, Sweden 17-21 Sept 2008.
- * TCHR along with ECOSOC NGO Interfaith International contributed information to UPR session on Sri Lanka in May 2008
- * TCHR officially participated in the 'United Nations 7th Global Forum, Re-instating Good Governance', in Vienna, Austria 26-29 June 2007.
- * Members of TCHR participated in the World Federation of United Nations Associations (WFUNA) seminar in Geneva, Switzerland, 29- 31 July 2007.
- * TCHR was officially accredited to participate in the United Nations Conference on Anti-corruption Measures, Good Governance and Human Rights, in Warsaw, Poland 8–9 November 2006.
- * A meeting was held on 7 March 2006, in the European Parliament – titled "EU contribution to the peace process in Sri Lanka". This was jointly organised by TCHR and Mr. Robert Evans, Member of European Parliament.
- * TCHR was officially accredited by the United Nations to participate in the World Summit on the Information Society – WSIS in Tunisia, 16 – 18 November 2005. TCHR/22nd UN HRC 4
- * TCHR officially participated in the NGO forum of the UN World Conference Against Racism – WCAR in Durban, South Africa, from 28 August to 1 September 2001. TCHR held an information stall including an exhibition at the forum. The TCHR representatives also attended the main WCAR conference held in Durban, 31 August to 7 September 2001.
(http://www.tchr.net/reports_wcar_detail.htm)

- * A meeting was held on 14 October 1998, in the European Parliament – titled "Press censorship in Sri Lanka". This was jointly organised by the Tamil Centre for Human Rights (TCHR) and Ms. Anita Pollack, Member of European Parliament.
- * In 1993, TCHR held an information stall and a photo exhibition on human rights violations, in the United Nations 2nd World Conference on Human Rights held in Vienna, Austria, from 14-25 June. * TCHR participates in meetings of Treaty bodies and submits reports to the same.
- * TCHR participates in meetings of Treaty bodies and submits reports to the same.

**FACT FINDING MISSIONS TO THE NORTH EAST OF
THE ISLAND OF SRI LANKA**

- * **May 2003**
(http://www.tchr.net/report_studymission_2003.htm)
- * **December 2003 – addendum report**
(http://www.tchr.net/report_studymission_2003add.htm)
- * **July-August 2004**
(http://www.tchr.net/reports_visite_2004.htm)

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01 February 2017

**The President
Members and Delegates
34th Session – UN Human Rights Council
1211 Geneva 10,
Switzerland**

Distinguished Sirs / Mesdames

It will not surprise you that Sri Lanka has been escaping international scrutiny since it became a member of the United Nations in 1955.

The best example of Sri Lanka buying time to complete its project of Buddhisisation, Sinhalasation, Colonisation and Militarisation of the North and East, came to light on 27th November 2016. The so-called President of good governance, Sirisena, is seeking the help of the newly elected US President and the new UN Secretary-general, **to free Sri Lanka from fulfilling its commitment to the Human Rights Council resolution of September 2015**, (A/HRC/RES/30/1), which Sri Lanka volunteered to co-sponsor.

It was a surprise to the human rights community when Sri Lanka agreed to co-sponsor a resolution which was calling them to hold a war crimes inquiry with international judges, lawyers and prosecutors.

While Sri Lanka gives excuses and buys time, trying to hoodwink the international community yet again, the ground reality is changing every day. People in the North and East are devastated.

In Sri Lanka, formerly Ceylon, there were many riots against the Tamils from the 1950s. There were also two revolutions to overthrow the government by the Sinhala youth in the South – 1971 and 1989.

Thousands of disappearances, summary and arbitrary killings took place. Also there were thousands of arrests, detentions, incidents of torture, and incidents of extreme violence against Tamil women. Many were reported to relevant bodies of the UN.

As far as the ethnic situation is concerned, the governments in power in Sri Lanka have given empty promises to the people and also to the international community. So far, Sri Lanka has not shown any positive approach to the ethnic conflict.

At this juncture, one can recall those ill-fated pacts signed between then Prime Ministers of Sri Lanka and a Tamil Leader in 1957 and 1965, agreeing to settle the ethnic conflict. But both agreements were unilaterally abrogated by then Prime Ministers due to opposition from Sinhala political parties, Buddhist clergy and Sinhalese masses from the South.

Since then, the demography of the North and East has been drastically changed with Buddhisisation, Sinhalasation, Colonization and Militarization.

Today, the North and East have been shrunk into North, the North has become only Jaffna and the Tamils students in Jaffna are beaten up by Sinhala students. This is what has been achieved since the independence of this island in 1948.

On the other hand, the recommendations of the UN, especially those of the UN Secretary General, the High Commissioner for Human Rights, the mandate holders and treaty bodies, have been swept under the carpet by all governments in power, year after year.

The recommendations, attached to this report, are evidence of this. There are many more recommendations from many more reports.

Therefore we, TCHR, who work tirelessly on the human rights situation in Sri Lanka, kindly request the members of the Human Rights Council to be prudent during the present scrutiny of human rights in Sri Lanka.

Sri Lanka excels in delivering sweet words but when it comes to action, it is empty-handed!

We are pleading on behalf of the victims, with all those who respect human rights, justice and reconciliation, to ensure that Sri Lanka fulfils the commitments it has agreed to.

It is important to note that so-called 'Good governance' has led to some interest in a few high profile killings of human rights activists. The outcome of these cases has been breathtakingly disappointing. Those who were accused of these killings are enjoying luxurious treatment in prison and some have already been released after eye-wash inquiries.

If the victims of violations of human rights, war crimes and crimes against humanity cannot find justice in the UN supreme body for human rights, the Human Rights Council, then where else can they go?

Sri Lanka is continuing a policy of genocide aimed at the destruction of the Tamil people in the North and East.

The political problem in Sri Lanka has developed within the last three decades, becoming increasingly serious, and even worse than other ethnic groups in other parts of the globe who have found a solution through the United Nations.

Big powers and leaders should come forward to listen to the grievances of victims in Sri Lanka.

It is imperative that the International Community continue its scrutiny of Sri Lanka's human rights record and indeed intensify and sharpen its efforts. Time is running out.

Yours sincerely

S. V. Kirubaharan
General Secretary

NON-IMPLEMENTATION OF UN RECOMMENDATIONS, RESOLUTIONS AND VOLUNTARY PLEDGES BY SRI LANKA !

* * * * *

VOLUNTARY PLEDGES AND COMMITMENTS BY SRI LANKA

**Letter dated 31 March 2008 from the Permanent Representative of Sri Lanka
to the UN addressed to the President of the General Assembly**

A/62/778 - 1 April 2008

Sri Lanka's long-standing commitment to the promotion and protection of all human rights for all.

In pursuit of its commitment to the further promotion and protection of human rights, Sri Lanka voluntarily makes the following pledges and commitments:

→ Sri Lanka will continue its efforts to strengthen its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens.

→ Sri Lanka will continue its active and constructive dialogue and cooperation with the Office of the High Commissioner for Human Rights to strengthen national mechanisms in all aspects.

→ Sri Lanka will take necessary steps to enable the reconstitution of the Constitutional Council which will facilitate the strengthening and effective functioning of national human rights mechanisms, including the National Human Rights Commission.

→ A Witness and Victim Protection Bill will be introduced in Parliament shortly. Suggestions in this regard from the IIGEP have been received and incorporated. The Commission of Inquiry has established an interim programme by way of rules for the protection of interests of victims.

→ The Ministry of Disaster Management and Human Rights will launch a national human rights awareness campaign to commemorate the 60th Anniversary of the Universal Declaration of Human Rights in 2008.

→ The Ministry of Disaster Management and Human Rights will organize a regional seminar for parliamentarians on human rights related themes in 2008.

→ Sri Lanka has commenced work on drafting a Human Rights Charter that will strengthen the human rights protection framework in the country and bring Sri Lanka's human rights guarantees in line with international obligations. The process includes engaging in consultations with community-based organisations, NGOs and members of the public. The draft Charter and the process of consultation will foster a national discourse on human rights.

→ Sri Lanka will continue to work towards the submission of its periodic reports to treaty bodies including cooperating with OHCHR in drafting a common core document for use by all treaty bodies. ¶ As a part of its commitment to guarantee civil and political rights as well as economic, social and cultural rights of people, Sri Lanka will continue to align its development strategy within the larger framework of promoting local values and social protection for women, children, elderly and differently able people and vulnerable groups in society and respect to human rights and good governance.

→ Sri Lanka, manifesting its commitment to promote people oriented development, will work towards the alleviation of poverty and achieving the Millennium Development Goals by 2015 through continued investment in social infrastructure, education, and health services in line with the Mahinda Chintana policy (vision of H.E. the President of Sri Lanka for social and economic development of the country).

→ Through mechanisms such as the Inter-Ministerial Committee on Human Rights, and the Consultative Committee on Humanitarian Assistance, Sri Lanka will continue to promote public awareness regarding action taken to promote and protect human rights.

→ Sri Lanka will continue to take steps to safeguard and advance the rights of children through national mechanisms such as the National Child Protection Authority and the Ministry of Child Development and Women's Empowerment. Sri Lanka will also continue to actively support international processes that seek to advance the rights of the child.

→ Sri Lanka will continue to take steps that seek to advance the empowerment of women and women's rights and gender equality at national level through the Ministry of Child Development and Women's Empowerment as well as other national mechanisms. Sri Lanka will, at the same time support international processes that seek to advance women's rights and gender equality.

→ Trafficking of human beings, particularly women and children is emerging as one of the most urgent issues of today and involves the gross violation of human rights of vulnerable segments of society. Keeping in line with Sri Lanka's policy of open and constructive engagement with the international community and its commitment to enforce global standards, Sri Lanka will work closely with its partners to combat this heinous activity.

→ Sri Lanka will continue its traditional role of consensus-builder and participate actively in the work of the Human Rights Council to make the Council a strong, effective and efficient body that is capable of promoting and protecting the human rights and fundamental freedoms of all.

→ Sri Lanka will continue to participate in the work of the Human Rights Council in norm-setting in the field of human rights.

→ Sri Lanka will work with UN member States and relevant UN bodies to assist the Office of the High Commissioner for Human Rights to formulate proposals for treaty body reform with a view to making the UN treaty body system more effective and in line with present day requirements of member States.

→ Sri Lanka will work with UN Member States and relevant UN bodies for worldwide promotion and protection of human rights based on principles of cooperation and dialogue.

(Excerpts)

http://www.un.org/ga/search/view_doc.asp?symbol=A/62/778&Lang=E

REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW - UPR

A/HRC/22/16 - 18 December 2012

The review of Sri Lanka was held at the 16th meeting, on 1 November 2012.

II. Conclusions and/or recommendations**

127. The recommendations formulated during the interactive dialogue/listed below enjoy the support of Sri Lanka

127.1. Consider ratifying the CRPD (Egypt, Turkey);

127.2. Consider ratifying the Palermo Protocol on human trafficking (Philippines);

127.3. Make further efforts to ratify other relevant international instruments that are vital to the promotion and protection of Human Rights, in keeping with its national capacity and priority (Cambodia);

127.4. Continue giving consideration to ratify the other remaining (human rights) instruments in a progressive manner (Kenya);

127.5. Full dissemination of the NHRAP and the strengthening of governmental agencies at national, provincial and local level to guarantee its full implementation (Venezuela (Bolivarian Republic of));

127.6. Accelerate capacity building in order to effectively implement the NHRAP (Zimbabwe);

127.7. Continue efforts to implement the National Action Plan for the protection and promotion and human rights (Bahrain);

127.8. Continue to work on implementing the accepted recommendations by the LLRC Reconciliation (Bahrain);

127.9. Expedite action to implement the agreed Action Plan in line with the spirit of the LLRC through a process inclusive of all people belonging to all ethnicity (Bangladesh);

127.10. Pursue its efforts to implement the National Plan of Action for the promotion and protection of human rights (Burkina Faso);

127.11. Disseminate the NHRAP amongst general population in local languages so as to ensure wider participation in the implementation process, thereby empowering claim holders in asserting and protecting their rights (Ethiopia);

127.12. Continue its efforts in launching the NHRAP (Iran (Islamic Republic of));

127.13. Steady implementation of the National Action Plan for the Promotion and Protection of Human Rights as well as the National Plan of Action to implement the recommendations of the Lessons Learnt and Reconciliation Commission (Japan);

127.14. Continue its efforts to follow-up on the implementation of the National Action Plan for the Promotion and Protection of Human Rights (Kuwait);

127.15. Continue its efforts of implementing the recommendations of the National Plan of Action (Maldives);

127.16. Continue to implement the National Action Plan for the Promotion and Protection of Human Rights (Syrian Arab Republic);

127.17. Persevere in implementing its Action Plan and ensure its wide dissemination among the local population, in all the official languages of the country (Morocco);

127.18. Complete the implementation of the National Action Plan for the promotion and Protection of Human Rights (Palestine);

127.19. Continue efforts to accelerate the pace of implementation of the National Plan of Action and the promotion of development, and support economic and social rights in all parts of the country (Qatar);

127.20. Strengthen cooperation between government agencies with Human Rights National Commission and civil society to coordinating, planning and implementing the National Human Rights Action Plan (Venezuela (Bolivarian Republic of));

127.21. Take all possible steps in strengthening the capacity of Government Agencies identified for the implementation of the recommendations of the LLRC Action Plan (Pakistan)¹ ;

127.22. Continue addressing accountability issues and implementation of the LLRC Action Plan as planned (Uganda)² ;

127.23. Continue its efforts to implement the LLRC's recommendations of the National Action Plan (Timor-Leste)³ ;

127.24. Continue progressing in the implementation of the recommendations of the Action Plan of the National Reconciliation Mechanism (Venezuela (Bolivarian Republic of))⁴ ;

127.25. Continue implementing the LLRC recommendations through the Action Plan (Malaysia)⁵ ;

127.26. Immediate implementation of recommendations of LLRC Action Plan including on accountability process, through Sri Lanka's National Plan of Action on Human Rights and other relevant mechanisms (Indonesia)⁶ ;

127.27. Facilitate the implementation of the recommendations of the LLRC Action Plan and provide necessary funds for its implementation (Iraq)⁷ ;

127.28. Inform the Human Rights Council as part of the reporting process outlined in the National Report, of implementation of LLRC Action Plan recommendations (Ireland)⁸ ;

127.29. Disseminate in different languages the National Action Plan for the Promotion and Protection of Human Rights (South Sudan);

127.30. Ensure adequate resources to the Human Rights National Commission to further improve its capacity, geographical scope and its mandate (Venezuela (Bolivarian Republic of));

- 127.31. Continue the efforts to strengthening the capacity building of national institutions in field of human rights promotion and protection (Angola);
- 127.32. Take all steps to strengthen and ensure the independence of the National Human Rights Commission (Germany);
- 127.33. Ensure structural and operational independence of the national human rights institution in accordance with the Paris Principles (Maldives);
- 127.34. Adopt necessary legal measures to ensure that the National Human Rights Commission of Sri Lanka is in line with Paris Principles (Mexico);
- 127.35. Continue to promote and protect human rights through education and institutional reforms (Myanmar);
- 127.36. Continue efforts to strengthen national human rights institutions (Nepal);
- 127.37. Continue the efforts at strengthening its national institutions for the promotion and protection of human rights and encourage awareness among its people of the importance of fairness and justice (Malaysia);
- 127.38. Strengthen the independence of institutions such as the Human Rights Commission of Sri Lanka, the Police Commission and Election Commission (Norway);
- 127.39. Recognizing that the operational independence of the National Human Rights Commission has been critical, take the necessary measures to further ensure its institutional independence (Republic of Korea);
- 127.40. Enable additional resources to strengthen the Human Rights Commission (South Sudan);
- 127.41. Take action to facilitate greater participation by citizens and civil society in helping to implement human rights action plans (Australia);
- 127.42. Consolidate its reconciliation efforts to ensure that durable peace prevails in the country (Zimbabwe);
- 127.43. Continue its engagement with the relevant UN agencies in achieving the overall objective of the UN Development Assistance Framework for 2013- 2017 (Algeria);
- 127.44. Strengthen the cooperation with the relevant human rights stakeholders including the Human Rights Council (Angola);
- 127.45. Continue its efforts in advancing human rights and freedoms in the country and especially in the conflict-affected areas (Azerbaijan);
- 127.46. Intensify its actions for a greater enjoyment by the people of fundamental human rights (Benin);

127.47. Maintain and strengthen cooperation with various United Nations mechanisms, as well as financial institutions, in order to overcome the challenges faced in the peace and national reconciliation process (Benin);

127.48. Continue assisting former-combatants through livelihood schemes (Cuba); 127.49. Share with the international community its experiences in rehabilitating and reintegrating former LTTE child soldiers (Cuba);

127.50. Continue to prioritize the rehabilitation and reintegration of former child soldiers (Italy);

127.51. Implement the announced voluntary commitments and the UPR accepted recommendations (Egypt);

127.52. Maintain its efforts in upholding national dialogue that would bring the country to a lasting peace, as well as its commitment to continue guaranteeing full exercise of human rights to all its citizens (Nicaragua);

127.53. Continue its efforts to complete the implementation of the voluntary pledges (Philippines);

127.54. Ensure on-going protective measures to maintain and advance the levels of human rights developments (South Sudan);

127.55. Strengthen further the capacity within the public institutions to enable the effective implementation of the trilingual policy (Ethiopia);

127.56. Promote national reconciliation taking into account and protecting Sri Lanka's ethnic and religious pluralism, ensuring that all religious denominations are granted equal treatment and enjoy their fundamental rights (Holy See);

127.57. Step up efforts to protect freedom of religion and promote interreligious dialogue as a tool to foster tolerance and peaceful-coexistence (Italy);

127.58. Take continuous measures to secure social infrastructure and means of livelihood at resettlement sites as this is expected to become even more vital (Japan);

127.59. Pursue the process of reconciliation and consolidate the peace building measures embarked on since the end of the conflict (Lebanon);

127.60. Continue and provide greater cooperation to the Working Group on Enforced or Involuntary Disappearances to accomplish its work (Ecuador);

127.61. Provide training and promote capacity building among its institutions to guarantee the effective application of the Women's Charter (Venezuela (Bolivarian Republic of));

127.62. Intensify its policies and programs undertaken to ensure the protection of women and children (Algeria);

127.63. Ensure women's participation in the post-conflict, reconstruction and peace building process (Finland);

127.64. Adopt appropriate and concrete measures to prevent the disadvantageous and unequal status of women and girls (Rwanda);

- 127.65. Encourage women's participation in the public life of the country (South Sudan);
- 127.66. Adopt necessary measures to ensure that gender equality is a legal and practical reality, combating particularly gender violence (Spain);
- 127.67. Increase its endeavors in promotion of equity in economic development, poverty eradication, eliminating regional disparities, and guaranteeing equality of opportunity for all Sri Lanka citizens (Iran (Islamic Republic of));
- 127.68. Criminalize all forms of violence against women and hold the perpetrators of such violence accountable (South Africa);
- 127.69. Carry on its measures in the implementation of the act on Prevention of Domestic Violence as a means to improve and protect the rights of women (Iran (Islamic Republic of));
- 127.70. Increase its efforts on strengthening protection of children's rights in such areas as child labour, domestic violence, trafficking and sexual exploitation (Iran (Islamic Republic of));
- 127.71. Formulate a comprehensive national strategy for the protection of the rights of children, with a view to ensuring compliance with the Convention on the Rights of the Child, following the review of national laws (South Africa);
- 127.72. Take measures to guarantee full protection of children's human rights by rehabilitating the ex-combatants and eliminating and reducing, among others, child trafficking, child sexual abuse and violence against children (Holy See);
- 127.73. Work on the elimination of the causes of minor's recruitment by armed groups and guarantee full rehabilitation, social reintegration and school reintegration of those children who participated or were affected by the conflict, including those who had to be accommodated in internal displaced camps and to take into account the linguistic, cultural, and religious diversity in Sri Lanka (Uruguay);
- 127.74. Consider incorporating the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the "Bangkok Rules" as part of its work on the treatment of prisoners (Thailand);
- 127.75. Strengthen efforts to investigate allegations of serious violations of international humanitarian law and the international human rights during the conflict and to hold those responsible to account (Ukraine);
- 127.76. Fully and transparently investigate alleged grave breaches of international humanitarian law during the conflict (United Kingdom of Great Britain and Northern Ireland); 127.77. Pursue its efforts to fight against impunity for serious human rights violations committed during the internal armed conflict (Argentina);
- 127.78. Take the necessary measures to bring into justice and prosecute perpetrators of violations of the international human rights law and humanitarian Law (Chile);
- 127.79. Take the necessary steps to ensure that all detainees are afforded a fair trial within a reasonable period (Ireland);

- 127.80. Continue human rights education for police and security forces to ensure better protection and maintenance of human rights standards (Democratic People's Republic of Korea);
- 127.81. Design training programs on human rights for police and security forces, to guarantee better protection of human rights standards (Oman);
- 127.82. Continue to carry out the policy aimed at improving the judicial system, reforming law enforcement bodies and decreasing the level of crime and corruption (Russian Federation);
- 127.83. Work on building the capacity of law enforcement officials in the area of human rights and provide them with the necessary education to guarantee the best standards in this regard (Sudan);
- 127.84. Continue its efforts in enhancing the rule of law to ensure long-term stability and sustainable development (Singapore);
- 127.85. Carry out an independent and credible investigation on the allegations of violations of human rights and international humanitarian law (Switzerland);
- 127.86. Continue human rights education for police and security forces aiming at better protection and preservation of human rights principles (Syrian Arab Republic);
- 127.87. Strengthen its efforts to integrate human rights and peace education in the school curricula (Djibouti);
- 127.88. Redress housing shortage by adopting a national strategy and a plan of action (Djibouti);
- 127.89. Continue to improve accessibility to education, especially in the post conflict and underdeveloped areas (Singapore);
- 127.90. Continue its efforts to promote access by persons with disabilities to the labour market by strengthening the system of job reserve for persons with disabilities (Djibouti);
- 127.91. Develop a comprehensive policy with regard to all aspects of internal displacement (Azerbaijan);
- 127.92. Intensify its efforts to ensure the return of displaced persons to their places of origin and compensated them whenever return is not possible (Chile);
- 127.93. Continue providing assistance to IDP returnees in particular with housing, livelihoods and economic empowerment (Cuba);
- 127.94. Ensure the protection of IDP's rights to voluntary and safe return to adequate restitution by, inter alia, putting in place and implementing long-term housing and property restitution policies that comply with international standards (Finland);
- 127.95. Ensure legal ownership and return or restitution of houses and lands to internally displaced persons, according to international standards (Holy See); 127.96. Strengthen efforts to implement the recommendations of the National Reconciliation Committee and work towards the repatriation of the internally displaced affected by the war to their cities and villages, and to guarantee the means of stability for them (Sudan);

127.97. Invest more resources towards a better service delivery mechanism that will also ensure that the remaining internally displaced citizens return safely to their territories (Swaziland);

127.98. Continue the resettlement of all internally displaced persons as a result of the conflict and guarantee the transfer or compensate those people who cannot return to their places of origin (Syrian Arab Republic);

127.99. Continue measures underway to address land issues, including amending the Prescription Ordinance, whereby displaced landowners will be able to defeat the adverse claims based on the running of time (Bhutan);

127.100. Continue action towards the alleviation of poverty (Bangladesh);

127.101. Continue its efforts in reducing poverty (Saudi Arabia);

127.102. Redouble its efforts in fighting poverty with a view to maintain the level of development achieved so far and contribute to attain the MDGs (Morocco);

127.103. Further improve the living standard of the people by reducing poverty and economic disparity (Myanmar);

127.104. Continue efforts in enhancing the welfare of all segments of society and their rights based on national context and characteristics (Nepal);

127.105. Continue with its plans to enhance economic development in all regions of Sri Lanka (Saudi Arabia);

127.106. Continue working to achieve all the Millennium Development Goals (Bolivia (Plurinational State of));

127.107. Remain committed to the sustainable economic and social development, further promote national reconciliation, and achieve stability and development in the country (China);

127.108. Ensure on-going social welfare and protection measures to ensure the maintenance of levels of human development already achieved and realization of the Millennium Development Goals (Democratic People's Republic of Korea);

127.109. Attain the remains of the Millennium Development Goals (Kuwait);

127.110. Take steps to protect people from acts of terrorism, through domestic legislation (Kazakhstan);

128. The recommendations below did not enjoy the support of Sri Lanka:

128.1. Examine the possibility of ratifying OP-CAT and the Rome Statute (Tunisia);

128.2. Accede to the Rome Statute of the International Criminal Court (ICC) and draft a law on cooperation between the State and the Court (Uruguay);

128.3. Accede to the Rome Statute of the International Criminal Court (Costa Rica, Estonia);

- 128.4. Ratify the Rome Statute of the International Criminal Court and fully align its legislation with all the obligations under the Rome Statute, including incorporating the Rome Statute definition of crimes and general principles, as well as adopting provisions enabling cooperation with the Court (Latvia);
- 128.5. Accede to the Rome Statute of the International Criminal Court, including accession to its Agreement on Privileges and Immunities (Slovakia);
- 128.6. Ratify the Rome Statute of the ICC as well as OP-CAT and establish a National Torture Prevention Mechanism (Austria);
- 128.7. Ratify the OP-CAT (Brazil); 128.8. Ratify at the earliest the OP-CAT (Maldives);
- 128.9. Accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Czech Republic);
- 128.10. Ratify the Second Optional Protocol to ICCPR (Turkey);
- 128.11. Continue its efforts to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);
- 128.12. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Belgium, Iraq)
- 128.13. Accede to the International Convention for the Protection of All Persons from Enforced Disappearance (France);
- 128.14. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Rights of Persons with Disabilities and the Statute of the International Criminal Court (Spain);
- 128.15. Sign the International Convention for the Protection of All Persons from Enforced Disappearance (Sweden);
- 128.16. Fully incorporate the Convention on the Elimination of Discrimination against Women into its domestic system (Slovenia);
- 128.17. Accept Articles 76 and 77 of the ICRMW (Philippines);
- 128.18. Consider ratifying ILO Convention 189 (Philippines);
- 128.19. Consider the possibility of abolishing the death penalty from its legal framework (Argentina);
- 128.20. Consider the definite abolishment of the death penalty in its internal legislation and accede (Ecuador);
- 128.21. Abolish definitely death penalty (Spain);
- 128.22. Seriously consider the possibility to abolish capital punishment (Italy);
- 128.23. Take immediate steps towards the abolition of the death penalty in law (New Zealand);

- 128.24. Decriminalize consenting homosexual relationships between persons over the age of consent by repealing Section 365A of the penal code (Canada);
- 128.25. Adopt the draft bill on witness and victim protection (Germany);
- 128.26. Adopt legislation on appointments that would ensure the independence of the Human Rights Commission (New Zealand);
- 128.27. Enact the legislation to ensure the Right to Information and bring it in line with international human rights standards (Norway);
- 128.28. Enact urgent legislative amendments to the Penal Code to ensure that the rights of women from all religious and ethnic communities are safeguarded (New Zealand);
- 128.29. Fully implement the recommendations of the LLRC, in particular steps to ensure independent and effective investigations into all allegations of serious human rights violations, in the context of Sri Lanka's civil war and its aftermath (Austria);
- 128.30. Rapidly implement the recommendations of the Lessons Learnt and Reconciliation Commission (France);
- 128.31. Continue implementing the recommendations of the LLRC report and the report of the Panel of Expert in accordance with the Human Rights Council Resolution 19/2 (Germany);
- 128.32. Accelerate the process of putting into practice its National Action Plan for the promotion and protection of human rights launched in 2011, and its Action Plan for the implementation of the recommendations of the Commission of Inquiry and Reconciliation adopted in July 2012, and fully cooperate with the UN mechanisms in order to rapidly turn the page on the atrocities of the civil war (Tunisia);
- 128.33. Implement the constructive recommendations of the LLRC, including the removal of the military from civilian functions, creation of mechanisms to address cases of the missing and detained, issuance of death certificates, land reform; devolution of power; and disarming paramilitaries (United States of America)
- 128.34. Ensure the concrete implementation of the report of the Lessons Learnt and Reconciliation Commission and the National Strategy as envisaged by the Plan of Action (Belgium);
- 128.35. Initiate an inclusive dialogue which would guarantee minority representatives a fair joint-decision power on the basis of the four previous proposals (APRC Expert Majority Report, All Party Representative Committee Report, Proposals for Constitutional Reforms, and Mangala Report) (Switzerland);
- 128.36. Closely cooperate with the international community in implementing the recommendations by the LLRC and the National Action Plan for the Promotion and Protection of Human Rights in the context of promoting reconciliation and accountability (Republic of Korea);
- 128.37. Seek assistance of the international community, including relevant experiences, for the implementation of the Lessons Learnt and Reconciliation Commission recommendations (Botswana);

- 128.38. Take advantage fully and effectively from the technical assistance provided by the international community in the field of training and capacity building of national institutions on human rights (Qatar);
- 128.39. Guarantee access to the North and the East of the country to international and local humanitarian organizations specialized on family tracing and reunification programs (Uruguay);
- 128.40. Expedite implementation of reconciliation measures in the North. This would include removing oversight of humanitarian and NGO activities from the purview of Ministry of Defence to a civilian body, reducing the intrusiveness of military presence on civilian life in the North and setting a specific date for free and fair Northern Provincial Council elections (Canada);
- 128.41. Strengthen the capacities of its National Human Rights Commission, make it more independent and bring it in conformity with the Paris Principles (Tunisia);
- 128.42. Adopt a national policy to provide human rights defenders with protection and ensure investigation and punishment of threats or attacks against them (Czech Republic);
- 128.43. Fully cooperate with United Nations Human Rights mechanisms (Burkina Faso);
- 128.44. Continue its constructive engagement and cooperation with the international human rights mechanism, including through technical cooperation (Indonesia);
- 128.45. Intensify its cooperation with the Working Group on Enforced and Involuntary Disappearances to establish the fate of those who may have not been accounted for at the end of the armed conflict (Timor-Leste);
- 128.46. Invite the Working Group on Enforced or Involuntary Disappearances (France, Uruguay);
- 128.47. Continue its constructive engagement with the United Nations Special Procedures, including the Working Group on Enforced or Involuntary Disappearances, by inviting the Working Group to visit the country (Brazil);
- 128.48. Accept the Working Group on Enforced or Involuntary Disappearances request for visit (Chile);
- 128.49. Ensure a climate in which all citizens are able to freely express their opinions and beliefs, without fear of reprisal or retribution and invite the Special Rapporteur on freedom of opinion and expression to visit (United Kingdom of Great Britain and Northern Ireland);
- 128.50. Extend a standing invitation to the United Nations Special Rapporteurs and normalize its relations and cooperation with United Nations Human Rights mechanisms (Belgium);
- 128.51. Step up its cooperation with the Special Procedures of the Human Rights Council by responding positively to the pending visit requests of the Special Procedures mandate holders and eventually consider extending a standing invitation to all the Special Procedures mandate holders of the Human Rights Council (Latvia);
- 128.52. Further strengthen cooperation with the UN human rights mechanisms, particularly Special Procedures and try to respond in a timely manner to the questionnaires sent by the Special Procedures (Kazakhstan);

- 128.53. Strengthen the measures to eliminate all discriminatory treatment based on sexual orientation or gender identity (Argentina);
- 128.54. Take further steps to ensure more participation of Sri Lankan Muslims in the reconciliation process and national efforts of economic, social, and cultural integration (Egypt);
- 128.55. Take concrete measures in implementing the 30 percent quota for women in the nomination lists at national, provincial and local elections as pledged in the National Human Rights Action Plan (Norway);
- 128.56. Continue to focus on establishing and strengthening institutions of governance with a view to contributing towards adequate protection of human rights and fundamental freedoms for all, provisions of adequate remedies where violations occur, and zero tolerance for impunity (South Africa);
- 128.57. Create a reliable investigation commission consisting of professional and independent investigators to identify, arrest and prosecute the perpetrators of the Muttur murders (France);
- 128.58. Create an independent mechanism to look into the issue of disappeared persons with its own unique database (France);
- 128.59. Publish the names and places of detention of all the imprisoned persons (France);
- 128.60. Take action to reduce and eliminate all cases of abuse, torture or mistreatment by police and security forces (Australia);
- 128.61. Adopt further measures to prevent torture and ill-treatment in particular in prison and detention centres (Czech Republic);
- 128.62. Establish an effective independent monitoring mechanism to investigate complaints of torture (Poland);
- 128.63. Carry out independent investigations into possible cases of torture as well as reprisals related to cooperation with international human rights bodies (Poland);
- 128.64. Determine the whereabouts of children whose fate is unknown (Uruguay);
- 128.65. Take action to reduce and eliminate all cases of abductions and disappearances (Australia);
- 128.66. Establish immediately a publicly accessible central register for all persons missing or in custody (Germany);
- 128.67. Establish a National Mechanism, as requested in the report of the Lessons Learnt and Reconciliation Commission, in order to shed light on the fate of all disappeared persons and detained persons and to cooperate with the ICRC and the Working Group on Enforced or Involuntary Disappearance (Switzerland);
- 128.68. Maintain a public and accessible list of all detainees in the country, including those that were detained for incidents related with the armed conflict (Mexico);

128.69. Strengthen relevant legislations and administrative measures to ensure transparency and non-impunity in the judicial process on all alleged enforced disappearance cases including investigation , prosecution and reparation , which would help contribute towards its national reconciliation (Thailand);

128.70. End impunity for human rights violations and fulfil legal obligations regarding accountability (United States of America);

128.71. Take all necessary steps to fully commit to end impunity for international crimes by acceding to the Rome Statute of the ICC and to fully align its national legislation with all obligations under the Rome Statute (Sweden);

128.72. Hold accountable all persons who are liable for the violation of human rights and humanitarian law (Estonia);

128.73. Investigate and prosecute those responsible for abductions and forced disappearances and increase awareness of the State security services about these offences (Belgium);

128.74. Make every effort to ensure that those responsible for crimes against children, and in particularly concerning the recruitment of child soldiers, are brought to justice as soon as possible (Sweden);

128.75. Implement the recommendations of the UN Panel of Experts on accountability, bringing all those allegedly responsible for violations of international human rights law and international humanitarian law to justice in compliance with international standards (Slovakia);

128.76. Improve detention conditions and respect for judicial guarantees for inmates, fighting against torture and inhuman and degrading treatment in detention centres in line with commitments taken during the May 2008 UPR session (Spain);

128.77. Strengthen judicial independence by ending government interference with the judicial process, protecting members of the judiciary from attacks and restoring a fair, independent and transparent mechanism (United States of America);

128.78. Take all necessary measures to ensure the independence and the integrity of the judiciary and oversight bodies (Poland); 128.79. Safeguard the independence of its judiciary (Slovakia);

128.80. Conduct impartial investigations and prosecutions against members of the security forces, regardless of rank, implicated in violations of human rights and international humanitarian law, including sexual violence (Denmark);

128.81. Grant due process rights to all detainees held in both military and police facilities, including those held in administrative detention; disclose all unofficial detention sites; and facilitate effective and independent monitoring of detainees (Denmark);

128.82. Allow the International Committee of the Red Cross unrestricted access to detention centres (Costa Rica);

128.83. Undertake measures that would allow citizens to have access to public information, in particular on alleged violations of human rights (Mexico);

128.84. Accelerate the improvement of the judicial, police, military and prison systems in line with international human rights standards and to investigate all allegations of extrajudicial, summary or arbitrary killings and enforced disappearances and follow-up according to justice requirements (Holy See);

128.85. Transfer NGO oversight to a civilian institution and protect freedom of expression (United States of America);

128.86. Adopt a National Policy on the protection of human rights defenders and journalists in order to prevent harassment and intimidation and to ensure effective investigation of such acts and prosecution of perpetrators (Austria);

128.87. Refrain from restricting access to and banning from websites and withdraw the Order of 5 November 2011 which requires news sites to be registered (Netherlands);

128.88. Desist from campaigns and threats against human rights defenders and ensure the investigation by an independent police commission into missing persons from this group, in line with the LLRC report recommendations on involuntary disappearances in a wider context (Netherlands);

128.89. Ensure that all human rights defenders, including individuals cooperating with UN HR mechanisms, are protected effectively from unjustified criminalization, harassment or intimidation and can perform freely their legitimate duties (Slovakia);

128.90. Take immediate steps to prevent attacks on the human rights defenders and media and take action to investigate such acts (Slovenia);

128.91. Increase efforts aiming to guarantee the right to freedom of religion and belief (Spain);

128.92. Continue to expand its social security coverage (South Africa);

128.93. Create a mechanism to ensure that all internally displaced persons, including 66,151 "Old IDPS" and further 37,123 living with host communities, receive a written statement detailing their entitlements and plans for return to their original homes (Canada);

128.94. Repeal Sections 9 (1) and 15 (A) (1) of the Prevention of Terrorism Act to ensure that detainees are held only in recognized places of detention, with regularized procedures and safeguards to protect detainees including access to legal representation and systematic notification to families of detainee whereabouts (Canada);

129. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole. **(Excerpts)**

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/188/71/PDF/G1218871.pdf?OpenElement>

**REPORT OF THE WORKING GROUP ON ENFORCED OR
INVOLUNTARY DISAPPEARANCES (WGEID)
E/CN.4/1998/43 – 12 January 1998**

Observations of the (WGEID) paragraphs 348 to 350 are very serious and until today the government of Sri Lanka has not considered them seriously.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/100/94/IMG/G9810094.pdf?OpenElement>

**Report of the Working Group on Enforced or Involuntary
Disappearances (WGEID), Visit to Sri Lanka**

E/CN.4/2000/64/Add.1 – 21 December 1999

The Working Group was represented by one of its members, Mr. Manfred Nowak, and by its Acting Secretary. The visit took place from 25 to 29 October 1999.

3. The Working Group visited Sri Lanka in 1991 and 1992. Following those visits, the Working Group formulated a number of recommendations to the Government of Sri Lanka concerning past cases of disappearances and measures to prevent disappearances from occurring in the future. At the time of its first visit in 1991, the Working Group had transmitted 4,932 cases of enforced or involuntary disappearances to the Government of Sri Lanka.

4. The first visit to Sri Lanka took place from 7 to 17 October 1991 and was carried out by three members of the Working Group, Mr. Agha Hilaly, Mr. Jonas Foli and Mr. Toine van Dongen. Their report (E/CN.4/1992/18/Add.1) was presented to the Commission on Human Rights at its forty-eighth session. The same members of the Working Group undertook a second visit from 5 to 15 October 1992 for the purpose, inter alia, of evaluating the progress of the implementation of its recommendations formulated in 1991. Their report was submitted to the Commission at its fiftieth session (E/CN.4/1993/25/Add.1).

III. CONCLUSIONS AND RECOMMENDATIONS

55. The Working Group appreciates the variety of measures which the present and previous Governments of Sri Lanka have taken, in compliance with the Group's earlier recommendations, for the purpose of clarifying cases of disappearances which occurred during the former Government, of providing justice to the families of disappeared persons, and of preventing future disappearances. In particular, the Group wishes to stress the efforts undertaken, notwithstanding the ongoing severe conflict with LTTE in the north and east of the country, by the four Presidential Commissions of Inquiry into Involuntary Removal or Disappearance, by the Board of Investigation into Disappearances in Jaffna Peninsula established by the Secretary of Defence, by the former Human Rights Task Force and its successor, the Human Rights Commission of Sri Lanka established in pursuance of Parliamentary Act No. 21 of 1996, by the Rehabilitation of Persons, Properties and Industries Authority (REPPIA), the Attorney-General and other authorities.

56. With respect to disappearances which occurred during the late 1980s and early 1990s, in particular the JVP-related cases of 1989 and 1990 in the south of the country, almost 40,000 complaints have been investigated and more than 20,000 cases of enforced disappearances have been established by the four Presidential Commissions of Inquiry. On the basis of special temporary legislation, more than 15,000 death certificates have been issued and compensation has been paid to more than 12,000 families of disappeared persons. In almost 4,000 cases, suspected perpetrators were identified, criminal proceedings were instituted against some 500 members of the police and the armed forces, and some of the accused have been convicted and sentenced by the courts. Others have been subjected to disciplinary sanctions.

57. With respect to disappearances which occurred during the present Government, in particular the LTTE-related cases in 1996 in the Jaffna Peninsula, more than 2,600 complaints have been investigated by the Board of Investigation of the Ministry of Defence, more than 200 cases of disappearances were clarified and some exhumations were carried out. In addition, the Human Rights Commission investigated a considerable number of allegations of disappearances and traced many missing persons.

58. In the field of prevention, laws and regulations were enacted which enable the Human Rights Commission to visit police stations and detention centres of the armed forces and which require law enforcement officers to inform the Human Rights Commission within 48 hours of every arrest and detention under the Prevention of Terrorism Act and the Emergency Regulations, to issue receipts in acknowledgement of arrests and to respect other safeguards against arbitrary arrest and detention. In addition, training courses on human rights and humanitarian law were provided by the army and the Human Rights Commission.

59. The Working Group also welcomes the recent establishment of a special Unit in the Rehabilitation of Persons, Properties and Industries Authority (REPPIA) with the specific task of establishing a database on disappearances in response to the cases transmitted by the Working Group to the Government of Sri Lanka and with the explicit aim of clarifying these cases on the basis of presumption of death, the payment of compensation to the families and other means of establishing the fate and whereabouts of disappeared persons. This Unit claims that it has clarified 4,010 of the roughly 12,000 cases submitted by the Working Group (2,761 of which on the basis of death certificates) but the Working Group has not yet been in a position to examine this information on a case-by-case basis.

60. Notwithstanding all these encouraging facts, the Working Group wishes to stress that Sri Lanka remains the country with the second largest number of non-clarified cases of disappearances on its list. Many of the missing persons allegedly traced by the Human Rights Commission or other authorities seem not to correspond to the disappeared persons submitted by the Working Group. Although a considerable number of criminal investigations have been initiated in relation to disappearances which occurred some ten years ago, only very few of the suspected perpetrators have actually been convicted, and some of them have even been promoted. Many families, therefore, rightly feel that justice has not yet been done to them.

61. Non-governmental organizations also rightly claim that the present Government has not done enough to investigate disappearances which occurred after it took office and to prevent disappearances in the future. Whereas disappearances under the former Government were investigated by four independent Presidential Commissions of Inquiry whose findings were in principle made available to the public, the more recent cases were only investigated by a non-independent and confidential Board within the Ministry of Defence. The Human Rights Commission, which in principle could play an important role in investigating and preventing disappearances, seems to lack the necessary authority, political and financial support to carry out this task in an efficient manner.

62. As far as prevention is concerned, many of the earlier recommendations of the Working Group have not been implemented. First of all, the Prevention of Terrorism Act and the Emergency Regulations, which are rightly considered as the main reason for the continuation, albeit on a much less severe level, of enforced disappearances, have not been abolished or brought into line with internationally accepted standards of human rights. Secondly, no central register of detainees was set up. Thirdly, the safeguards for the prevention of arbitrary arrests, and in particular the legal obligation to immediately inform the Human Rights Commission of arrests and detentions, seem not to be widely known by the law enforcement bodies and are often disregarded in practice.

63. In conclusion, the Working Group addresses the following recommendations to the Government of Sri Lanka:

(a) The Government should establish an independent body with the task of investigating all cases of disappearance which occurred since 1995 and identifying the perpetrators;

(b) The Government should speed up its efforts to bring the perpetrators of enforced disappearances, whether committed under the former or the present Government, to justice. The Attorney-General or another independent authority should be empowered to investigate and indict suspected perpetrators of enforced disappearances irrespective of the outcome of investigations by the police;

(c) The act of enforced disappearance should be made an independent offence under the criminal law of Sri Lanka punishable by appropriate penalties as stipulated in article 4 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance;

(d) The Prevention of Terrorism Act and the Emergency Regulations currently in force should be abolished or otherwise brought into line with internationally accepted standards of personal liberty, due process of law and humane treatment of prisoners;

(e) Any person deprived of liberty should be held only in an officially recognized place of detention as stipulated in article 10 (1) of the Declaration. All unofficial places of detention, in particular those established by paramilitary organizations fighting alongside the Security Forces, such as PLOTE and TELO, should immediately be dissolved;

(f) The Government should set up a central register of detainees as provided for in article 10 (3) of the Declaration. Since the Human Rights Commission needs to be informed immediately of every arrest and detention under the Prevention of Terrorism Act and the Emergency Regulations, such a central computerized register of detainees might be established at its headquarters. Such a solution would, however, require a substantial increase in the powers and resources of the Commission;

(g) All families of disappeared persons should receive the same amount of compensation. The differentiation between public civil servants and others seems discriminatory and should, therefore, be abolished. Compensation should not be made dependent on the confirmation as "proven" by a Commission of Inquiry. In addition to these compensations, the families of disappeared persons should be supported, according to their needs, by other means, such as low interest loan schemes or scholarships for the children;

(h) The procedure for issuing death certificates in cases of disappearances should be applied in an equal and non-discriminatory manner to all families;

(i) The prohibition of enforced disappearance should be included as a fundamental right in the Constitution of Sri Lanka to which the remedy of a direct human rights complaint to the Supreme Court under article 13 of the Constitution is applied irrespective of the fact whether the disappeared person is presumed to be alive or dead;

(j) The Government should instruct the special unit in REPPIA to respond to the cases submitted by the Working Group on a case-by-case basis, in order to enable the Working Group to solve the cases which were reportedly clarified. **(Excerpts)**

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G99/164/79/PDF/G9916479.pdf?OpenElement>

REPORT OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (WGEID) A/HRC/13/31 – 21 December 2009

Total cases transmitted, clarified and outstanding

521. Since its establishment, the Working Group has transmitted 12,226 cases to the Government; of those, 40 cases have been clarified on the basis of information provided by sources, 6,535 cases have been clarified on the basis of information provided by the Government, and 5,651 remain outstanding. Observations

522. The Working Group remains gravely concerned at the number of reported cases of enforced disappearances in the country. The Working Group is alarmed that 100 cases were reported during 2009.

523. The Government of Sri Lanka has communicated extensively with the Working Group but many cases remain outstanding. Therefore, taking into consideration the change of circumstances in Sri Lanka, the Working Group would like to reiterate its request to conduct a mission to Sri Lanka as soon as possible.

524. The Working Group regrets that the Government has yet to report on the further implementation of the recommendations emanating from the Working Group visits in 1991, 1992 and 1999.

525. The Working Group reminds the Government of Sri Lanka of its obligations under the Declaration to "take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction" (art. 3). 526. The Working Group calls upon the Government to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of the Committee under articles 31 and 32. **(Excerpts)**

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/177/04/PDF/G0917704.pdf?OpenElement>

REPORT OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (WGEID)

A/HRC/19/58/Rev.1 – 2 March 2012

Standard procedure

493. The Working Group transmitted 59 newly-reported cases to the Government. The cases concerned Messrs. Jagajeesan Arulbaskaran; Selvachandran Athinarayanapillai; Rajeevkanth Chandrasegaram; Saviriyani Milroy Coonghe; Soosaiappu Victor Croos; James Kumar Ronald Fernando; Govindarasa Govindarasa Kirupaharan; Mahalingam Janarthan; Christy Milan Joseph; Thevadas Joseph Thevadas; K. P. Sureshkumar; Raveendra Premaratna; Vinoja Kalimuththu; Kavinthan Kanagalingam; Ramakrishna Kandasamy; Sivaranjana Krishnakumar; Nirusan Mahenthiram; Balasundaram Manuel; Dharmaraj Marathan; Dineshkumar Marathan; Suthasuran Markkandu; Ruban Mathiyas; Tharmakulasingham Mauran; Uthayakumar Muruga Moorthy Uthayakumar; Nathikkumar Nagalingam; Umakanthan Nagarasa; Yogaratnam Naren; Anthanan Paranthaman; Tharshika Pathmanathan; Sivapalan Perumal; Gurumoorthy Ponnampalam; Thangamuttu Ponnampalam; Sivaratnam Premnath; Logeswaran Rajenthiran; Manokaran Ramesh Kumar; I.A. Ranjithkumar; Punitharuban Rasaiyah; Subajini Rasamuththu; Seenithamby Sanithirasekeran; Rajenthiran Segar; Jeyakanthan Sellamuthu; Dineshkumar Shanmugavel; Jeevachandran Sinhaharaya; Richard Emmanuel Sinhaharaya; Kanagalingam Sinnathamby; Sasitharan Sinnathurai; Kavithasan Sivanu; Subarajtha Suntharalingam; Vijayabaskaran Thanapalasingam; Rajakulasingam Thangarasa; Thangarasa-Ragu Thangarasa-Ragu; Jeykumar Tharmalingam; Kalaisudar Thayasri; Santhamary Thayasri; Swaminathan Thayasri; Anthony Godwin Theenu; Rajagopal Veeran; Ganeswaran Veluchchami; and Yogarasa Yoganatham. The majority of these persons allegedly disappeared in 2009, in Mullaitivu.

Prompt intervention

494. On 23 August 2011, the Working Group, together with three other Special Procedures mechanisms, sent a prompt intervention letter to the Government regarding alleged threats against individuals, including relatives, related to the case of Mr. Pattani Razeek, a human rights defender who was reportedly disappeared and killed. General allegations Summary of the general allegation

495. Information was submitted by sources concerning obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance in Sri Lanka during the last phase of the war against the Liberation Tigers of Tamil Eelam from 2006 until 2009. This information was transmitted to the Government on 4 May 2011, after the Working Group's ninety-third session.

496. The source informed the Working Group about serious allegations of human rights violations in the Northern Province of Sri Lanka, in particular the Mannar district. Allegations were that enforced or involuntary disappearances, as well as other serious human rights violations, including arbitrary detentions, torture, extrajudicial killings, rapes and other forms of sexual violence, discrimination based on religion or belief and ethnic origin, as well as serious limitations to the exercise of other civil and political and economic, social and cultural rights, occurred.

497. According to sources, more than 500 persons disappeared in the Jaffna district between January and August 2007. Similarly, information was received that approximately 100 people disappeared in the Mannar district between 2008 and 2009.

498. Allegations were made about the absence of impartial investigations, prosecution, trial and sentence of alleged perpetrators of human rights violations. According to the sources, existing mechanisms such as police and existing human rights commissions, among others, have proved unable to assist the families of the victims of enforced or involuntary disappearances in their search for their beloved ones. It was alleged that families did not have access to relevant information and that there was no centralised list of detainees in each detention centre to which relatives could refer.

499. Sources also reported that there was a lack of substantial progress on the several reconciliation initiatives that were set, which have allegedly failed to provide the victims with answers on the fate and whereabouts of the disappeared and to provide accountability of alleged perpetrators of human rights violations; among other obligations incumbent upon States where enforced or involuntary disappearances have occurred. In this connection, it was alleged that few had been prosecuted, subjected to trial and sentenced, despite the almost three years that have elapsed between the end of the war against the Liberation Tigers of Tamil Eelam.

500. Sources alleged that there was a lack of transparency in the practice of various commissions of inquiry, the lack of public character of their reports and the denial of their access to the victims, families and civil society.

501. No response was received from the Government regarding this general allegation. Information from the Government

502. On 7 July and 2 September 2009, the Government submitted two communications in which it provided two lists with a total of 459 possible duplicate cases. During its eighty-ninth session, the Working Group reviewed 171 cases and concluded that they were duplicates and therefore they were deleted from its records. During its ninety-fifth session, the Working Group continued reviewing these cases and concluded that 41 were also duplicates and decided to also delete them from its records. For the remaining cases, the Working Group continues to check the original submissions.

503. No communications concerning outstanding cases were received during the reporting period.

Total cases transmitted, clarified and outstanding

505. Since its establishment, the Working Group has transmitted 12,460 cases to the Government; of those, 40 cases have been clarified on the basis of information provided by the source, 6,535 cases have been clarified on the basis of information provided by the Government, 214 cases were found to be duplications and were therefore deleted, and 5,671 remain outstanding. **(Excerpts)**
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/112/14/PDF/G1211214.pdf?OpenElement>

REPORT OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES ON ITS MISSION TO SRI LANKA

(visit to Sri Lanka from 9 to 18 November 2015.)
A/HRC/33/51/Add.2 - 8 July 2016

VIII. Recommendations

General

77. The Working Group recommends that the Government of Sri Lanka:

(a) Take decisive actions and give clear orders at the highest level to stop surveillance, threats, intimidation, harassment — including sexual harassment — and abuses against relatives of disappeared persons and those acting on their behalf;

(b) Guarantee the safety of those who met with the Working Group and protect them against any form of reprisal, threat or intimidation;

(c) Instruct all public officials that those actions will not be tolerated and will be punished accordingly.

Legislation

78. The Working Group recommends that the Government of Sri Lanka:

(a) Recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction, in accordance with article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance;

(b) Ratify:

(i) The Rome Statute of the International Criminal Court;

(ii) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(iii) The Protocols additional to the Geneva Conventions of 12 August 1949;

(c) Adopt comprehensive legislation on enforced disappearances without delay and ensure that it provides for:

(i) A specific procedure for finding a disappeared person;

(ii) A national register of forcibly disappeared persons; A/HRC/33/51/Add.2 18 GE.16-11658

(iii) Full access to this register by relatives of the disappeared, lawyers, human rights defenders and any other concerned person;

- (iv) The declaration of absence in respect of enforced disappearance;
 - (v) Full protection and support to the relatives of disappeared persons and to witnesses;
 - (vi) The right to full compensation;
 - (vii) The explicit definition of enforced disappearance as a continuous crime to which amnesties, immunities or the statute of limitations cannot be applied, notably in the context of crimes against humanity;
 - (viii) The rights of victims to pursue truth and justice even if a certificate of absence is issued and coverage of all disappearances regardless of the time of their occurrence;
 - (ix) Details about the resources available to families upon the issuance of a certificate of absence;
- (d) Swiftly make enforced disappearance a separate offence consistent with the definition contained in the Declaration on the Protection of All Persons from Enforced Disappearance and punishable by appropriate penalties that take into account its extreme seriousness. The offence should also cover the various modes of criminal liability, including committing, ordering, soliciting or inducing the commission of, attempting to commit, being an accomplice to or participating in an enforced disappearance. It should also expressly provide for the sanctioning of command or superior responsibility for such crime;
- (e) Immediately repeal the Prevention of Terrorism Act and replace it by legislation that is in conformity with the international obligations of the State;
- (f) Review the Assistance to and Protection of Victims of Crime and Witnesses Act of 2015 in order to incorporate better safeguards for the independence and effectiveness of the victim and witness protection programme in line with international standards. Revisions must include the establishment of a well-resourced and effective victim and witness protection programme outside the control and purview of the regular law enforcement apparatus. In addition, the Government should ensure the independence and integrity of those appointed to the Witness Protection Authority and that the police and all other personnel assigned to this programme are fully vetted;
- (g) Ensure that each and every existing and new complaint made about a missing person is properly registered and investigated by the police;
- (h) Ensure that the Attorney General's Department is able to operate independently and pursue prosecutions against any suspected perpetrators of disappearances, irrespective of military rank or official position.

Truth

79. The Working Group recommends that the Office of Missing Persons:
- (a) Adopt a victim-centred approach;

- (b) Be fully accessible to the families of disappeared persons;
- (c) Envisage procedures that are easily understandable and documents available in Sinhala, Tamil and English;
- (d) Be equipped with all material, financial and human resources necessary to carry out its huge task;
- (e) Have the capacity to subpoena information from any source and witnesses, to enter any State institution, and have free access to any State archive;
- (f) Have the technical capacity to conduct exhumations, including forensic expertise;
- (g) Provide psychosocial assistance to the relatives in all the stages of the search;
- (h) Be possibly integrated with an international component.

80. The Working Group recommends that the Government of Sri Lanka:

- (a) Ensure that documents, materials, physical remains or other elements uncovered by the Office of Missing Persons and that could potentially be used as evidence before a court of law are managed and preserved in such a way that respects a chain of custody and does not jeopardize their admissibility in a judicial process;
- (b) Immediately adopt a comprehensive policy to search for all of those who disappeared;
- (c) Carry out wide consultation with victims, victims associations and other civil society organizations to establish a new truth-seeking institution, in order to ensure that it adequately responds to victims' needs;
- (d) Consider seeking international assistance with regard to the design, establishment, functioning and follow-up of the new Commission for truth, justice, reconciliation and non-recurrence.

81. The Working Group recommends that the envisaged truth commission:

- (a) Be composed of independent and professional personnel of the highest moral authority and with extensive human rights experience based on a full and thorough vetting process;
- (b) Include staff from the civil society;
- (c) Be set up through a comprehensive consultative process with all stakeholders;
- (d) Be granted adequate human and financial resources as well as ample powers, including the power to summon current and former officials;
- (e) Have the capacity to subpoena information from any source and witness, enter any State institution and have free access to any State archive;

(f) Be equipped with the technical capacity, including forensic expertise, to conduct exhumations.

82. The Working Group also recommends that the Government of Sri Lanka:

(a) Transfer the cases of the Presidential Commission on Missing Persons to a credible and independent truth-seeking institution established in close consultation with the families of the disappeared; and ensure that those involved in the process of the search for truth were not involved in any way in the commission of past disappearances;

(b) Ensure that the relevant information generated through previous truth seeking mechanisms is adequately compiled and formally analysed as a starting point to determining the fate or whereabouts of the disappeared and supporting the investigation and prosecution of alleged perpetrators; make public and easily accessible all of the reports of previous truth-seeking mechanisms and commissions, including interim reports and other material that had been withheld;

(c) Establish institutional safeguards to make sure that the families of disappeared persons will not suffer any form of re victimization, including by ensuring they will not be requested to reiterate testimonies that they had already given;

(d) Be proactive in carrying out a proper investigation of existing mass graves and in identifying new ones;

(e) Examine, without undue delay, all locations of potential mass graves;

(f) Establish a professionally skilled special unit to probe into the locations of other possible mass graves, reinforce the forensic capacity of the judiciary and ensure that it has adequate resources, including for DNA testing and forensic anthropology and archaeology;

(g) Ensure the proper investigation of existing mass graves, proper preservation of the sites and protection of the chain of custody of the samples. With regard to the Matale mass grave, in particular, the investigation should be reopened and other samples should be sent for further analysis, in the light of the huge discrepancy relating to the dating of the inhumations between the reports currently available on the matter and in the light of the reported signs of torture and extrajudicial execution on some of the remains;

(h) Strengthen the capacity of the DNA laboratory in the Government Analyst's Department and ensure its functional and structural independence from security and law enforcement agencies;

(i) Consider requesting international support for forensic investigations and exhumations as well as for the ensuing investigations and prosecutions, which should be the responsibility of a transitional justice mechanism rather than of the Attorney General's Department;

(j) Immediately open archives, including military archives, relevant to cases of enforced disappearance in order to facilitate the localization of undiscovered gravesites and speed up the search for missing persons;

(k) Promulgate a law on access to information and develop a proper legislative framework on archives so as to guarantee full access to all information that could potentially lead to clarification in cases of disappeared persons;

(l) Develop a gender-sensitive policy and action plan to provide support and rehabilitation for families of disappeared persons, including specific measures to support families of disappeared persons whose death is confirmed through the new truth-seeking processes;

(m) Adopt a gender and child-rights perspective in all policies aimed at reparation, truth and justice, based on the standards developed by the Working Group in its general comments on children and enforced disappearances (see A/HRC/WGEID/98/1 and Corr.1) and on women affected by enforced disappearances (A/HRC/WGEID/98/2).

Justice

83. The Working Group recommends that the Government of Sri Lanka:

(a) Establish a judicial accountability mechanism that integrates international judges, prosecutors, lawyers and investigators; A/HRC/33/51/Add.2 GE.16-11658 21

(b) Guarantee that criminal investigations of enforced disappearances are conducted from the outset by a highly professional and specialized team of prosecutors;

(c) Ensure that the armed forces do not have a role nor can intervene in the investigation, prosecution and trial of these crimes;

(d) Ensure that the judicial accountability mechanism comprises all stages of the prosecution and judicial process and provide access and information to the families of disappeared persons;.

(e) Establish a process to vet all judicial and other officials of the envisaged judicial accountability mechanism in order to secure the professionalism, expertise, independence and impartiality of all those involved in the mechanism;

(f) Bring to trial all cases of enforced disappearance, regardless of the author and the time when they were committed;

(g) Ensure that prosecutors and courts have the capacity to handle all cases of enforced disappearance;

(h) Investigate the material and intellectual authors of such crimes, as well as those hierarchically accountable under the principle of command responsibility;

(i) Carry out all investigations, prosecutions and judicial proceedings in accordance with the principle of due diligence, taking into account the complexity of the enforced disappearances, the context in which they occurred and the patterns that explain why the events occurred, and ensure that there are no omissions in the gathering of evidence or in the development of lines of investigation;

- (j) Take all the measures necessary to investigate cases, try and prosecute perpetrators considering the systematic patterns that allowed the commission of serious human rights violations, including enforced disappearances;
- (k) Guarantee that the authorities in charge of the investigation have the jurisdictional, logistic and scientific resources necessary to collect and process evidence, and notably the power to access all documents and information relevant to the investigation, including on the possible locations of the victims;
- (l) Include in the judicial accountability mechanism trial and appeals chambers, specialized prosecution and defence units, proper units for victim support and witness protection and a professional and competent registry;
- (m) Victims and relatives should have extensive opportunities to participate in and be heard during the investigative and judicial proceedings — both with regard to the clarification of enforced disappearances and the punishment of those responsible — and in seeking fair compensation;
- (n) Facilitate recourse to the assistance of independent lawyers for the families of disappeared persons during criminal trials;
- (o) Adopt legislation to grant more powers to magistrates to ensure the effectiveness of habeas corpus. Magistrates should assume a proactive role in habeas corpus proceedings in order to adopt and carry out all the effective measures necessary to protect a person who allegedly disappeared and secure his or her appearance.

Reparations

84. The Working Group recommends that the Government of Sri Lanka:

- (a) Develop, as a matter of urgency, a national reparations policy taking into account the specific needs of women and children and make adequate provisions for it in the State budget;
- (b) Make reparation measures accessible and applicable to families who accept the issuance of death certificates under duress or without their full and informed consent. In particular, the Government should issue a certificate of absence owing to enforced disappearance and allow all interested families to exchange the death certificate issued for the new certificate of absence due to enforced disappearance;
- (c) Pay particular attention to adequate, professional and victim-oriented psychosocial assistance for the relatives of the disappeared in relation to both truth and justice processes, in the context of the forthcoming transitional justice mechanisms;

- (d) Adopt and strengthen existing psychosocial support programmes for victims;
- (e) Establish mechanisms that provide for social allowances or appropriate social and medical measures for the relatives of disappeared persons in relation to the physical, mental and economic consequences resulting from the absence of the disappeared;
- (f) Prioritize the educational needs of the children of disappeared persons, including establishing special scholarships exclusively for children of disappeared persons;
- (g) Formulate and adopt a national resettlement policy to adequately address the needs of displaced persons and victims of enforced disappearances and incorporate the existing national involuntary resettlement policy into domestic law;
- (h) Pay equal attention to all victims, regardless of their ethnicity, in respect of memorials and consider integrating this principle into future activities related to this element of reparation;
- (i) Sponsor memorials as well as provide support for civil society remembrance initiatives, including for their proper maintenance through public funds;
- (j) Erect national and local monuments and establish commemoration days aimed specifically at remembering disappeared persons;
- (k) Consult with families and other stakeholders in the design of such monuments and in the planning and conducting of commemoration events.

85. The Working Group invites the Government of Sri Lanka to submit within 90 days of the date of presentation of the present report to the Human Rights Council a timetable showing the steps that it will take to implement the present recommendations. **(Excerpt)**

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/146/63/PDF/G1614663.pdf?OpenElement>

UN HUMAN RIGHTS COMMITTEE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

CCPR/C/LKA/CO/5 - 21 November 2014

Concluding observations on the fifth periodic report of Sri Lanka Views under the Optional Protocol

1. The Committee is concerned at the failure of the State party to fulfil its obligations under the Optional Protocol. In particular, it is concerned about the lack of cooperation from the State party on all submissions provided to it under the Optional Protocol procedures in the aftermath of the decision of the Supreme Court in the *Singarasa* case, in which the Court found that the State party's accession to the Optional Protocol was unconstitutional (art. 2).

The Committee urges the State party once again to review its position in relation to Views adopted by the Committee under the Optional Protocol to the Covenant and establish appropriate procedures to implement them, in order to comply with article 2, paragraph 3, of the Covenant, which guarantees a right to an effective remedy and reparation when there has been a violation of the Covenant.

Non-discrimination

2. The Committee is concerned about discriminatory provisions against women in domestic legislation, including on rights of succession with respect to land permits and grants and the disposal of immovable property. It is also concerned about the low rates of participation by women in political and public life, perpetuated by the persistence of stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life (arts. 3, 23 and 26).

The State party should strengthen its efforts to guarantee de jure and de facto equality between men and women. In that respect, the State party should:

- (a) **Undertake a comprehensive review of its domestic laws, including those that govern rights of succession with respect to land permits and grants, the disposal of immovable property and the absence of a minimum age of marriage under Muslim law, in order to bring them into full conformity with articles 3, 23 and 26 of the Covenant;**
- (b) **Intensify its efforts to increase the participation of women in political and public life, including by considering temporary special measures for women in political structures at the local, regional and national levels;**
- (c) **Undertake measures to raise awareness about women's rights.**

3. While noting the confirmation of the State party that article 12 of its Constitution prohibits discrimination on the grounds of sexual orientation and gender identity, the Committee remains concerned at the continued applicability of Penal Code sections 365, 365A and 399 to criminalize lesbian, gay, bisexual, transgender and intersex (LGBTI) conduct and the widespread discrimination and stigmatization of persons on the basis of their sexual orientation and gender identity (arts. 2 and 26).

The State party should amend sections 365, 365A and 399 of its Penal Code to ensure full compliance with articles 2 and 26 of the Covenant. The State party should also consider amending article 12 of its Constitution to state explicitly that sexual orientation and gender identity are prohibited grounds for discrimination. It should also strengthen measures to protect against violations of LGBTI rights and strengthen awareness-raising and training measures on such rights.

Violence against women

4. While welcoming the State party's adoption of the Prevention of Domestic Violence Act, the Committee is concerned about the persistence of socio cultural values that condone domestic violence, resulting in such violence remaining widespread and subject to impunity. Furthermore, it is concerned about allegations of sexual violence against women in the context of detention, resettlement and other situations that require contact with security forces (arts. 2, 3, 6 and 7).

The State party should adopt a comprehensive approach in order to prevent and address violence against women in all its forms and manifestations. It should adopt specific legislation that explicitly prohibits domestic violence and marital rape, regardless of judicial acknowledgement of separation. It should also ensure that cases of domestic violence and marital rape, as well as allegations of sexual violence by the security forces, are thoroughly investigated, that the perpetrators are prosecuted and punished with commensurate sanctions and that the victims are adequately compensated. Furthermore, it should provide training for State officials, in particular judges, prosecutors and security forces, in order to ensure that they are able to respond effectively and appropriately to all forms of violence against women.

Abortion and maternal mortality

5. The Committee is concerned at the criminalization of abortion, including in cases of rape or incest, which compels pregnant women to seek clandestine abortion services that put their lives and health at risk (arts. 3 and 6).

The State party should revise its legislation on abortion by making further exceptions to the ban on abortion, including for therapeutic reasons and cases where the pregnancy is the result of rape or incest. It should ensure that reproductive health services are accessible to all women and girls in every region of the country. It should strengthen education and awareness programmes at the formal level (in schools) and at the informal level (through the media and other means of communication) on the importance of using contraceptives and on sexual and reproductive health rights.

Counter-terrorism

6. The Committee is concerned that, notwithstanding the lifting of the emergency regulations, provisions similar to that of the emergency regulations continue to be applied within the framework of the Prevention of Terrorism Act, including restrictions on freedom of expression and association, arbitrary searches and arrests, prolonged detention without charge or trial and the reversal of the burden of proof when detainees allege that they have made confessions as a result of torture or ill-treatment (arts. 4, 7, 9, 14, 19 and 22).

The State party should take all measures, including amending its legislation, to ensure that all security measures comply with the provisions of the Covenant and contain clear prohibitions against arbitrary arrest and detention as well as clear safeguards against torture and protections of the rights to freedom of expression and association. Furthermore, it should try those arrested under emergency and/or counter-terrorism laws by independent and regularly constituted courts with adequate safeguards.

Former combatants

7. While noting the measures taken by the State party for the rehabilitation and reintegration of former combatants, the Committee remains concerned at reports of arbitrary surveillance, torture, detention, enforced disappearances and sexual violence against them (arts. 6, 7, 9, 10 and 17).

The State party should ensure that former combatants are provided with effective protection against human rights violations, including sexual violence, through the effective application of procedural safeguards and through the prosecution and punishment of perpetrators of such violations. It should also adopt national legislation that clearly and narrowly defines the exceptional conditions under which former combatants could be subject to monitoring and surveillance. Furthermore, it should further strengthen its rehabilitation and reintegration support measures for former combatants, including gender-neutral livelihood programmes within the framework of a government policy that is transparent and non-discriminatory.
Internally displaced persons

8. While noting the measures taken by the State party to address the situation of internally displaced persons, the Committee is concerned that there continues to be a significant number of persons in such situations, which is exacerbated by the acquisition of land for military purposes (arts. 12 and 26).

The State party should further strengthen its measures to address the needs of internally displaced persons, which, in addition to durable housing solutions, should provide support for local integration and sustainable income-generation opportunities in situations of resettlement, including for women. It should also ensure voluntary return or resettlement. Furthermore, it should accelerate the return of land currently occupied for military use to their owners/residents.

Right to life

9. The Committee is concerned about reports of the unlawful use of force and violations of the right to life by State agents and/or by paramilitary groups, including extrajudicial killings, deaths in custody, enforced disappearances and disproportionate civilian casualties at the end of the conflict. In that context, it is also concerned at the continued lack of effective investigations and prosecutions of perpetrators of human rights violations, including those relating to the 2006 killings that took place in the towns of Muthur and Trincomalee (art. 6).

The State party should take all measures necessary to vigorously investigate all allegations of unlawful use of force and violations of the right to life promptly, transparently and impartially, with the aim of bringing those responsible to justice by prosecution and punishment, and provide adequate remedies to victims and their relatives. It should redouble its efforts to implement the recommendations of the Lessons Learned and Reconciliation Commission pertaining to the need to investigate allegations of serious violations of international law through independent investigative mechanisms. In particular, the State party should:

(a) **Cooperate with the Office of the United Nations High Commissioner for Human Rights in investigating all allegations of serious human rights violations;**

(b) **In the context of the killings that took place in the towns of Muthur and Trincomalee, as well as other similar cases, consider allowing witness testimony by video link from secure and secret locations in order to facilitate the investigations with due regard to the needs of witness protection.**

Enforced disappearances

10. While noting that the State party has established a Presidential Commission to Investigate into Complaints regarding Missing Persons, the Committee is concerned at the limited territorial scope of its mandate and the slow rate at which such cases have been investigated and prosecuted. Furthermore, it is concerned about reports of continued enforced disappearances, including of human rights defenders, journalists, clergymen, aid workers and activists (arts. 6, 7, 9 and 16).

The State party should:

(a) **Expediently investigate, prosecute and punish perpetrators of enforced disappearance and establish the whereabouts of missing persons in a transparent and impartial manner;**

(b) **Ensure the rights of families to know the location or status of disappeared persons by ensuring that the Presidential Commission to Investigate into Complaints regarding Missing Persons and other relevant bodies are provided with adequate legal powers, as well as human, technical and financial resources, to operate in an independent, timely and effective manner that ensures adequate witness protection.**

Prohibition of torture and ill-treatment

11. While noting that the State party has stipulated a “zero tolerance” policy on torture, the Committee is concerned about reports of torture and other ill-treatment, including sexual violence, of adults and juveniles who are arrested and/or detained. Furthermore, it is concerned about reports that the penalties for acts of torture are not commensurate and are rarely enforced (arts. 2, 6, 7 and 14).

The State party should:

(a) **Ensure the prompt, transparent and impartial investigation of any allegation of torture and other ill-treatment by an independent authority that is not connected to the prosecution of the alleged victim;**

(b) **Ensure that the burden of proving that a confession has not been produced by torture or other ill-treatment rests with the prosecution in proceedings against the alleged victim;**

(c) **Ensure the enforcement of commensurate penal and administrative sanctions against perpetrators of torture and other ill-treatment;**

(d) **Ensure that law enforcement and/or security forces officers are suspended from their normal duties pending any investigation of torture or ill-treatment;**

(e) **Ensure that mechanisms and reporting channels for the enforcement of all laws, regulations and directives for the prevention of torture and other ill-treatment, including the Criminal Procedure Act, Convention against Torture Act and Presidential Directives on Protecting Fundamental Rights of Persons Arrested and/or Detained;**

(f) **Ensure that victims of torture and other forms of ill-treatment are provided with timely, full and effective reparation, including rehabilitation, satisfaction and guarantees of non-repetition.**

Detention

12. The Committee is concerned that a significant number of persons in detention have been subject to prolonged and arbitrary detention without trial. It is also concerned at the lack of effective guarantees, in law and practice, of the rights of detainees to notify their immediate family members about their detention and to have access to legal counsel from the moment of arrest. It is also concerned about reports of keeping detainees in unofficial places of detention (arts. 9, 10 and 14).

The State party should take measures to ensure that no one is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant. It should publish all official places of detention on a regular basis and explicitly forbid and criminalize the use of unofficial places for detention.

13. The Committee is concerned at excessive use of pre-trial detention; overcrowding and poor conditions in prisons, including the lack of segregation of detainees, unsanitary conditions and inadequate provision of basic services and facilities; and the lack of a regular and independent system for monitoring places of detention (arts. 9 and 10).

The State party should take measures to reduce the length and frequency of pre-trial detention, taking into consideration alternatives to pre-trial detention; to ensure that pre-trial detainees are separated from convicted prisoners and that juveniles are separated from adults; to reduce overcrowding and improve detention conditions in line with the Standard Minimum Rules for the Treatment of Prisoners. It should consider the construction of new prison facilities and the application of alternative measures to incarceration. It should establish a system for the regular and independent monitoring of places of detention, as well as a confidential mechanism for receiving and processing complaints lodged by detainees.
Corporal punishment

14. While taking note that violence against children and corporal punishment is legally prohibited in schools and judicial corporal punishment, called “whipping”, was outlawed in 2005, the Committee notes with concern that corporal punishment continues to be accepted and practised as a form of discipline by parents and guardians (arts. 7 and 24).

The State party should take practical steps, including through legislative measures, where appropriate, to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment and conduct public information campaigns to raise awareness about the harmful effects of such punishment.
Trafficking in persons

15. While noting that the State party has established an anti-trafficking task force under its Ministry of Justice, the Committee is nonetheless concerned at the lack of effective measures to protect victims and provide them with effective remedies, including compensation and rehabilitation. It is concerned that there has been low rates of prosecution and insufficient punishment of perpetrators (art. 8).

The State party should systematically, transparently, impartially and vigorously investigate allegations of trafficking in persons, prosecute and, if convicted, punish those responsible and provide compensation to victims. In doing so, it should take measures to ensure access to reporting mechanisms for victims of trafficking. Such mechanisms should ensure the protection of victims while also ensuring they are not punished for activities that result from their situation as victims of trafficking. It should also introduce a system to document such reports, in order that they may be used as a basis for the regular evaluation of the impact of all initiatives and measures taken to combat trafficking in persons. Furthermore, the State party should strengthen its support and protection measures for victims and witnesses, including rehabilitation.

Freedom of expression and participation in the political process

16. The Committee is concerned at widespread reports of intimidation and harassment, including physical attacks, death threats, administrative detention and politically motivated charges, by State officials against journalists, lawyers, clergymen, members of non-governmental organizations and human rights defenders, including at charges brought against opposition politicians. It is also concerned about reports of defamation campaigns against human rights defenders and the blocking of websites. Furthermore, it is concerned at the failure of the State party to bring perpetrators of reprisals to justice (arts. 19 and 25).

The State party should refrain from any measures amounting to intimidation or harassment taken against persons exercising their right to freedom of expression, and ensure that any restriction to that right is in compliance with article 19, paragraph 3, of the Covenant. It should vigorously investigate all cases of threats and attacks against journalists, lawyers, clergymen, political activists, members of non-governmental organizations and human rights defenders, hold the perpetrators accountable and provide effective remedies to victims. Furthermore, it should ensure that any individual or organization can provide information freely to the Committee, and should protect them against any reprisals for providing such information.

Freedom of assembly and freedom of association

17. The Committee is concerned at the disproportional and discriminatory restrictions on freedom of peaceful assembly and freedom of association against the Tamil minority, particularly in the north of the State party, including restrictions of religious and/or civil ceremonies commemorating the loss of loved ones during the armed conflict (arts. 2, 21, 22 and 26).

The State party should take measures to ensure the protection of the rights to freedom of peaceful assembly and freedom of association of all individual and groups, including the Tamil minority, in accordance with articles 21 and 22 of the Covenant.

Rights of persons belonging to minorities

18. The Committee is concerned about the restrictions and conditions placed on the enjoyment of cultural, linguistic and religious freedoms of minorities in the State party, such as the Muslim, Tamil and Christian communities, including the refusal of admission to school on the grounds of religion and the harassment of minority religious groups, including attacks on the places of worship of Hindu, Muslim, Evangelical Christian and Jehovah's Witness communities (arts. 18, 26 and 27).

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection against discrimination and are able to enjoy their own religion, language and culture, and able to participate in public affairs. Furthermore, it should take measures to prevent and stop all attacks against Christian and Muslim minorities, including on their places of worship and businesses. It should promptly and effectively investigate and prosecute all reported incidents of violence against ethnic and religious minorities.

Dissemination and follow-up

19. The State party should widely disseminate the Covenant, the first Optional Protocol to the Covenant, the text of its fifth periodic report to the Committee, the written replies to the list of issues drawn up by the Committee and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The report and the concluding observations should be translated into all official languages of the State party.

20. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 5, 14, 15 and 21 above.

21. The Committee requests the State party to provide in its next periodic report, due for submission on 31 October 2017, specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to broadly consult with civil society and non-governmental organizations operating in the country. **(Excerpts)**

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/LKA/CO/5&Lang=En

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION
INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL
DISCRIMINATION

CERD/C/LKA/CO/10-17 - 6 October 2016
(Meeting held on 24 August 2016)

C. Concerns and recommendations

Statistics

7. The Committee notes the State party's commitment to providing accurate data on the situation of ethnic and ethno-religious groups. To facilitate those efforts, the Committee refers the State party to its general recommendation No. 4 (1973) on reporting by States parties, its general recommendation No.8 (1990) on the interpretation and application of article 1 (1) and (4) of the Convention, its general recommendation No. 24 (1999) concerning article 1 of the Convention, and the revised guidelines for reporting under the Convention (see CERD/C/2007/1, paras. 10-12). The Committee recommends that the State party gather and provide statistical data in its next periodic report on the demographic composition of the population, the socioeconomic situation and representation in education, employment, and public and political life of ethnic and ethno-religious minorities, including women from those groups, and numerically smaller groups, in order to provide it with an empirical basis to evaluate the equal enjoyment of rights under the Convention.

Definition of racial discrimination

9. The Committee notes that the State party is in the process of Constitutional reform and recommends that it makes the necessary amendments to ensure that the prohibition of racial discrimination in the Constitution is in line with the Convention and includes direct and indirect discrimination on the basis of all grounds for discrimination specified in article 1.

Domestic application of the Convention and complaints

11. Recalling its general recommendation No.31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

- (a) Adopt legislative and policy measures to ensure the domestic application of the rights in the Convention;
- (b) Take measures to ensure that existing laws and policies, including customary laws, are in line with the Convention;
- (c) Undertake public education campaigns on the rights provided in the Convention and domestic legislation under which those rights can be invoked, and on the methods for filing complaints on racial discrimination, and hate crimes. Furthermore, ensure that methods for judicial recourse are administered in a manner that is open and accessible to victims to lodge all complaints;
- (d) Provide updated information in its next periodic report on the number and types of complaints on racial discrimination and hate crimes reported and prosecutions and convictions of perpetrators, disaggregated by the age, gender and ethnic or ethno-religious origin of the victims.

National human rights institution

13. Recalling its general recommendation No.17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party take immediate measures to bring the National Human Rights Institution into full

compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and strengthen its mandate and provide it with adequate resources to fulfil its mandate effectively and independently. The Committee also recommends that the Institution continue to strengthen its public reporting and engagement with all sectors of civil society to ensure pluralistic representation, as required by the Paris Principles.

Prevention of Terrorism Act

15. The Committee welcomes the commitment made by the State party to repeal the Prevention of Terrorism Act as, according to article 1 (1), of the Convention, State parties must prohibit racial discrimination, including legislation and practices that even if they may not be discriminatory in purpose are discriminatory in effect. The Committee also welcomes the establishment of a special committee to study the legal framework against terrorism, with the aim of drafting new legislation, in line with international standards, including the Convention. The Committee requests the State party to expedite the work of the Commission and enact new legislation. Furthermore, bearing in mind its general recommendation No. 31, the Committee recommends that the State party guarantee detainees the right to due process to challenge their detention and ensure that any detainees who are not charged and tried are released without delay. The Committee further recommends that the State party strengthen the mandate of the National Human Rights Institution to allow it to monitor places of detention. The Committee requests the State to provide information in its next periodic report on the implementation of this recommendation.

Hate speech and hate crimes

17. Bearing in mind its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Take immediate measures to protect the safety and security of ethnic and ethno-religious minorities and their places of worship, in accordance with article 5 of the Convention;

(b) Adopt comprehensive legislation on hate speech fulfilling the requirements of article 4 of the Convention, which requires States parties to ensure the prohibition of ideas based on racial superiority and hatred, the incitement to racial hatred, acts of violence against any race or groups of persons of another colour or ethnic origin, and incitement to such acts. It also recommends that the State party ensure that its criminal legislation defines racial motivation as an aggravating circumstance;

(c) Enforce legislative provisions to prosecute perpetrators of hate speech, incitement to violence and hate crimes to deter further crimes and prevent impunity of perpetrators. It also recommends that the State party provide information in its next periodic report on the number of cases reported, investigations, prosecutions, convictions of perpetrators and remedies for victims;

(d) Foster tolerance and unity by facilitating dialogue between communities in conflict to eliminate tensions.

Freedom of religion of ethnic and ethno-religious minorities

19. The Committee recommends that the State party urgently undertake effective measures to protect the rights of ethnic and ethno-religious minorities, including their right to freedom of thought, conscience and religion, without any discrimination on the basis of race, colour, descent or national or ethnic origin, as specified in article 5 of the Convention.

Tamils of Indian origin or “Plantation Tamils”

21. The Committee refers the State party to its general recommendation No. 32 (2009) on the meaning and scope of special measures and requests the State party to take the above-mentioned concerns into consideration in the development of special measures for the plantation community,

and ensure that the affected community is consulted in the development and implementation of plans on matters that concern them. The Committee requests the State party to provide in its next periodic report detailed qualitative and quantitative information on the impact of special measures on improving the livelihood and social and economic rights of Tamils of Indian origin.

22. Recalling its general recommendation No. 29 (2002) on article 1 (1) of the Convention (Descent), the Committee calls on the State party to undertake awareness-raising campaigns with the assistance of community leaders in the relevant communities to change attitudes and reject caste.

Situation of the Adivasi/Veddah people

24. In line with its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee urges the State party to undertake special measures to ensure access to basic services and improve the Adivasi/Veddah people's socioeconomic situation in consultation with the Adivasi/Veddah people, and provide detailed information in its next periodic report on measures undertaken and their impact.

Situation of internally displaced persons

26. The Committee, acknowledging efforts undertaken so far, recommends that the State party step up efforts to address the challenges faced by internally displaced persons in terms of reintegration, including in gaining access to employment, housing and basic services and resolution of land claims, and that it hasten efforts to release land in the North and East to facilitate further resettlement. The Committee requests the State party continue to communicate with all affected communities with regard to efforts for resettlement, in a transparent manner, to avoid tensions.

Situation of minority women in war-affected areas

28. While recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee emphasizes that women are particularly vulnerable to certain forms of racial discrimination, such as sexual violence during armed conflict. The Committee recommends that the State party take measures to ensure the protection of those women, post-conflict, and ensure that any victims of violations have access to complaint mechanisms and judicial remedies and that reported cases are investigated and suspected perpetrators are prosecuted. The Committee also recommends that the State party implement measures to assist women heads of households in gaining access to employment and basic services to improve their socioeconomic condition.

Truth and reconciliation

30. The Committee encourages the State party to include representatives of all ethnic and ethno-religious groups, including women from those groups, in the shaping and implementation of transitional justice processes. It also recommends that the State party ensure that cases of human rights violations committed during the conflict, including violations of rights under the Convention, are investigated and that perpetrators are prosecuted and proper redress is provided to victims. As part of the non-recurrence process, the Committee recommends that the State party undertake efforts to address any underlying tensions and discriminatory attitudes towards ethnic and ethno-religious minority groups by fostering dialogue.

D. Other recommendations

Consultations with civil society

34. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Amendment to article 8 of the Convention

35. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

36. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

Common core document

37. The Committee encourages the State party to update its common core document, which dates to 2008, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

38. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 13, 25 and 28 above.

Paragraphs of particular importance

39. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 15, 17, and 24 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

40. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

41. The Committee recommends that the State party submit its combined eighteenth and nineteenth periodic reports, as a single document, by 20 March 2019, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports. (*Excerpt*)

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/LKA/CO/10-17&Lang=En

SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS, PHILIP ALSTON

A/HRC/14/24/Add.1 – 18 June 2010

Civilian casualties during military offensive by the Sri Lankan armed forces in Mullaitivu district

Violation alleged: Violations of the right to life during armed conflicts, especially of the civilian population and other non-combatants, contrary to international humanitarian law

Subject(s) of appeal: Group of persons (about 6432 civilians including about 454 children)

Character of reply: No response

Observations of the Special Rapporteur: The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

Urgent appeal dated 30 April 2009

857. I write to your Excellency's Government with regard to the number of civilian casualties of the ongoing military offensive by the Sri Lankan armed forces in the so-called No Fire Zone in Mullaitivu district.

According to information I have received:

From 20 January to 21 April 2009, an estimated 6432 civilians were killed, of whom 5580 were killed in the so-called No Fire Zone in Mullaitivu district, including an estimated 454 children. Approximately 85% of those killed died as a result of shelling of the No Fire Zone. On 24 February 2009, your Excellency's Government announced that it would no longer fire heavy weapons into the No Fire Zone. The average number of civilians in the No Fire Zone killed each day by shelling, however, did not decrease after this announcement.

Press release by the Special Rapporteur dated 31 September 2009

993. An Independent Investigation into Sri Lankan Executions is Urgent, says UN Expert GENEVA - The UN Special Rapporteur on extrajudicial, summary or arbitrary executions called for the urgent establishment of an independent investigation into the authenticity of a video alleged to show the extrajudicial execution of two naked and helpless men by the Sri Lankan army and the presumed prior execution of a number of others.

994. "These images are horrendous and, if authentic, would indicate a serious violation of international law", said Professor Philip Alston. "I am aware that the Sri Lankan Government has categorically denied the veracity of the allegations. This makes it all the more important for an independent investigation to be set up.

995. For the independent expert, "if the Government's position is validated as a result of an inquiry, the international community can rest easy and the Government will have been vindicated. There is no justification for not moving ahead with such an investigation in view of the Government's confidence that such atrocities were never perpetrated by its armed forces".

996. Professor Alston stated that no Government today can simply dismiss such allegations without undertaking a thorough investigation that meets international standards. He also recalled that he has, on a number of occasions over recent years, requested to undertake a visit to Sri Lanka in

order to review the situation. He regretted that, to date, he has not yet received an invitation to do so from the Government of Sri Lanka, but indicated that he was hopeful that such an invitation might be forthcoming in light of the most recent allegations.

Death threats against journalists Frederica Jansz and Munza Mushataq

Violation alleged: Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, or groups cooperating with or tolerated by the Government, as well as unidentified persons who may be linked to the categories mentioned above and when the Government is failing to take appropriate protection measures

Subject(s) of appeal: 2 females

Character of reply: No response

Observations of the Special Rapporteur: The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the mandate that he has been given by the General Assembly and the Human Rights Council.

Allegation letter dated 6 November 2009, sent with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders.

1027. In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the situation of Ms. Frederica Jansz, and Ms. Munza Mushataq and staff members of the Sunday Leader weekly newspaper, an investigative newspaper which often reports on cases of alleged corruption and abuse of authority in Sri Lanka. Ms. Jansz and Ms. Mushataq are respectively Editor in-chief and News Editor of the Sunday Leader.

Sri Lanka: Death of three senior representatives of the Liberation Tigers of Tamil Eelam

Violation alleged: Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality

Subject(s) of appeal: 3 males

Character of reply: Receipt acknowledged

Observations of the Special Rapporteur: The Special Rapporteur appreciates the Government of Sri Lanka's acknowledgement of his communication and looks forward to a full response to the questions raised in that communication.

Allegation letter dated 18 December 2009

1047. I write to your Excellency's Government with regard to the circumstances of the death of three senior representatives of the Liberation Tigers of Tamil Eelam (LTTE), **Mr. Balasingham Nadeshan, Mr. Seevaratnam Pulidevan and Mr. Ramesh**, as well as of members of their families, in the night of 17 to 18 May 2009.

According to information I have received:

On 17 May 2009, the day before your Excellency's Government announced that its forces had completely defeated the LTTE, Messrs. Nadeshan, Pulidevan and Ramesh were trapped with other senior cadres of the LTTE in a small area north of Vellamullivaikkal. Through intermediaries they sought to establish contact with your Excellency's Government to inquire how they could surrender to the Sri Lanka Army (SLA). The reply, coming from the Secretary of Defense in your Excellency's Government and from a Member of Parliament who is at the same time a senior adviser to the President, and conveyed through the intermediaries, was that they should walk towards the

positions of the SLA in a way that made their intentions clear and holding a white cloth. The Commander of the SLA 58th Brigade, the unit on the front line with the last LTTE position, however, received a telephone call from the Secretary of Defense instructing him to order his forces to shoot those surrendering. When Messrs. Nadeshan, Pulidevan and Ramesh walked towards the SLA positions carrying white cloths in the first hours of 18 May 2009, soldiers opened fire on them and killed them. An unspecified number of family members of the three men were killed as well. These allegations were made by the Commander of the Sri Lanka Army at the time of the events and subsequent Chief of Defence Staff, (now retired) General Gardihewa Sarath Chandralal Fonseka, in an interview to the newspaper The Sunday Leader. The accounts of journalists embedded with the SLA 58th Brigade confirm some of the alleged circumstances of the death of Messrs. Nadeshan, Pulidevan and Ramesh and their families.

1051. It is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention. Since I am expected to report on the death of Messrs. Nadeshan, Pulidevan and Ramesh, as well as of the members of their families, I would be grateful for the cooperation and observations of your Excellency's Government, in particular in relation to the following questions:

1. Are the allegations summarized above accurate? If not so, please share the information and documents proving their inaccuracy.

2. What information does your Excellency's Government have on the family members of Messrs. Nadeshan, Pulidevan and Ramesh allegedly killed on 18 May 2009?

3. Please refer to the results of any military, police, judicial or other inquiry or investigation carried out in relation to the allegations summarized above. (*Excerpts*)

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/145/06/PDF/G1014506.pdf?OpenElement>

SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, MANFRED NOWAK

MISSION TO SRI LANKA* A/HRC/7/3/Add.6 - 26 February 2008

The Special Rapporteur undertook a visit to Sri Lanka from 1 to 8 October 2007.

B. Recommendations

94. The Special Rapporteur recommends that the Government:

(a) End impunity for members of the TMVP-Karuna group;

(b) Ensure that detainees are given access to legal counsel within 24 hours of arrest, including persons arrested under the Emergency Regulations;

(c) All detainees should be granted the ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus proceedings; A/HRC/7/3/Add.6 page 25

- (d) Ensure that magistrates routinely ask persons brought from police custody how they have been treated and, even in the absence of a formal complaint from the defendant, order an independent medical examination in accordance with the Istanbul Protocol;
- (e) Ensure that all allegations of torture and ill-treatment are promptly and thoroughly investigated by an independent authority with no connection to the authority investigating or prosecuting the case against the alleged victim;
- (f) Ensure all public officials, in particular prison doctors, prison officials and magistrates who have reasons to suspect an act of torture or ill-treatment, to report ex officio to the relevant authorities for proper investigation in accordance with article 12 of the Convention against Torture;
- (g) Ensure that confessions made by persons in custody without the presence of a lawyer and that are not confirmed before a judge should not be admissible as evidence against the persons who made the confession;
- (h) The burden of proof should shift to the prosecution to prove beyond reasonable doubt that the confession was not obtained under any kind of duress;
- (i) Expedite criminal procedures relating to torture cases by, e.g., establishing special courts dealing with torture and ill-treatment by public officials;
- (j) Allow judges to be able to exercise more discretion in sentencing perpetrators of torture under the 1994 Torture Act;
- (k) Drastically reduce the period of police custody under the Emergency Regulations and repeal other restrictions of human rights under them;
- (l) Develop proper mechanisms for the protection of torture victims and witnesses;
- (m) Ensure that the constitution and activities of the NHRC comply with the Paris Principles, including with respect to annual reporting on the human rights situation and follow-up on past cases of violations;
- (n) Establish appropriate detention facilities for persons kept in prolonged custody under the Emergency Regulations;
- (o) Establish an effective and independent complaints system in prisons for torture and abuse leading to criminal investigations;
- (p) Investigate corporal punishment cases at Bogambara Prison as well as torture allegations against TID, mainly in Boosa, aimed at bringing the perpetrators and their commanders to justice;
- (q) Design and implement a comprehensive structural reform of the prison system, aimed at reducing the number of detainees, increasing prison capacities and modernizing the prison facilities; A/HRC/7/3/Add.6 page 26
- (r) Remove non-violent offenders from confinement in pre-trial detention facilities, and subject them to non-custodial measures (i.e. guarantees to appear for trial, at any other stage of the judicial proceedings and, should occasion arise, for execution of the judgement);
- (s) Ensure separation of remand and convicted prisoners;

- (t) Ensure separation of juvenile and adult detainees, and ensure the deprivation of liberty of children to an absolute minimum as required by article 37 (b) of the Convention on the Rights of the Child;
- (u) Abolish capital punishment or, at a minimum, commute death sentences into prison sentences;
- (v) Establish centres for the rehabilitation of torture victims;
- (w) Ratify the Optional Protocol to the Convention against Torture, and establish a truly independent monitoring mechanism to visit all places where persons are deprived of their liberty throughout the country, and carry out private interviews;
- (x) Ensure that security personnel undergo extensive and thorough training, using a curriculum that incorporates human rights education throughout and that includes training in effective interrogation techniques and the proper use of policing equipment, and that existing personnel receive continuing education; and
- (y) Establish a field presence of the Office of the United Nations High Commissioner for Human Rights with a mandate for both monitoring the human rights situation in the country, including the right of unimpeded access to all places of detention, and providing technical assistance particularly in the field of judicial, police and prison reform.

95. The Special Rapporteur encourages the international community to assist the Government of Sri Lanka in the follow-up to these recommendations. **(Excerpts)**
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/111/35/PDF/G0811135.pdf?OpenElement>

SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ON HIS MISSION TO SRI LANKA

A/HRC/34/54/Add.2 - 22 December 2016

(Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka from 29 April to 7 May 2016, which he conducted jointly with the Special Rapporteur on the independence of judges and lawyers.)

B. Recommendations

115. In a spirit of cooperation and partnership, the Special Rapporteur recommends that the Government, with appropriate assistance from the international community, take decisive steps to implement the recommendations outlined below.

116. Regarding the legal framework, the Special Rapporteur recommends that the Government:

- (a) Immediately repeal the Prevention of Terrorism Act;
- (b) Review any draft legislation to replace the Prevention of Terrorism Act (national security act, state intelligence services act and prevention of organized crimes act) to ensure safeguards against arbitrary arrest and torture or cruel, inhuman or degrading treatment; provisions for access to legal

counsel from the moment of deprivation of liberty, strong judicial overview of law enforcement and security agencies and protections for the privacy rights of citizens; and that there is a timely, robust and transparent national debate on the bills that is inclusive of all civil society;

(c) Study and incorporate the recommendations made by the National Human Rights Commission in relation to the drafting of new national security legislation,⁹ which are based on recommendations outlined by the Special Rapporteur on the promotion and protection of human rights while countering terrorism in his ⁹ See the public statement made by the Human Rights Committee of Sri Lanka on 22 June 2016, available from <http://hrcls.lk/english/2016/06/23/public-statement-by-the-human-rights-commissionof-sri-lanka/>. A/HRC/34/54/Add.2 19 various reports (for example, A/HRC/16/51 and A/HRC/22/52 and Corr.1) regarding procedural safeguards when adopting or amending legislation on national security;¹⁰

(d) Enact new legislation to provide for command or superior responsibility as a basis for criminal liability;¹¹

(e) Urgently ratify and implement the Optional Protocol to the Convention against Torture, thereby recognizing the competence of the Subcommittee on Prevention of Torture and enable it and other international and national monitoring mechanisms to conduct regular unannounced inspections of all places of detention;

(f) Immediately withdraw the proposed amendment to the Code of Criminal Procedure Act that would deprive a suspect of access to a lawyer until his or her statement has been recorded, and enact legislation that strengthens the right of suspects to prompt and regular access to lawyers from the moment of arrest;

(g) Abolish capital punishment or, as a minimum, commute all death sentences to prison sentences;

(h) Review and amend the Assistance to and Protection of Victims of Crime and Witnesses Act (No. 4 of 2015) to make the National Authority set up under the Act more independent and more accountable and subject to judicial oversight and to ensure that its jurisdiction extends to the protection of all victims, including those who are trafficked (see CRC/C/SLK/5, para. 116) or subjected to torture or sexual violence, owing to the real risk of reprisals;

(i) Amend the Police Act to make the police more accountable, effective and trustworthy;

(j) Implement the National Plan of Action to Address Gender-based Violence in line with its international obligations and with the international protocol on the documentation and investigation of sexual violence in conflict, to tackle impunity for sexual torture and to ensure redress to survivors;

(k) Repeal all relevant legislation so that corporal punishment is explicitly prohibited in all settings;

(l) Ratify the Protocols Additional to the Geneva Conventions of 12 August 1949 and sign, and ratify, the Rome Statute of the International Criminal Court;

(m) Enact implementing legislation for all international treaties Sri Lanka has ratified, including the International Covenant on Civil and Political Rights.

117. Regarding conditions of detention, the Special Rapporteur recommends that the Government:

(a) Urgently repair and upgrade or close old prisons to address the unsafe and inhumane conditions of detention;

(b) Ensure minimum standards of conditions of detention in accordance with the Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), and ensure that current practices and conditions do not give rise to cruel, inhuman or degrading treatment or punishment, or torture; 10 See also Counter-Terrorism Implementation Task Force, Basic Human Rights Reference Guide: Conformity of National Counter-Terrorism Legislation with International Human Rights Law (New York, United Nations, 2014). 11 See Freedom from Torture, "What does success look like? Why Sri Lankan torture survivors want an internationalised justice process", February 2016. A/HRC/34/54/Add.2 20

(c) Adopt and implement measures to significantly reduce overcrowding, including:

(i) Overhauling the prison system to reduce the number of detainees and increasing prison capacities in more modern prison facilities;

(ii) Accelerating the judicial process and reviewing sentencing policies by introducing alternatives to incarceration (bail and electronic surveillance for pre-trial defendants; non-custodial sentences for non-violent offenders and juveniles; parole and early release for the convicted);

(d) Design a criminal justice system that aims at rehabilitating and reintegrating offenders, including by creating work and education opportunities;

(e) Allocate sufficient budgetary resources to provide adequate health care by employing a sufficient number of qualified professionals and providing infirmaries in detention centres with adequate equipment and medicines;

(f) Ensure the daily presence of truly independent and qualified medical health staff, including psychiatric and dental specialists, in all places of deprivation of liberty, in cooperation with the public health services, to perform a medical entrance examination for all detainees, conduct regular check-ups and provide medical assistance as necessary;

(g) Monitor the quantity and quality of food and water and ensure adequate sanitary and hygienic conditions, satisfactory ventilation and adequate access to exercise, sunlight and recreational activities;

(h) Authorize more frequent family visits and facilitate them by providing transportation and other support for indigent families;

(i) Purchase and use body and parcel scanners, as promised by the Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs, to address the indignity of invasive body searches of family members visiting detainees;

(j) Install telephones or computers for inmates so that they are able to communicate with their families.

118. Regarding safeguards and prevention, the Special Rapporteur recommends that the Government:

(a) Immediately shut down any unofficial detention facilities that may still be in existence;

(b) Ensure prompt and official registration of all persons deprived of their liberty and periodically inspect records at police and prison facilities to ensure that they are maintained in accordance with the established procedures; failure to do so would entail investigating senior officers and holding them accountable;

- (c) Digitize all registrations and records of all persons deprived of their liberty and make them accessible to the National Human Rights Commission;
- (d) Guarantee that access to lawyers through the Legal Aid Commission or bar association or other service is granted, in law and in practice, from the moment of deprivation of liberty and throughout all stages of criminal proceedings;
- (e) End the practice of incommunicado detention during the initial hours at unofficial detention locations; A/HRC/34/54/Add.2 21
- (f) Ensure that statements or confessions made by a person deprived of liberty other than those made in the presence of a judge and with the assistance of legal counsel have no probative value in proceedings against that person;
- (g) Ensure that all arrests are transparent, with the arresting officer showing proper identification, and based on objective evidence;
- (h) Ensure that all detainees can challenge the lawfulness of detention before an independent court, i.e., through habeas corpus proceedings;
- (i) Ensure that security sector officials (military, intelligence and police) undergo a rigorous reform programme that includes human rights education and training in effective interrogation techniques and proper use of force;
- (j) Ensure that national security and policing procedures are compliant with international standards and that the Tamil population is adequately represented in the police corps at all ranks in the North and East so that law enforcement forces are able to communicate with and serve the population residing there (see CERD/C/LKA/10-17, para. 24);
- (k) Introduce independent, effective and accessible complaint mechanisms at all places of deprivation of liberty by installing emergency telephone hotlines or confidential complaint boxes that are operational, and ensure that complainants are not subject to reprisals;
- (l) Provide more specialized training in forensic medical investigation and documentation of torture and ill-treatment in accordance with the Istanbul and Minnesota Protocols;
- (m) Authorize and facilitate regular, effective and independent monitoring of places of deprivation of liberty by international and national bodies, including the National Human Rights Commission and civil society organizations;
- (n) Raise the age for criminal responsibility of juveniles to one that is internationally acceptable;
- (o) Ensure the separation of juvenile and adult detainees and that children are held in detention only as a last resort and for as short a time as possible.

119. Regarding institutional reform, the Special Rapporteur recommends that the Government:

- (a) Establish an effective torture prevention programme by undertaking comprehensive institutional reforms and a vetting process at the higher and lower ranks in the security sector — the army, the intelligence agency and the police — to overhaul these institutions, which continue to function with impunity;

- (b) Rebuild the national institutions of the security sector so they are trustworthy and effective in protecting citizens without violating human rights, and establish independent oversight authorities to monitor the national security agencies;
- (c) Provide directives to the security sector to ensure that all officers are informed and given clear and unequivocal instructions that all acts of torture, including rape and other forms of sexual violence, and ill-treatment are prohibited and that those responsible, either directly or as commander or superior, will be investigated, prosecuted and punished (see CAT/C/LKA/5, paras. 10-11);
- (d) Support the National Human Rights Commission so that it complies with the principles on the status of national institutions for the promotion and protection of human rights (the Paris Principles) and can be designated as the national preventive A/HRC/34/54/Add.2 22 mechanism, as contemplated by the Optional Protocol to the Convention against Torture, to undertake scheduled and unannounced prison visits to effectively monitor the legal status of detainees and conditions of detention of all detainees at all locations where persons are deprived of their liberty;
- (e) Strengthen the powers of the National Human Rights Commission to ensure its independence and impartiality, and provide it with a robust mandate and sufficient financial resources to serve as an additional channel for complaints of torture and ill-treatment (while not replacing the responsibilities of prosecutors and judges);
- (f) Implement the detailed recommendations of the Working Group on Enforced or Involuntary Disappearances regarding the functioning of the Office on Missing Persons (see A/HRC/33/51/Add.2, paras. 79-80);
- (g) Shut down the Poonthotam rehabilitation centre programme and release unconditionally those who remain in the centre or any other rehabilitation centre;
- (h) Charge detainees whose cases remain pending under the Prevention of Terrorism Act or, in the absence of sufficient evidence, release them immediately;
- (i) Prioritize demilitarization and dismantle the structures that are still in place to conduct surveillance, and build up trust in the community as a step towards reconciliation;
- (j) Strengthen the Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015 to make the National Authority set up under the Act an independent and accountable agency not managed only by the police but subject to judicial oversight, and ensure that its jurisdiction extends to the protection of victims of trafficking who, like victims of torture and sexual violence, also have a real fear of reprisals.

120. Regarding the judiciary, the Special Rapporteur recommends that the Government:

- (a) Reform the judiciary by referring to the mission report of the Special Rapporteur on the independence of judges and lawyers 12 to address deficient procedures that continue to undermine any effective monitoring and documentation of and accountability for torture and ill-treatment through prompt, thorough and impartial investigations;
- (b) Uphold its obligation to genuinely investigate, prosecute and punish the numerous acts of torture that occurred in the past that are well documented, as there is no statute of limitations for such crimes under international law;

- (c) Ensure that investigations into recent cases are launched ex officio without any need for formal complaints by prosecutors whenever there are reasonable grounds to suspect torture or ill-treatment;
- (d) Ensure that allegations of torture and ill-treatment are admitted at all stages of judicial proceedings;
- (e) Hold perpetrators, including superiors who may have tolerated or condoned the act, criminally responsible for torture or other ill-treatment and impose adequate disciplinary measures; 12 See footnote 1. A/HRC/34/54/Add.2 23
- (f) Ensure that the exclusionary rule with regard to evidence obtained under torture is fully implemented by the courts and that confessions in criminal proceedings are not admitted in the absence of any corroborating evidence;
- (g) Ensure that victims of torture and ill-treatment receive adequate compensation, including their full rehabilitation, and that they are not subject to reprisals;
- (h) Order independent medical examinations by forensic doctors properly trained on the Istanbul Protocol as soon as any suspicion of mistreatment arises;
- (i) Ensure that all aspects of the chain of criminal justice (investigation, detention, interrogation, arrest and conditions of incarceration) comply with the rule of law.

121. Regarding accountability and transitional justice, the Special Rapporteur recommends that the Government:

- (a) Implement Human Rights Council resolution 30/1 and build a consensus to regain the confidence of all citizens and, in particular, torture survivors;
- (b) Refer to international standards that require that societies approach national reconciliation by conducting truth-seeking and disclosure, justice through criminal prosecutions of perpetrators of serious crimes, reparation to victims and meaningful reform of institutions. The mechanisms by which these four steps are accomplished should be decided following extensive consultations with all stakeholders in a transparent and broadly participatory exercise that is just and earns the trust of all Sri Lankans, including those who live outside the country;
- (c) Implement the recommendations made by OHCHR following its comprehensive investigation on Sri Lanka (A/HRC/30/61), in particular those related to torture and accountability;
- (d) Establish an office to investigate and prosecute allegations of torture independent of the Office of the Attorney-General to ensure a break from the past culture of impunity, and make operational an effective and safe witness protection programme that excludes authorities who were part of the national security forces;
- (e) Refer to the work of the Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence, who has stressed the need for a comprehensive transitional justice strategy that takes into account the links between these different mechanisms;¹³
- (f) Implement the recommendations contained in the report of the Working Group on Enforced or Involuntary Disappearances;
- (g) Implement the recommendations of the mission report of the Special Rapporteur on the independence of judges and lawyers.

122. The Special Rapporteur recommends that the international community:

(a) Support the timely implementation of the various recommendations made by United Nations mechanisms; 13 See “Observations by the Special Rapporteur on the conclusion of his second advisory visit to Sri Lanka (26 January to 1 February 2016)”, available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17029&LangID=E.

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(b) Ensure that the principle of non-refoulement is upheld by not returning to Sri Lanka persons, in particular Tamils, who may be at risk of torture or ill-treatment, in accordance with article 3 of the Convention against Torture. **(Excerpts)**

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/440/12/PDF/G1644012.pdf?OpenElement>

SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS

**Chaloka Beyani - Mission to Sri Lanka
A/HRC/26/33/Add.4 - 5 June 2014**

V. Conclusions and recommendations

54. The Special Rapporteur’s visit to Sri Lanka took place over four and a half years after the end of the armed conflict between the Government and the LTTE. Since the end of the armed conflict, the Government has made significant progress, together with national and international partners, to facilitate the return or relocation of some 760,000 IDPs. It is important to ensure that the tens of thousands for whom durable solutions have not yet been found do not stay in limbo but find solutions to their plight. The Special Rapporteur believes that significant efforts are required by the Government to find durable solutions, ensuring a voluntary and informed process, and invites both humanitarian and development partners to work together with national and local authorities to ensure that the livelihoods of IDPs, relocated persons and returnees are restored. The Special Rapporteur encourages the Government to invite international partners to assist in promoting the protection of IDPs and others in search of durable solutions. The Special Rapporteur also wishes to emphasize the need for reconciliation, justice, healing and in particular, the need to bring the perpetrators of violations of international human rights law and international humanitarian law to justice in order to ensure accountability for wrongs committed to IDPs during and after displacement.

55. In the spirit of cooperation extended to him during his visit, the Special Rapporteur looks forward to continuing dialogue with the Government of Sri Lanka and offers the following conclusions and recommendations.

56. Concerning an effective national response, the Special Rapporteur recommends that the Government:

- Implement the recommendations of the LLRC, particularly chapter 5 on human rights generally and with regard to IDPs, and chapter 6 on land issues, return and resettlement;

- Implement the National Action Plan for the Promotion and Protection of Human Rights, particularly the goal of developing a broad-based national policy on internal displacement which takes into account all forms of displacement, conflict, natural disasters and economic development, drawing on the Guiding Principles on Internal Displacement and the IASC Framework on Durable Solutions for Internally Displaced Persons;
- In collaboration with international partners, significantly revise the current draft Framework for Resettlement Policy to make it a comprehensive policy on internal displacement, including on durable solutions, in line with the recommendations of the LLRC, the National Action Plan for the Promotion and Protection of Human Rights, the comprehensive 2008 draft IDP bill, the Guiding Principles on Internal Displacement and the IASC Framework on Durable Solutions for Internally Displaced Persons, with clear benchmarks for durable solutions to ensure a transparent process and reinforce credibility;
- Undertake a comprehensive needs assessment of all areas that have historically hosted IDPs, that is, the Northern, Eastern, North-Western and North-Central Provinces, and consider the needs of communities hosting IDPs, in partnership with local civil society organizations and international partners;
- Given that the conflict has ended, reassess the role of the military in maintaining national security, in compliance with international human rights law, and balance it with the right of IDPs to enjoy freedom of movement and choice of residence. based on necessity, as prescribed by law in the pursuit of national security as a legitimate aim, and proportionality or reasonable measures to ensure freedom of movement and choice of residence by IDPs;
- Provide IDPs with transparent information on the plans for the phased withdrawal of the military from certain areas, and provide adequate compensation and resettlement to those who may not return to their original lands;
- Resolve issues relating to land property by legislative measures with regard to competing claims over title, ownership, use and occupation; A/HRC/26/33/Add.4 19
- Protect single women headed households, and protect women in the north against sexual violence and enforced prostitution; • Ensure that IDPs are not subject to attacks, harassment, intimidation, persecution or any other form of punitive action upon return to their home communities or settlement elsewhere in the country, and ensure that they can enjoy their freedom of movement;
- Ensure that IDPs, returnees and relocated persons enjoy equal and non-discriminatory access to education, health services, livelihoods, land, property rights and equality before the law;
- Establish modalities enabling IDPs, returnees and relocated persons to access their land in the former High Security Zones and to be provided with adequate information on their prospects of regaining access to their land so that they can assess their options and make informed choices;
- Ensure that the commission appointed to investigate reports of missing persons complies with recognized international standards, works in consultation with the families of missing persons, extends its coverage to including missing persons/disappearances since May 2009, and makes its finding and recommendations public;
- Invite the Working Group on Enforced or Involuntary Disappearances to Sri Lanka pursuant to principles 16 and 17 of the Guiding Principles on Internal Displacement;

- Ensure that all human rights violations of a criminal nature committed against IDPs, returnees and relocated persons are subject to criminal investigation and that the alleged perpetrators are brought to justice;
- Enable proper working conditions without intimidation for NGOs and civil society organizations working with IDPs and returnees in the north and the east;
- Address impunity of security personnel in relation to offences against civilians.

57. The Special Rapporteur recommends that, with the support of international donors, international humanitarian and development actors:

- Support the Joint Needs Assessment and enable the Government to carry out a comprehensive profiling exercise of the numbers of IDPs, relocated persons and returnees, as well as a survey of intention of IDPs and their needs linked to livelihoods, housing, land and property;
- Ensure that development plans include programmes for durable solutions based on the specific needs of IDPs, relocated persons and returnees, using a rights-based approach and ensuring the participation of IDPs in decision making, and also include IDPs in their general poverty alleviation and other relevant programmes and the monitoring thereof. **(Excerpts)**

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/043/68/PDF/G1404368.pdf?OpenElement>

SPECIAL RAPPORTEUR ON THE PROMOTION OF TRUTH, JUSTICE, REPARATION AND GUARANTEES OF NON-RECURRENCE , PABLO DE GREIFF

Conclusion of his visit to Sri Lanka (30 March to 3 April 2015)

Geneva/Colombo, 11 April 2015

I would like to thank the Government of Sri Lanka for the invitation extended to undertake a visit to the country from 30 March to 3 April 2015. In the course of the visit, I was able to meet with high-level Government officials at central and provincial levels, members of the judiciary, civil society organizations, political parties, religious leaders, and victims. I travelled to both the North and the Eastern Provinces, including Batticaloa, Jaffna, Kilinochchi and Vavuniya. I am grateful to the Government for the collaboration during the visit, and to everyone who met with me. I also wish to express my gratitude to the Office of the High Commissioner for Human Rights and to the United Nations office in Sri Lanka for their support and assistance.

The objective of the visit was to examine the opportunities and constraints faced by Sri Lanka in its efforts to address the legacies of massive past violations and abuses, including those that resulted from a conflict that spanned more than thirty years.

Sri Lankans have of late taken decisions that open the possibility of important progress in the protection of rights of all citizens. Those decisions reflect the view that a military victory does not – by far – settle all questions about how people can live together. If handled well, the case of Sri Lanka has the potential to constitute an example for the region and for

the world of how a sustainable peace ought to be achieved. Those decisions manifest the end of the country's temporary leave from an international rights architecture that it contributed to construct. Most of the work necessary to redress violations and abuses, however, is still to be done. While long-term comprehensive policies are designed with the appropriate consultations, it is urgent to guarantee the cessation of all violations, and implement victim-assistance programmes.

Overuse of commissions of inquiry leading to a confidence gap

In the past, Sri Lanka has established numerous commissions of inquiry for mass violations. Some of these commissions have produced useful reports, including wide-ranging recommendations. Others have produced reports that have never been made public. Failed, inadequate or uneven implementation of their recommendations has been a common feature. They have not contributed to closing the significant confidence gap between communities, to securing the rights of victims to truth, justice, reparation, and guarantees of non-recurrence, or to making State institutions more trustworthy in the eyes of citizens. On the contrary, the accumulated result of these efforts has increased mistrust in the Government's determination to genuinely redress those violations. At this critical juncture, the country cannot afford to simply reproduce an approach that is characterized by the proliferation of largely unrelated and inconsequential 'ad hoc' initiatives. Serious consideration needs to be given to establishing transitional justice mechanisms that contribute to building lasting institutions and capacities, and which allow for effective implementation.

No shortcuts to reconciliation

Recently, 'reconciliation' has regained significant attention as the country is moving forward. In addition to inclusive political arrangements reconciliation calls for the creation of initiatives that satisfy legally binding rights to truth, justice, reparation, and guarantees of non-recurrence. Far from being alternatives to one another, these initiatives are complementary elements of a reconciliation policy. Hence, there are no 'shortcuts' to reconciliation. Relying on some of the measures at the expense of others, requiring victims to 'choose' between measures while sacrificing others would be both legally unjustified and practically in conducive. For instance, conditioning 'reparation' benefits on the victims' willingness to give up their rights to truth and justice would undermine their character as reparations.

The need for a State policy centered on the notion of human rights

There are violations that we cannot simply expect others to forget. Redressing those violations is not a matter of personal recollection, but of fundamental, basic rights. Hence, the aim should be the articulation of a *State policy*, rather than a particular Government's policy that might be abrogated once new authorities are in place. Being a matter of the promotion of basic rights, initiatives relating to truth, justice, reparation, and guarantees of non-recurrence should be designed and implemented in such a way that they place the notion of *human rights* at their core. The sole and sufficient criterion for triggering and accessing such initiatives is the violation of the rights, and not considerations relating to identity, affiliation, ethnicity, religion, or partisan politics. This is a message that should be heeded both by State authorities and by civil society in general.

All Sri Lankans – those in the different branches of power, political parties, as well as members of civil society, including religious leaders, the media, and non-governmental organizations – have a responsibility to prevent the instrumentalization of transitional justice measures for the sake of narrow partisan interests. Transitional justice measures must not be thought of as instruments of 'turn-taking' to selectively benefit one side.

Comprehensive redress needed

If transitional justice policies are to respond effectively to human rights violations, they need to be designed in such a way that their scope, including their *temporal* scope (the period during which the violations that they seek to redress occurred), expresses the determination to concentrate on the redress of basic rights comprehensively, rather than the rights of some at the expense of others. Although the final days of the armed conflict, because of the intensity of the violence deserve special scrutiny, they by no means exhaust either the catalogue of rights or the holders of rights that call for redress. The history of Sri Lanka includes rights violations and rights holders that both precede and that go beyond the direct participants in the conflict. A comprehensive redress policy cannot target, either for benefits or for responsibilities, one community alone. The initiatives must track violations wherever they occurred and independently of the identity or affiliation of the victims or the perpetrators. Only this can serve to strengthen the rights of *all* Sri Lankan citizens.

Consultation and participation

Consistent with the idea that truth, justice, reparation, and guarantees of non-recurrence are measures intended to promote fundamental rights, the design and implementation of these measures call for consultative and participatory methods. This has not been the hallmark of past Sri Lankan efforts. Consultation with those affected by the violations is essential from a conceptual standpoint for rights cannot simply be foisted but need to be exercised. Citizens cannot be simply presented with 'solutions' in the design of which they were given no role. It is equally crucial from a practical standpoint, for transitional justice measures depend, to a large extent, on the willingness of victims and others to participate, for example, by sharing pertinent information with the relevant institutions. It is also necessary from the standpoint of effectiveness, for the measures, after all, should respond to the needs and expectations of their potential beneficiaries. And it is called for in terms of their sustainability for these are inevitably long-term projects that will likely depend on the willingness of stakeholders to defend them over time from the contingencies of politics. This is more likely to happen if the stakeholders can claim ownership over them. Moreover, civil society organizations in Sri Lanka have accumulated great expertise and knowledge on transitional justice matters. This potential needs to be effectively taken advantage of.

Finally, regarding the importance of process and participation, in a country in which there are, as a consequence of conflict, reportedly close to 90,000 women-headed households, it is imperative to design and implement measures of truth, justice, reparation, and guarantees of non-recurrence in a way that facilitates both the effective and informed participation of women, and to guarantee that the outcomes promote and protect their rights. Likewise, special attention should be paid to the situation of affected children, adolescents, and the disabled.

Immediate action: Missing persons, harassment, violence, detention, land and psycho-social support

In all cases, but particularly in those characterized by low levels of trust, consultations take time. However, it is imperative for Sri Lanka to take some immediate action to demonstrate its commitment to redressing past violations. The solution to this dilemma should not undercut the conditions on which both the legitimacy and the effectiveness of transitional justice measures rest.

Immediate action must include clarifying the fate of the disappeared, for the suffering which follows from these cases generates rights violations on their own; refraining from arbitrary detentions, which likewise undermine trust and give rise to further violations; addressing land issues, which involve considerations both of justice and of livelihoods; and putting an immediate end to continuing forms of harassment, violence and unjustified surveillance of civil society and victims, in particular women in the Eastern and Northern provinces, which cast a serious doubt on current efforts. Progress on each of these domains, in conjunction with the provision of urgently needed psycho-social support to victims, is feasible in the short run. It is also a necessary condition that builds trust, thereby enabling victims' participation in any future transitional justice mechanism.

To conclude, in rejoining the international community of rights, Sri Lanka will find more than willing partners. Let me be clear; the issues at stake do not primarily involve obligations to others, the international community, but ultimately, to its own citizens. The obligations that stem from an international system which Sri Lanka contributed to constructing, are the expression of what the country thought States owe to their own citizens. These obligations include the right to the full truth about the violations that took place during a long swath of its history; to the investigation, prosecution, and punishment of those responsible for those violations; to the effective and equitable reparation of the violations; and to measures that seek to prevent the recurrence of those violations in the future.

There is no single model for the satisfaction of these rights. But there are experiences that may offer useful lessons about how to achieve these goals, experiences that involve different institutional designs, including different balances between national and international processes, which should be the subject of informed and open deliberations in the country. My mandate, as well as other international instances, including the Working Group on Enforced and Involuntary Disappearances, which the Government has already invited, stands ready to contribute to these deliberations.

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15820&LangID=E>

SPECIAL RAPPORTEUR ON THE PROMOTION OF TRUTH, JUSTICE, REPARATION AND GUARANTEES OF NON-RECURRENCE , PABLO DE GREIFF

Conclusion of his 2nd advisory visit to Sri Lanka (26 January to 1 February 2016)

GENEVA (10 February 2016) - I am grateful to the Government of Sri Lanka for a second invitation to undertake an advisory visit to the country (26 January to 1 February 2016) and for the excellent collaboration in the course of the visit. On this occasion I met with high Government officials both in Colombo and in Jaffna, with religious leaders and a wide variety of representatives of civil society organizations and victims groups, and the diplomatic community. The most important interlocutor during this visit, and in a sense, the main motivation for doing it at this time, was the Task Force that has been established in order to carry out the national consultations on transitional justice. I am grateful to everyone that spent time with me. Without the support of the Office of the United Nations in Sri Lanka, the Office of the High Commissioner of Human Rights and the United Nations Peacebuilding Support Office this trip would not have been possible. I thank them for their contribution to this visit.

National Consultations

The international community –this mandate included—had insisted on the importance of carrying out national consultations, in the conviction that redressing massive human rights violations is best done with the participation of those whose rights were violated in the first place. Consulting victims is crucial for several reasons: it constitutes in itself a mode of recognition and respect; people whose rights were violated, often in the most brutal ways, will be listened to respectfully and their views taken seriously as to the most effective ways of redressing those violations. Consulting victims is also a means of trying to guarantee a close fit between the programmes to be established and the needs and expectations of their beneficiaries; it is a way of eliciting information about topics and issues that may not be apparent; symbolically, it is another way of reaffirming the inclusive nature of society, the reintegration of victims into the community of citizens, and a way to signal to others the currency of the notion of *equal rights*.

It is therefore gratifying to see that a Task Force has been established in order to design and implement a national consultation on issues having to do with truth, justice, reparation, and guarantees of non-recurrence, which are matters of legal obligation, and which were the object of commitments voluntarily undertaken by Sri Lanka when it co-sponsored a resolution on this topic at the Human Rights Council in Geneva in September 2014.

Furthermore, it is particularly gratifying that the Government has decided to establish a task force made up entirely of representatives of civil society with a long trajectory in the defence of human rights. While in choosing to appoint such a task force the Government is making a bet in favour of the importance of the independence and objectivity of the consultations, the risks being taken by those who have accepted this appointment must also be appreciated. Everyone's credibility is at stake here. For the sake of the integrity of the exercise, but fundamentally, for the sake of the effectiveness of victims' redress, and as a consequence, for what it would say about the robustness and the seriousness of the idea of equal rights for all, of a shared sense of citizenship in Sri Lanka, this exercise must be made to work.

A difficult context

The task force is starting its deliberations, however, against a background that is far from ideal; statements by the President of Sri Lanka, the Prime Minister, as well as several ministers, seemed to call into question the willingness to abide by commitments undertaken by Sri Lanka. Comments

by high level Government officials about the fate of the disappeared also created consternation amongst family members of victims. The paucity of information made public by the Government about the task force, its mandate, and the role of national consultations within an overall strategy for the adoption and the implementation of a transitional justice policy, creates uncertainty about the determination of the Government and about whether it's different members are of one mind concerning this important issue.

A second feature of the background against which these discussions are taking place is a high degree of political polarization. I take the opportunity to offer a few reminders: the extraordinarily complex nature of Sri Lankan history means that there is no community which at some point or another has not had some of its members involved in human rights violations or abuses that call for redress. Transitional justice in this context is not a matter of offering redress for the violations of the rights of only one side of what has been in effect a many-sided conflict. The instrumentalization of transitional justice measures for narrow partisan political purposes undermines the legitimacy of one of the few means available for the reintegration of societies in the aftermath of mass violations and abuses.

Transitional justice measures must operate on the basis of the concept of human rights and therefore truth, justice, reparation, and guarantees of non-recurrence, as matters of right, must be accessible in virtue of having been a victim of a relevant right violation or abuse, independently of other considerations, including identity, group membership, or religion. Sri Lanka needs to avail itself of every possible means of demonstrating to all its citizens that the equality of rights is a meaningful notion in the country. Those who approach questions of truth, justice, reparations, and guarantees of non-recurrence as if they were the subject of a zero sum game, a matter of interest to one community alone, do a great disservice to the country. This includes some politicians, members of the media, and even some religious leaders, who speak as if the measures will either target or benefit one group alone. So let us be clear: criminal accountability should be sought for those responsible for massive or systematic violations or abuse *regardless* of identity considerations; the truth that is sought is the comprehensive, even-handed account that objectively and dispassionately attempts to understand the violations or the abuses committed by members of whichever community or group may have engaged in that practice; reparations programmes should be established in order to provide benefits for people, independently of their group identity, however that may be defined, solely in virtue of having been a victim of a violation or an abuse; and finally, initiatives should be set in place in order to offer guarantees of non-recurrence not to the member of one particular community, but to all.

Against this background the country proposes to start a national consultation process that will require a great deal of attention and support; it will be taking place under circumstances in which many victims in the North, particularly, and especially women, claim that they are still the subject of intrusive surveillance, and that their concerns about security are not completely assuaged. Furthermore, the consultations will take place without previous concerted efforts to inform the population about what transitional justice is. For the consultation to have legitimacy it will be indispensable for the Government, from the highest levels on down, to convey to all sectors of society, the armed and security forces included, its commitment to and the significance of the process, and to guarantee that the consultations will proceed not only without interference from but with the support of all sectors of the state and the Government.

Because national consultations do not lead to actionable blueprints, even less when there is so little pre-existing familiarity on the part of the general population with the instruments of transitional justice –among other reasons—it will be important to think about, AND DESIGN consultations not just as a one-off opportunity, but in terms of ongoing processes; whatever measures are implemented, *those* will also call for established means of communicating with and proving responsive to civil society, victims in particular. 59

A capacity gap

The fact that consultations will not lead to actionable blueprints also means that there is a certain degree of capacity building about the topic within the Government that ought to be taking place (it also involves that the consultations should not be used as an excuse for lack of action on some fronts). While the commitment on the part of certain individuals and sectors of Government is plain to see, and plans for sign-off and deliberation mechanisms within the cabinet have been made, the articulation of even the outlines of a comprehensive transitional justice policy requires more capacities than have been available up to now. Building up these capacities is essential so that the debate can move promptly from considerations about the desirability of establishing transitional justice measures in general, to a debate about at least the contours of concrete alternatives to be finally shaped with the inputs of the consultation process.

Insisting again on a comprehensive policy

While it is understood that in some ways it is still early in the process of articulating a comprehensive transitional justice policy, the Special Rapporteur would like to offer a cautionary note about a certain lopsidedness in the discussions heretofore; most of the discussions in Sri Lanka in the recent past have concentrated on the establishment of an accountability procedure, and indeed, on a narrow dimension of such procedure, namely, the nationality of the judges. This issue should have been approached from the standpoint of the technical competencies that are necessary to make a special accountability mechanism dedicated to mass crimes, perform its functions well (in addition to crucial considerations of impartiality and independence). These skills are typically not widely available in countries that have not gone through the corresponding judicial procedures, for they do not form part of the ordinary training of lawyers, but rather specialized skills that have slowly developed over time. The discussion about the nationality of the judges, however, has displaced a discussion about the skill set that the *investigation* and the *prosecution* of these cases will require a similarly specialized set of competencies.

The narrow focus on (one aspect of) the accountability mechanism has also displaced attention from the other components of a comprehensive transitional justice policy, namely, truth, reparations, and guarantees of non-recurrence. Each of them requires deliberate planning on its own, but also in relationship to one another. The fact that these measures will be expected to respond to a wide variety of violations, committed by all sides, not just during the end of the conflict but rather during a more extended period of time, and that therefore the universe of potential beneficiaries is both large and heterogeneous only increases the need not to allow the planning for these mechanisms to lag behind. Similarly, thought also needs to be given to how a transitional justice policy intersects with other on-going initiatives, not the least the constitutional reform project, for clearly there are some important overlaps, especially in the areas of guarantees of non-recurrence, around issues such as the independence of the judiciary, the definition of the role of the different parts of the security services and the jurisdiction of military courts, the constraints on anti-terrorist legislation, and topics as foundational as a bill of rights for all Sri Lankans.

There is no country that can accomplish all of this in a short period of time. Sri Lanka has embarked on an ambitious process that should not be prepared, let alone implemented, in haste. The time line that the task force on consultation has received suggests that there may be some unrealistic expectations about what is involved in settling complex issues in a difficult environment, in which programmes on novel areas is being considered for the first time. Those that are familiar with transitional processes in different parts of the world understand the challenges and do not expect Sri Lanka to adopt measures simply for the sake of demonstrating compliance with commitments that the country has made. What is expected is, on the one hand, for the Government to pay immediate attention to certain issues on which it can certainly act without delay (for example, on the issue of the missing, on the prompt adoption of victim assistance programmes including

psycho-social support, the lingering issue of land occupied by the armed forces, to name a few), and on the other, to engage in credible processes leading to the establishment of strong institutions capable of delivering in a sustainable way robust results over time in the areas of truth, justice, reparation, and guarantees of non-recurrence.

The Special Rapporteur reaffirms his conviction that this is a historic opportunity for Sri Lanka to address past issues that nevertheless impose significant burdens on the present and the future. Addressing them correctly, while challenging, will also open crucial opportunities for the members of *all* communities.

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17029&LangID=E>

SPECIAL RAPPORTEUR ON MINORITY ISSUES, AT THE CONCLUSION OF HER OFFICIAL VISIT - RITA IZSÁK-NDIAYE

20 October 2016

5. SELECTED RECOMMENDATIONS

Short-term recommendations, to be implemented as soon as possible:

- Begin taking necessary steps towards the establishment of an independent, dedicated minority rights mechanism in charge of coordinating minority issues, with the inclusion of representatives of minority communities.
- Ensure full protection of all minority places of worship as well as heritage.
- Ensure that the imminent constitutional reform includes a strong minority rights regime including a fully empowered Independent Commission.
- Extend full institutional cooperation to, and strengthen the existing independent institutions and ensure sufficient human and financial resources are provided for the full implementation of their mandates, including the National Human Rights Commission, the Office for National Unity and Reconciliation and the Secretariat for Coordinating Reconciliation Mechanisms.
- Repeal and replace the Prevention of Terrorism Act with anti-terrorism legislation in conformity with international standards.
- Review all cases of security-related detainees with a view to their swift release if there are no elements that would merit a prosecution or alternatively charge those against whom there is evidence of involvement in serious crimes.
- Continue the gradual release to the civilian populations of the remaining 6,124 acres (according to the Army figures) of the land currently held by the military in the Northern province.
- Take the necessary measures to implement the recommendations of the Special Rapporteur on the human rights of internally displaced persons following his visit to Sri Lanka in December 2013, without further delay.
- Ensure the smooth and transparent process of establishment of the Office of Missing Persons by January 2017 with adequate budget and inclusive composition.
- Publicly condemn religious intolerance and hold perpetrators of hate crimes and violence

- Consider establishing a system of community liaison officers, to be placed in every public institution, with the necessary resources required to fulfil their mandate.
- Continue and step up psychosocial assistance programs to victims of the conflict according to their needs.
- Consider a review of all personal laws, especially the 1951 Muslim Marriage and Divorce Act, in line with international human rights standards and in consultation with the Muslim community including Muslim women's groups.

Longer-term objectives with appropriate planning:

- Step up measures and allocate sufficient budget to ensure the implementation of language policy;
- Ensure that any future electoral reform ensures proportional representation for all minority groups on the basis of accurate data collection and disaggregation;
- Consider establishing affirmative action policies for under-represented communities in the government, the judiciary, armed forces and law enforcement, along ethnic, religious, linguistic as well as gender lines.
- Ensure multiple identity choice in the census and include options for smaller minorities to adequately self-identify themselves, collect and analyse data disaggregated by ethnicity, religion or language which will form a basis of appropriate policy-planning through targeted means if necessary.
- Form a vision for the reform of educational institutions to better foster friendship among children from different backgrounds and review the curriculum to ensure learning about each other's culture, traditions, languages, and ethnicity. **(Excerpts)**

<http://k.one.un.org/news/full-statement-by-rita-izsak-ndiaye-un-special-rapporteur-on-minority-issues-at-the-conclusion-of-her-official-visit/>

REPORT OF THE OHCHR INVESTIGATION ON SRI LANKA (OISL)

16 September 2015 - A/HRC/30/CRP.2

XIX. Conclusions and recommendations

1. OISL was tasked with carrying out a comprehensive investigation into human rights violations and related crimes that occurred between 2002 and 2011. To do so in such a short time, given the extent of the violations, the amount of available information, as well as the constraints to the investigation, posed enormous challenges. Nevertheless, this report has attempted to shed further light on the persistence, scale and gravity of the violations of international human rights and humanitarian law that have occurred, not only during the last phases of the armed conflict, but during the whole period covered by OISL's mandate, and also prior to it.

2. The report has shown that during the last phases of the armed conflict, the intense shelling by the armed forces caused great suffering and loss of life among the civilian population in the Vanni. Witnesses gave harrowing descriptions to OISL of the carnage, bloodshed and psychological trauma of bombardments in which entire families were killed. Lack of food, water and medical treatment because of strict controls of supplies allowed into the Vanni by the Government further impacted on their well-being and undoubtedly caused additional deaths. The LTTE caused further distress by forcing adults and children to join their ranks and fight on the front lines. The fact that the civilians were forced to remain in the conflict area by the LTTE and suffered reprisals if they tried to leave added to the trauma that they lived through.

3. Counting or estimating the exact number of civilian casualties during the different stages of the armed conflict is impossible without full access to the areas and communities affected, in particular in Sri Lanka. Yet, on the basis of the information compiled by OISL, there is no doubt that thousands, and likely tens of thousands, lost their lives, indicating the widespread scale of the attacks. The patterns of commission of gross human rights violations and serious violations of international humanitarian law, the indications of their systematic nature, combined with the widespread character of the attacks all point to the possible perpetration of international crimes. These allegations must be promptly, thoroughly and independently investigated and those responsible should be brought to justice.

4. Though the conflict ended on 18 May 2009, the plight of the civilians did not end once the war was over. More than 250,000 found themselves deprived of liberty in military-run closed IDP camps for months while the security forces carried out operations in the camps to filter out former LTTE cadres. Once released from the IDP internment camps (described as 'welfare villages' by the Government), they still risked further abuses, such as surveillance, detention, torture and ill-treatment and sexual violence. Former LTTE cadres and others are believed to have been secretly executed after handing themselves over to the SLA.

5. While egregious violations occurred on a large scale during the last phase of the armed conflict, this report has also described the persistence of serious human rights violations, abuses and related crimes that have impacted tens of thousands of individuals as well as whole communities – Sinhalese, Tamil and Muslim - not only during the period covered by the OISL's mandate, but also over past decades. These include extensive and endemic patterns of extrajudicial killings, enforced disappearances, abductions, unlawful arrests and arbitrary detention, torture and sexual violence committed with impunity by the Government forces over many years, as well as by paramilitary organisations linked to them. They also include the multiple unlawful killings,

indiscriminate suicide bombings and claymore mine attacks by the LTTE which killed and maimed many civilians, and the recruitment of children and their use in hostilities by the LTTE and paramilitary groups.

6. Most importantly, many of the structures responsible for the violations and crimes remain in place, ready to be reactivated when necessary as well as to prevent any progress in terms of addressing accountability. Indeed, OISL believes that there must be profound institutional changes to end the decades of repressive and persecutory attitudes, practices and structures to prevent their recurrence. Some of these will take time, but immediate steps can be taken to issue strict instructions to public officials and security forces indicating that violations will not be tolerated, and to send a message that the Government is determined to bring about change. Vetting to remove alleged perpetrators from the security forces should also be part of the process. Paramilitary groups must be disarmed, and their activities, including the extent, nature and identity of the support given to these groups by government officials and members of the security forces must be fully and independently investigated.

7. The need for strengthening rule of law institutions, including by ending the political interference in the justice sector was highlighted by the LLRC. The restoration of the Constitutional Council offers hope of the appointment more independent members to the Human Rights Commission of Sri Lanka and other senior public posts. In this regard, OISL hopes the new Government will take urgent measures to restore the independence of the Human Rights Commission of Sri Lanka, and to reinforce its mandate by legislating on its powers to refer cases to

the courts. The effectiveness of the Commission has been seriously eroded since 2006, yet it is a key institution regarding the protection of human rights and contributing to accountability.

8. Reconciliation and addressing root causes of systematic human rights abuses and entrenched impunity are critical to securing the new Government's vision for Sri Lanka. Accountability must be part of that vision, including processes of truth-telling, justice and reparations. The previous Government's unbending narrative that it protected civilians, provided adequate humanitarian assistance in the conflict zone and for the basic needs of IDPs – is in stark contrast with the countless detailed descriptions of witnesses who lived through these events and therefore must change.

9. Likewise, there must be recognition within the Tamil community, for example, of the destruction and harm inflicted on civilians and communities by the LTTE. While the LTTE no longer exists nor controls territory, the legacy of the abuses, committed by and large with total impunity, remains and must be addressed. Even now, in some parts of Sri Lanka, those who were the victims of abuses by the LTTE are still afraid to talk about what happened in the presence of former LTTE cadres.

10. The design of any mechanisms, such as a truth-seeking mechanism or future institution to deal with disappearances, must be through a process of genuine, informed and participatory consultation, especially with victims and their families. A vital initial step towards progress in addressing the past and allowing accountability for future violations must also be the creation of an environment where victims and other witnesses can provide testimony without fear of persecution. Fear of reprisals has prevented many from coming forward to seek truth, justice and reparations. Relatives of the disappeared have, nevertheless, courageously continued their search for the truth about their missing loved ones in spite of the many and repeated attempts by governments to deny and obfuscate responsibility.

11. Creating an environment conducive to open testimony and dialogue requires putting in place an independent, effective witness protection system. While the Witness Protection Act of 2015 marks a start, it requires amendment to bring it into line with international standards and best practices. This should be a priority for the new Government. At the same time, creating such an environment requires measures to prevent security forces and others from threatening and abusing victims or their families.

12. OISL's report has shown how impunity is deeply entrenched throughout Sri Lankan institutions, in spite of the professionalism and expertise of many individual officials. The majority of the many commissions of inquiry appear to have been designed to deflect criticism in high profile cases rather than as effective mechanisms to enable accountability, the exceptions being the commissions of inquiry into disappearances set up in 1994 and 1998. Despite their flaws, they did nevertheless document many cases, including alleged perpetrators. However, the majority of the alleged perpetrators were never prosecuted and some have since been promoted within the security forces.

13. There has been intense debate nationally and internationally about the mechanisms needed to prosecute the alleged violations and crimes committed in Sri Lanka. Much of the debate has focussed on what type of mechanisms would best achieve accountability, and the form they should take. The contribution of the Human Rights Council, though resolution 25/1, stressed the need for a "comprehensive approach to transitional justice incorporating the full range of judicial and non-judicial measures", including individual prosecutions, reparations, truth-seeking, institutional reform and vetting of public employees and officials.

14. The commitment by the new Government to pursue accountability through a domestic process is commendable, particularly in a context where some political parties and sections of the military and society remain deeply opposed. OISL believes, however, that Sri Lanka's criminal justice system is not yet ready or fully equipped to promptly conduct the "independent and credible investigation" into the allegations contained in this report, or "to hold accountable those responsible for such violations", as requested by the Human Rights Council.¹ The chapter on Justice and Accountability in this report explains the complex reasons for this, and why the High Commissioner believes that for an accountability mechanism to succeed in Sri Lanka, it will require more than a domestic mechanism. Sri Lanka should draw on the lessons learnt and good practices of other countries that have succeeded with hybrid special courts, integrating international judges, prosecutors, lawyers and investigators. Such a mechanism will be essential to give confidence to all Sri Lankans, in particular the victims, in the independence and impartiality of the process, particularly given the politicization and highly polarized environment in Sri Lanka. It will be important that the international community supports these initiatives and that they also continue to monitor these developments, to take further actions that may be required at the international level should there not be concrete results.

15. Although OISL's findings regarding issues on attacks on civilians and humanitarian assistance differ at times from those of the LLRC in its report, OISL believes that many of the LLRC's findings and recommendations remain pertinent today and should be considered as part of the follow-up to this report, particularly regarding detention and disappearances, long-term grievances of the many different communities and proposals for reconciliation. It is regrettable that many key recommendations which they made almost five years ago and which could help to safeguard human rights have yet to be implemented.

16. OISL recognises the measures to improve human rights have been taken by the Government which took office in January and that the new Government that took office in August 2015 has committed to bringing about change. The High Commissioner sincerely hopes that the new Government will seize this unique opportunity to articulate the “common vision of an interdependent, just, equitable, open and diverse society” as highlighted by the LLRC. It will require courage and political will to challenge the status quo and address the many long-standing grievances in order to restore the full protection of human rights for all its citizens.

17. OHCHR hopes that this report will contribute to the development of that vision, and that it will be embraced as a means to move forward constructively rather than lapse into defensive, recriminatory discourses. Below are a set of recommendations which it believes should be implemented as part of the process of creating a vision and programme of change which does full justice to the positive resources and diversity of its people. The international community also has an important role to play in supporting change and advance accountability for past violations and abuses and longer term reconciliation.

Recommendations General

1. Develop a comprehensive transitional justice policy for addressing the human rights violations of the past 30 years and preventing their recurrence;
2. Set up a high-level executive group to develop a coordinated, time-bound plan and oversee progress in implementing the recommendations contained in this report and previous reports by the High Commissioner to the Human Rights Council, as well as relevant outstanding recommendations of the LLRC and past commissions of inquiry;
3. Invite OHCHR to establish a full-fledged country presence to monitor the human rights situation, advise on implementation of the High Commissioner’s recommendations and of all HRC resolutions, and provide technical assistance;
4. Initiate genuine consultations on transitional justice, in particular on truth-seeking, reparations and memorialization, with the public, victims and witness groups, civil society and other stakeholders. These should be accompanied by public education programmes that ensure informed participation in the process; Invite the Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence to continue his engagement so that he accompanies and advises in this process;
5. Ensure full cooperation with the Special Procedures of the Human Rights Council. Invite the Special Representative of the Secretary-General on conflict-related sexual violence and the Special Representative of the Secretary-General on Children and Armed Conflict, the Special Rapporteurs on extrajudicial killings and torture, the Working Group on Arbitrary Detention and other relevant Special Procedures mandate holders to make early country visits.

Institutional reforms

6. Ensure that the Constitutional Council is fully operational as soon as possible, so that it can appoint qualified new members of the utmost independence and integrity to key institutions such as the Human Rights Commission of Sri Lanka;
7. Review legislation to strengthen the Human Rights Commission’s independence and its capacity to refer cases to the courts;

8. Initiate action to seek Supreme Court review of its decision in the Singarasa case² to affirm the applicability of international human rights treaties in domestic law and reinstate the competence of the UN Human Rights Committee to consider individual complaints;
9. Issue clear, public and unequivocal instructions to all branches of the military and security forces that torture, rape, sexual violence and other human rights violations are prohibited and that those responsible, either directly or as commander or superior, will be investigated and punished. Subject to due process, anyone suspected of being involved in such acts should be immediately suspended until an effective investigation has been completed. Order and end to all surveillance, harassment and reprisals against civil society actors, human rights defenders and journalists;
10. Prepare an overall plan for security sector reform to ensure the civilian nature, independence and professionalism of the law and order forces, and reducing the role of the military in internal security matters;
11. Clarify the roles and chain of command for all branches of the security forces, including the different intelligence services, the CID and the TID.
12. Develop a fully-fledged vetting process respecting due process to remove from office military and security force personnel and any other public official where there are reasonable grounds to believe that they were involved in human rights violations;
13. Ensure that no member of the Sri Lankan security forces is sent on a UN peacekeeping without vetting to establish that the individual, including commanders, have not in any way been involved in human rights violations or criminal acts. Any allegations of abuses by Sri Lankan peacekeepers while on peacekeeping duties must be fully investigated by the authorities;
14. Prioritize the return of private land which has been occupied by the military and end military involvement in civilian activities;
15. Take immediate steps to identify and disarm groups affiliated with political parties and sever their linkages with security forces, intelligence services and other Government authorities;
16. Initiate a high-level review of the Prevention of Terrorism Act (PTA) and its regulations and the Public Security Ordinance Act with a view to their repeal and the formulation of a new national security framework fully complying with international law;

Justice

17. Review the Victim and Witness Protection Act with a view to incorporating better safeguards for the independence and effectiveness of the witness protection programme. Ensure the independence and integrity of those appointed to the Witness Protection Authority and that the police personnel assigned to this program are fully vetted. Ensure adequate resources for the witness protection system, including with international assistance; Ensure special protection mechanisms for children and victims of sexual violence.
18. Enact legislation to criminalize war crimes, crimes against humanity, genocide and enforced disappearances, without statute of limitation. Enact various modes of criminal liability, notably command or superior responsibility;

19. Ratify the International Convention on the Protection of All Persons from Enforced Disappearances, the Additional Protocols to the Geneva Conventions and the Rome Statute of the International Criminal Court;
20. Adopt specific legislation establishing an *ad hoc* hybrid special court, integrating international judges, prosecutors, lawyers and investigators, mandated to try war crimes and crimes against humanity, including sexual crimes and crimes committed against children, with its own independent investigative and prosecuting organ, defence office, and witness and victims protection programme. Resource the court so that it can effectively try those responsible;
21. Carry out a comprehensive mapping of all pending criminal investigations, habeas corpus, and fundamental rights petitions related to serious human rights violations, as well as the findings of all Commissions of Inquiries where they have identified specific cases, and refer these cases to the special court upon its establishment; Initiate prosecutions in all cases in which the Presidential Commission to Investigate Complaints Regarding Missing Persons has identified perpetrators and *prima facie* evidence;
22. Review all of the cases submitted to the Disappearance Investigation Unit and the Missing Persons Unit by the Zonal and All Island Commissions, including in cases where the courts subsequently acquitted the accused, to identify those which require further investigation, including chain of command responsibilities;
23. Review all the cases of the more than 11,000 individuals perceived or known to be linked to the LTTE reported to have been registered and rehabilitated to account for their current whereabouts to ensure that none subsequently disappeared.
24. Review all cases of detainees held under the PTA and either release them or immediately bring them to trial. Review the cases of those convicted under the PTA and serving long sentences, particularly where convictions were based on confessions extracted under torture;

Truth/right to know

25. Dispense with the current Presidential Commission on Missing Persons and transfer its cases to a credible and independent institution developed in consultation with families of the disappeared;
26. Develop a central database of all detainees, with independent verification, where relatives can obtain information of the whereabouts of family members detained;
27. Publish a full gazetted list of all detention centres, and close down any unofficial ones still in existence;
28. Publish all unpublished reports of the many human rights-related commissions of inquiry, the Presidential Commission on the Missing, and the Army Court of Inquiry into civilian casualties;
29. Develop a comprehensive plan/mechanism for preserving all existing records and documentation relating to human rights violations, whether held by public or private institutions;

Reparations

30. Develop a national reparations policy in consultation with victims and their families, considering the specific needs of each victims, including women and children and finance appropriately from the state budget;

31. Develop and strengthen programmes of psychosocial support for all victims of the conflict;
32. Amend legislation to ensure that those who have received death certificates for the missing are not prevented from pursuing judicial cases to determine what happened to their loved ones;
33. Ensure durable solutions for old and new displaced populations through land restitution, resettlement and livelihood support;

To the United Nations system and Member States

34. Provide technical and financial support for the development of transitional justice mechanisms provided that they meet international standards. Set up a coordination mechanism among donors in Sri Lanka to ensure focussed and concerted efforts to support the transitional justice process;
35. Apply stringent vetting procedures to Sri Lankan police and military personnel identified for peacekeeping, military exchanges and training programmes;
36. Whenever possible, notably under universal jurisdiction, investigate and prosecute those allegedly responsible for violations, such as torture, war crimes or crimes against humanity ;
37. Ensure a policy of non-refoulement of Tamils who have suffered torture and other human rights violations until guarantees of non-recurrence are sufficient to ensure that they will not be subject to further abuse, in particular torture and sexual violence;
38. In countries where there is a significant Tamil population, carry out an assessment of needs for psychosocial support for those who have been victims of violations and as necessary fund the development of such services;
39. Continue to monitor human rights developments and progress towards accountability and reconciliation through the Human Rights Council. Should there be insufficient progress, the Human Rights Council should consider further international action to ensure accountability for international crimes. *(Excerpts)*

**COMPREHENSIVE REPORT OF THE OFFICE OF THE
UN HIGH COMMISSIONER FOR HUMAN RIGHTS ON SRI LANKA**

A/HRC/30/61 - 28 September 2015

VIII. Conclusions and recommendations

86. The findings of the OHCHR investigation contained in the present report were born out of the past failure of the Government of Sri Lanka to address accountability for the most serious human rights violations and crimes. Ending the impunity enjoyed by the security forces and associated paramilitary groups, and holding to account surviving members of LTTE, will require political will and concerted efforts to ensure that these violations and crimes do not recur.

87. The commitments made by the new Government in this respect are welcome, but it needs to convince a very sceptical audience – Sri Lankan and international – that it is determined to show results. Prosecuting a few emblematic cases will not be sufficient; Sri Lanka needs to address the patterns of serious human rights violations and other international crimes that have caused such suffering for all communities over decades if it is to prevent them from haunting its future.

88. The High Commissioner remains convinced that, for accountability to be achieved in Sri Lanka, it will require more than a domestic mechanism. Sri Lanka should draw on the lessons learned and good practices of other States that have succeeded with hybrid special courts, integrating international judges, prosecutors, lawyers and investigators. Such a mechanism will be essential to give confidence to all Sri Lankans, in particular the victims, in the independence and impartiality of the process, particularly given the politicization and highly polarized environment in Sri Lanka. OHCHR stands ready to continue to provide its advice and technical assistance in the design of such a mechanism.

89. The High Commissioner also believes that the Human Rights Council has played – and should continue to play – a critically important role in encouraging progress on accountability and reconciliation in Sri Lanka. As the process now moves into a new stage, he urges Council members to sustain their monitoring of developments in Sri Lanka with a view to further actions that may be required at the international level should concrete results not be achieved.

90. In particular, the High Commissioner wishes to highlight the following recommendations below.

A. Government of Sri Lanka

1. General

91. The High Commissioner recommends that the Government of Sri Lanka:

(a) Set up a high-level executive group to develop a coordinated, time-bound plan and oversee progress in implementing the recommendations contained in the present and previous reports of the High Commissioner submitted to the Human Rights Council, as well as relevant outstanding recommendations of the Lessons Learnt and Reconciliation Commission and past commissions of inquiry;

(b) Invite OHCHR to establish a full-fledged country presence to monitor the situation of human rights, advise on implementation of the recommendations made by the High Commissioner and the Human Rights Council in its resolutions and to provide technical assistance;

(c) Initiate genuine consultations on transitional justice, in particular truth-seeking and accountability mechanisms, reparations and memorialization, with the public, victims and witness groups, civil society and other stakeholders; these should be accompanied by public education programmes that ensure informed participation in the process;

(d) Invite the Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence to continue his engagement in accompanying and providing advice in this process, and invite other relevant Special Representatives of the Secretary-General and special procedure mandate holders, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on *torture* and other cruel, inhuman and degrading treatment or punishment, to make early country visits.

2. Institutional reforms

(e) Through the Constitutional Council, appoint qualified new members to the Human Rights Commission of Sri Lanka of the utmost independence and integrity, and review legislation to strengthen the Commission's independence and its capacity to refer cases to the courts;

(f) Issue clear, public and unequivocal instructions to all branches of the military and security forces that torture, rape, sexual violence and other human rights violations are prohibited and that those responsible, both directly or as commander or superior, will be investigated and punished; and order an end to all surveillance, harassment and reprisals against human rights defenders;

(g) Develop a full-fledged vetting process respecting due process to remove from office military and security force personnel and any other public official where there are reasonable grounds to believe that they have been involved in human rights violations;

- (h) Prioritize the return of private land that has been occupied by the military and end military involvement in civilian activities;
- (i) Take immediate steps to identify and disarm groups affiliated with political parties, and sever their linkages with the security forces, intelligence services and other government authorities;
- (j) Initiate a high-level review of the Prevention of Terrorism Act and its regulations and the Public Security Ordinance Act with a view to their repeal and the formulation of a new national security framework fully compliant with international law;

3. Justice

- (k) Review the Victim and Witness Protection Act with a view to incorporating better safeguards for the independence and effectiveness of the witness protection programme in accordance with international standards; ensure the independence and integrity of those appointed to the Witness Protection Authority and that the police personnel assigned to the programme are fully vetted; and ensure adequate resources for the witness protection system;
- (l) Accede to the International Convention on the Protection of All Persons from Enforced Disappearance, the Additional Protocols to the Geneva Conventions, and the Rome Statute of the International Criminal Court;
- (m) Enact legislation to criminalize war crimes, crimes against humanity, genocide and enforced disappearances without statutes of limitation; and enact various modes of criminal liability, in particular command or superior responsibility;
- (n) Adopt specific legislation establishing an ad hoc hybrid special court, integrating international judges, prosecutors, lawyers and investigators, mandated to try war crimes and crimes against humanity, with its own independent investigative and prosecuting organ, defence office and witness and victims protection programme, and provide it with the resources necessary for it to be able try those responsible to promptly and effectively;
- (o) Carry out a comprehensive mapping of all criminal investigations, habeas corpus and fundamental rights petitions relating to serious human rights violations, and of the findings of all commissions of inquiries where they have identified specific cases, and refer these cases to the special court upon its establishment;
- (p) Reinforce the forensic capacity of the judiciary and ensure that it is adequately resourced, including for DNA testing, forensic anthropology and archaeology;
- (q) Review all cases of detainees held under the Prevention of Terrorism Act and either release them or immediately bring them to trial; and review the cases of those convicted under the Act and serving long sentences, particularly where convictions were based on confessions extracted under torture;

4. Truth/right to know

- (r) Dispense with the current Presidential Commission on Missing Persons and transfer its cases to a credible and independent institution developed in consultation with families of the disappeared;
- (s) Develop a central database of all detainees, with independent verification, where relatives may obtain information of the whereabouts of family members detained, and publish a list of all detention centres;
- (t) Publish all unpublished reports of the many human rights-related commissions of inquiry, the Presidential Commission on the Missing and the Army Court of Inquiry into civilian casualties;
- (u) Develop a comprehensive plan/mechanism for preserving all existing records and documentation relating to human rights violations, whether held by public or by private institutions;

5. Reparations

- (v) Develop a national reparations policy that takes into account the specific needs of women and children, and make adequate provision from the State budget;
- (w) Strengthen programmes of psychosocial support for victims.

B. United Nations system and Member States

92. The High Commissioner recommends that the United Nations system and Member States:

- (a) Provide technical and financial support for the development of transitional justice mechanisms, provided that they meet international standards; and set up a coordination mechanism among donors in Sri Lanka to ensure focused and concerted efforts to support the transitional justice process;
- (b) Apply stringent vetting procedures to Sri Lankan police and military personnel identified for peacekeeping, military exchanges and training programmes;
- (c) Wherever possible, in particular under universal jurisdiction, investigate and prosecute those responsible for such violations as torture, war crimes and crimes against humanity;
- (d) Ensure a policy of non-refoulement of Tamils who have suffered torture and other human rights violations until guarantees of non-recurrence are sufficient to ensure that they will not be subject to further abuse, in particular torture and sexual violence;
- (e) Continue to monitor human rights developments and progress towards accountability and reconciliation through the Human Rights Council; if insufficient progress is made, the Council should consider further international action to ensure accountability for international crimes. (*Excerpts*)

UN HIGH COMMISSIONER FOR HUMAN RIGHTS ON ADVICE AND TECHNICAL ASSISTANCE FOR THE GOVERNMENT OF SRI LANKA ON PROMOTING RECONCILIATION AND ACCOUNTABILITY

A/HRC/22/38 - 11 February 2013

VII. Conclusion and recommendations

61. Achieving reconciliation following decades of violence and mistrust is challenging in any context, but is only possible through a genuine, consultative and inclusive process that addresses the grievances of all those affected by the conflict, in an environment where the rule of law and human rights for all are respected.

62. While the Lessons Learnt and Reconciliation Commission had some limitations, it nonetheless made significant and far-reaching recommendations for reconciliation and strengthening the rule of law. This was widely heralded by prominent community figures, religious leaders and civil society in Sri Lanka eager to join hands in a genuinely consultative and inclusive reconciliation process. The Government therefore has a unique opportunity to build upon the Commission's work and findings to move towards a more all-encompassing and comprehensive policy on accountability and reconciliation. Unfortunately, however, the Government has made commitments to only some of the Commission's recommendations, and has not adequately engaged A/HRC/22/38 17 civil society to support this process. The steps taken by the Government to investigate allegations of serious violations of human rights further have also been inconclusive, and lack the independence and impartiality required to inspire confidence.

63. The High Commissioner recommends that the Government of Sri Lanka:

- (a) Give positive consideration to the offers of assistance made in her letter dated 26 November 2012, in particular expertise in:

- (i) The establishment of a truth-seeking mechanism as an integral part of a more comprehensive and inclusive approach to transitional justice;
- (ii) Criminal and forensic investigations to review relevant case files and advise on additional lines of inquiry to resolve outstanding cases in accordance with international standards;
- (iii) Drafting laws dealing with witness and victim protection, the right to information, the criminalization of enforced disappearances and the revision of existing laws to bring them into line with the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (iv) Strengthening and ensuring the independence of national institutions;
- (v) The development of a national reparations policy in line with international standards;
- (b) Invite special procedures mandate holders with outstanding requests to make country visits, particularly those who have offered assistance pursuant to Human Rights Council resolution 19/2;
- (c) Hold public and inclusive consultations on the national plan of action for implementation of the recommendations of the Lessons Learnt and Reconciliation Commission with a view to revising and expanding its scope and clarifying commitments and responsibilities;
- (d) Revisit and implement the Commission's recommendation on appointing a special commissioner of investigation into disappearances, and extend tracing programmes to include all missing persons;
- (e) Open proceedings of military courts of inquiry and future trials of LTTE detainees to independent observers to increase public confidence, and allow proceedings to be evaluated in line with international standards;
- (f) Publish the final report of the presidential commission of inquiry 2006 to allow the evidence gathered to be evaluated and accept international assistance to resolve outstanding cases;
- (g) Take further steps in demilitarization and devolution to involve minority communities fully in decision-making processes;
- (h) Engage civil society and minority community representatives in dialogue on appropriate forms of commemoration and memorialization that will advance inclusion and reconciliation.

64. The High Commissioner noted the views expressed by many stakeholders in Sri Lanka, including prominent community leaders, that the attention paid by the Human Rights Council to issues of accountability and reconciliation in Sri Lanka had helped to create space for debate, and catalyzed positive steps forward, however limited at this stage. The High Commissioner encourages the Council to continue its engagement and build on this momentum. In this regard, she reaffirms her long-standing call for A/HRC/22/38 18 an independent and credible international investigation into alleged violations of international human rights and humanitarian law, which could also monitor any domestic accountability process. **(Excerpts)**

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-38_en.pdf

PROMOTING RECONCILIATION, ACCOUNTABILITY AND HUMAN RIGHTS IN SRI LANKA

A/HRC/32/CRP.4 - 28 June 2016

Conclusions

35. Overall, the Human Rights Council should be encouraged thus far by the steps that the Government of Sri Lanka has taken to implement some of the key commitments made in Resolution 30/1, and the consultations and preparations now underway to further elaborate and design the transitional justice mechanisms. The restoration of the Constitutional Council, an independent Human Rights Commission and the ratification of the Disappearances Convention (CED) are important achievements that will leave a legacy for the future. Once established, the new Office of Missing Persons will hopefully provide at least a form of immediate redress for the families of the disappeared. Nonetheless, the establishment of full transitional justice mechanisms will be needed to provide a comprehensive response to past human rights violations and ensure that they do not recur.

36. More rapid and sustained progress could have been made on other issues, such as the release of land and detainees and the revision of the PTA and witness protection laws, which would build confidence with the minority community. The early momentum established in investigating emblematic cases must be sustained, as early successful prosecutions would mark a turning point from the impunity of the past. Continuing allegations of arbitrary arrest, torture and sexual violence, as well as more general military surveillance and harassment, must be swiftly addressed, and the structures and institutional culture that promoted those practices be dismantled, to show there will be no tolerance for practices of the past.

37. The High Commissioner believes the Government's efforts to implement its commitments in Resolution 30/1 will require a comprehensive strategy that enables it to pursue different processes in a coordinated, integrated and appropriately sequenced manner. Such a strategy would bring together the currently unwieldy coordination arrangements within Government and facilitate greater coordination of international donor support. It should be backed up by a concerted public information campaign that would mobilise the power and participation of civil society behind the transitional justice process. This would also increase transparency and ensure that the current consultation process with victims and civil society can be maximized and have a meaningful input into the design of transitional justice mechanisms. OHCHR continues to stand ready to provide further advice and technical assistance.

38. Inevitably, the transformative process on which Sri Lanka is embarked will take time. Dealing with the multiple tracks of constitutional reform, transitional justice, economic recovery and security sector reform would tax the capacity of any government. Nevertheless, the High Commissioner urges the Government to take concrete steps to address the impatience, anxiety and reservations towards the process that stem from various quarters, and reiterates the importance for all Sri Lankans to rally behind the process. The encouragement and support of the Human Rights Council has been crucial in underpinning this process and giving assurance and confidence to all stakeholders, particularly the victim community. The High Commissioner therefore hopes the Human Rights Council will sustain its close engagement and he looks forward to reporting on further progress at its thirty-fourth session.

(Excerpts)

<http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/LKIndex.aspx>

UN SECRETARY-GENERAL'S PANEL OF EXPERTS ON ACCOUNTABILITY IN SRI LANKA

31 March 2011

VIII Recommendations

443. In light of its conclusions, the Panel offers the following recommendations regarding the implementation of the joint commitment on accountability. The Panel hopes they will serve as the framework for an ongoing and constructive engagement between the Secretary-General and the Government of Sri Lanka on this matter. These recommendations will require complementary action by the Government of Sri Lanka, the United Nations and other parties. The recommendations address the various dimensions of accountability that the Panel considers essential. The Panel emphasizes that the recommendations below constitute an integrated and interdependent whole. The Panel has grouped them thematically and it sees each recommendation as essential for accountability.

444. The Panel's report and its advice to the Secretary-General, as encapsulated in these recommendations, are inspired by the courage and resilience of the victims of the war and civil society in Sri Lanka. If followed, the recommendations would comprise a genuine process of accountability that would satisfy the joint commitment and would set Sri Lanka on the course of justice, dignity and peace.

Recommendation 1: Investigations

A. In light of the allegations found credible by the Panel, the Government of Sri Lanka, in compliance with its international obligations and with a view to initiating an effective domestic accountability process, should immediately commence genuine investigations into these and other alleged violations of international humanitarian and human rights law committed by both sides involved in the armed conflict.

B. The Secretary-General should immediately proceed to establish an independent international mechanism, whose mandate should include the following concurrent functions:

- (i) Monitor and assess the extent to which the Government of Sri Lanka is carrying out an effective domestic accountability process, including genuine investigations of the alleged violations, and periodically advise the Secretary-General on its findings;
- (ii) Conduct investigations independently into the alleged violations, having regard to genuine and effective domestic investigations; and
- (iii) Collect and safeguard for appropriate future use information provided to it that is relevant to accountability for the final stages of the war, including the information gathered by the Panel and other bodies in the United Nations system.

Recommendation 2: Other immediate measures to advance accountability

In order to address the immediate plight of those whose rights were and continue to be violated, and to demonstrate the Government's commitment to accountability, the following measures should be undertaken immediately:

A. The Government of Sri Lanka should implement the following short-term measures, with a focus on acknowledging the rights and dignity of all of the victims and survivors in the Vanni:

- (i) End all violence by the State, its organs and all paramilitary and other groups acting as surrogates of, or tolerated by, the State;

(ii) Facilitate the recovery and return of human remains to their families and allow for the performance of cultural rights for the dead;

(iii) Provide death certificates for the dead and missing, expeditiously and respectfully, without charge, when requested by family members, without compromising the right to further investigation and civil claims;

(iv) Provide or facilitate psychosocial support for all survivors, respecting their cultural values and traditional practices;

(v) Release all displaced persons and facilitate their return to their former homes or provide for resettlement, according to their wishes; and

(vi) Continue to provide interim relief to assist the return of all survivors to normal life.

B. The Government of Sri Lanka should investigate and disclose the fate and location of persons reported to have been forcibly disappeared. In this regard, the Government of Sri Lanka should invite the Working Group on Enforced and Involuntary Disappearances to visit Sri Lanka.

C. In light of the political situation in the country, the Government of Sri Lanka should undertake an immediate repeal of the Emergency Regulations, modify all those provisions of the Prevention of Terrorism Act that are inconsistent with Sri Lanka's international obligations, and take the following measures regarding suspected LTTE members and all other persons held under these or any other provisions:

(i) Publish the names of all of those currently detained, whatever the location of their detention, and notify them of the legal basis of their detention;

(ii) Allow all detainees regular access to family members and to legal counsel;

(iii) Allow all detainees to contest the substantive justification of their detention in court;

(iv) Charge those for whom there is sufficient evidence of serious crimes and release all others, allowing them to reintegrate into society without further hindrance.

D. The Government of Sri Lanka should end state violence and other practices that limit freedoms of movement, assembly and expression, or otherwise contribute to a climate of fear.

Recommendation 3: Longer term accountability measures]

While the current climate of triumphalism and denialism is not conducive to an honest examination of the past, in the longer term, as political spaces are allowed to open, the following measures are needed to move towards full accountability for actions taken during the war:

A. Taking into account, but distinct from, the work of the LLRC, Sri Lanka should initiate a process, with strong civil society participation, to examine in a critical manner: the root causes of the conflict, including ethno-nationalist extremism on both sides; the conduct of the war and patterns of violations; and the corresponding institutional responsibilities.

B. The Government of Sri Lanka should issue a public, formal acknowledgement of its role in and responsibility for extensive civilian casualties in the final stages of the war.

C. The Government of Sri Lanka should institute a reparations programme, in accordance with international standards, for all victims of serious violations committed during the final stages of the war, with special attention to women, children and particularly vulnerable groups.

Recommendation 4: United Nations

Considering the response of the United Nations to the plight of the civilians in the Vanni during the final stages of the war in Sri Lanka and the aftermath:

A. The Human Rights Council should be invited to reconsider its May 2009 Special Session Resolution (A/HRC/S-11/L.1/Rev. 2) regarding Sri Lanka, in light of this report.

B. The Secretary-General should conduct a comprehensive review of actions by the United Nations system during the war in Sri Lanka and the aftermath, regarding the implementation of its humanitarian and protection mandates.

Marzuki Darusman, Chair

Steven R. Ratner

Yasmin Sooka

New York, 31 March 2011

(Excerpts)

http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf

UN HRC RESOLUTIONS

UN HRC RESOLUTION – 30th session

Human Rights Council Agenda item 2 - (A/HRC/30/L.29)

This resolution was adopted by consensus on 30 October 2015.

Sri Lanka was one of the co-sponsors of this resolution!

Albania, Australia,* Germany, Greece,* Latvia, Montenegro, Poland,* Romania,* **Sri Lanka,*** the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

30/... Promoting reconciliation, accountability and human rights in Sri Lanka

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Recalling Human Rights Council resolutions 19/2 of 22 March 2012, 22/1 of 21 March 2013 and 25/1 of 27 March 2014 on promoting reconciliation and accountability in Sri Lanka,

Reaffirming its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

Reaffirming also that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

Welcoming the historic free and fair democratic elections in January and August 2015 and the peaceful political transition in Sri Lanka,

Noting with interest the passage and operationalization of the nineteenth amendment to the Constitution of Sri Lanka and its contribution to the promotion of democratic governance and independent oversight of key institutions, including the provision on the promotion of national reconciliation and integration as among the constitutional duties of the President of Sri Lanka,

Welcoming the steps taken by the Government of Sri Lanka since January 2015 to advance respect for human rights and to strengthen good governance and democratic institutions,

Welcoming also the efforts of the Government of Sri Lanka to investigate allegations of bribery, corruption, fraud and abuse of power, and stressing the importance of such investigations and the prosecution of those responsible in ending impunity and promoting good governance,

Welcoming further the steps taken to strengthen civilian administration in the former conflict-affected provinces of the North and East, and acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining and resettling internally displaced persons, and calling

upon the international community, including the United Nations, to assist the Government of Sri Lanka in furthering these efforts, especially in expediting the process of delivering durable solutions for all internally displaced persons,

Recognizing the improved environment for members of civil society and human rights defenders in Sri Lanka while expressing concern at reports of ongoing violations and abuses of human rights, and recognizing the expressed commitment of the Government of Sri Lanka to address issues, including those involving sexual and gender-based violence and torture, abductions, as well as intimidation of and threats against human rights defenders and members of civil society,

Reaffirming that all Sri Lankans are entitled to the full enjoyment of their human rights regardless of religion, belief or ethnicity, in a peaceful and unified land,

Reaffirming also that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, as applicable,

Welcoming the Declaration of Peace of the Government of 4 February 2015 and its acknowledgement of the loss of life and victims of violence of all ethnicities and religions,

Emphasizing the importance of a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures, including , inter alia, individual prosecutions, reparations, truth-seeking, institutional reform, the vetting of public employees and officials, or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide victims with remedies, promote healing and reconciliation, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law with a view to preventing the recurrence of violations and abuses, and welcoming in this regard the expressed commitment of the Government to ensure dialogue and wide consultations with all stakeholders,

Recognizing that mechanisms to redress past abuses and violations work best when they are independent, impartial and transparent; are led by individuals known for displaying the highest degree of professionalism, integrity and impartiality; utilize consultative and participatory methods that include the views from all relevant stakeholders, including, but not limited to, victims, women, youth, representatives of various religions, ethnicities and geographic locations, as well as marginalized groups; and designed and implemented based on expert advice from those with relevant international and domestic experience,

Recognizing also that a credible accountability process for those most responsible for violations and abuses will safeguard the reputation of those, including within the military, who conducted themselves in an appropriate manner with honour and professionalism,

Recalling the responsibility of States to comply with their relevant obligations to prosecute those responsible for gross violations of human rights and serious violations of international humanitarian law constituting crimes under international law, with a view to ending impunity,

Taking note of the review of the high-security zones undertaken by the Government, and welcoming the initial steps taken to return land to its rightful civilian owners and to help local populations to resume livelihoods and to restore normality to civilian life,

Welcoming the commitments of the Government of Sri Lanka to the devolution of political authority, Requesting the Government of Sri Lanka to implement effectively the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission,

Welcoming the visit from 30 March to 3 April 2015 by and the observations of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of no recurrence, and the planned visit of the Working Group on Enforced or Involuntary Disappearances in November 2015,

Recognizing that the investigation into alleged serious violations and abuses of human rights and related crimes in Sri Lanka requested by the Human Rights Council in its resolution 25/1 was necessitated by the absence of a credible national process of accountability,

1. Takes note with appreciation of the oral update presented by the United Nations High Commissioner to the Human Rights Council at its twenty-seventh session, the report of the Office of the High Commissioner on promoting reconciliation and accountability in Sri Lanka¹ and its investigation on Sri Lanka requested by the Human Rights Council in its resolution 25/1, ² including its findings and conclusions, and encourages the Government of Sri Lanka to implement the recommendations contained therein when implementing measures for truth-seeking, justice, reparations and guarantees of non-recurrence;

2. Welcomes the positive engagement between the Government of Sri Lanka and the High Commissioner and the Office of the High Commissioner since January 2015, and encourages the continuation of that engagement in the promotion and protection of human rights and in exploring appropriate forms of international support for and participation in Sri Lankan processes for seeking truth and justice;

3. Supports the commitment of the Government of Sri Lanka to strengthen and safeguard the credibility of the processes of truth-seeking, justice, reparations and guarantees of non-recurrence by engaging in broad national consultations with the inclusion of victims and civil society, including non-governmental organizations, from all affected communities, which will inform the design and implementation of these processes, drawing on international expertise, assistance and best practices;

4. Welcomes the commitment of the Government of Sri Lanka to undertake a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures; also welcomes in this regard the proposal by the Government to establish a commission for truth, justice, reconciliation and non-recurrence, an office of missing persons and an office for reparations; further welcomes the willingness of the Government to give each mechanism the freedom to obtain financial, material and technical assistance from international partners, including the Office of the High Commissioner; and affirms that these commitments, if implemented fully and credibly, will help to advance accountability for serious crimes by all sides and to achieve reconciliation;

5. Recognizes the need for a process of accountability and reconciliation for the violations and abuses committed by the Liberation Tigers of Tamil Eelam, as highlighted in the report of the Office of the High Commissioner for Human Rights investigation on Sri Lanka; ²

6. Welcomes the recognition by the Government of Sri Lanka that accountability is essential to uphold the rule of law and to build confidence in the people of all communities of Sri Lanka in the justice system, notes with appreciation the proposal of the Government of Sri Lanka to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, as applicable; affirms that a credible justice process should include independent judicial and prosecutorial institutions led by individuals known for their integrity and impartiality; and also affirms in this regard the importance of participation in a Sri Lankan judicial mechanism, including the special counsel's office, of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators;

7. Encourages the Government of Sri Lanka to reform its domestic law to ensure that it can implement effectively its own commitments, the recommendations made in the report of the Lessons Learnt and Reconciliation Commission, as well as the recommendations of the report of the Office of the High Commissioner,¹ including by allowing for, in a manner consistent with its international obligations, the trial and punishment of those most responsible for the full range of crimes under the general principles of law recognized by the community of nations relevant to violations and abuses of human rights and violations of international humanitarian law, including during the period covered by the Lessons Learnt and Reconciliation Commission;

8. Also encourages the Government of Sri Lanka to introduce effective security sector reforms as part of its transitional justice process, which will help to enhance the reputation and professionalism of the military and include ensuring that no scope exists for retention in or recruitment into the security forces of anyone credibly implicated through a fair administrative process in serious crimes involving human rights violations or abuses or violations of international humanitarian law, including members of the security and intelligence units; and also to increase training and incentives focused on the promotion and protection of human rights of all Sri Lankans;

9. Welcomes the recent passage by the Government of Sri Lanka of an updated witness and victim protection law and its commitment to review the law, and encourages the Government to strengthen these essential protections by making specific accommodations to protect effectively witnesses and victims, investigators, prosecutors and judges;

10. Also welcomes the initial steps taken to return land, and encourages the Government of Sri Lanka to accelerate the return of land to its rightful civilian owners, and to undertake further efforts to tackle the considerable work that lies ahead in the areas of land use and ownership, in particular the ending of military involvement in civilian activities, the resumption of livelihoods and the restoration of normality to civilian life, and stresses the importance of the full participation of local populations, including representatives of civil society and minorities, in these efforts;

11. Encourages the Government of Sri Lanka to investigate all alleged attacks by individuals and groups on journalists, human rights defenders, members of religious minority groups and other members of civil society, as well as places of worship, and to hold perpetrators of such attacks to account and to take steps to prevent such attacks in the future;

12. Welcomes the commitment of the Government of Sri Lanka to review the Public Security Ordinance Act and to review and repeal the Prevention of Terrorism Act, and to replace it with anti-terrorism legislation in accordance with contemporary international best practices;

13. Also welcomes the commitment of the Government of Sri Lanka to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance without delay, to criminalize enforced disappearances and to begin to issue certificates of absence to the families of missing persons as a temporary measure of relief;

14. Further welcomes the commitment of the Government of Sri Lanka to release publicly previous presidential commission reports;

15. Encourages the Government of Sri Lanka to develop a comprehensive plan and mechanism for preserving all existing records and documentation relating to human rights violations and abuses and violations of international humanitarian law, whether held by public or private institutions;

16. Welcomes the commitment of the Government of Sri Lanka to a political settlement by taking the necessary constitutional measures, encourages the Government's efforts to fulfil its commitments on the devolution of political authority, which is integral to reconciliation and the full

enjoyment of human rights by all members of its population; and also encourages the Government to ensure that all Provincial Councils are able to operate effectively, in accordance with the thirteenth amendment to the Constitution of Sri Lanka;

17. Also welcomes the commitment of the Government of Sri Lanka to issue instructions clearly to all branches of the security forces that violations of international human rights law and international humanitarian law, including those involving torture, rape and sexual violence, are prohibited and that those responsible will be investigated and punished, and encourages the Government to address all reports of sexual and gender-based violence and torture;

18. Requests the Office of the High Commissioner to continue to assess progress on the implementation of its recommendations and other relevant processes related to reconciliation, accountability and human rights, and to present an oral update to the Human Rights Council at its thirty-second session, and a comprehensive report followed by discussion on the implementation of the present resolution at its thirty-fourth session;

19. Encourages the Government of Sri Lanka to continue to cooperate with special procedure mandate holders, including by responding formally to outstanding requests;

20. Encourages the Office of the High Commissioner and relevant special procedure mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the abovementioned steps.

https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/30thSession/Resolutions/Forms/ResolutionDS/docset/homepage.aspx?ID=59&FolderCTID=0x0120D520005A4381ABFFD48642897E02288D058A2200E15D548A8136614D86C3CC0670FB8ED3&List=f522ea13-e637-43ce-b70a-7109552840c3&RootFolder=%2Fsites%2Fhrc%2FHRCSessions%2FRegularSessions%2F30thSession%2FResolutions%2FA_HRC_30_L%2E29

UN HRC RESOLUTION – 22nd session

Human Rights Council Agenda item 2 - (A/HRC/22/L.1/Rev.1)

On 21 March 2013, the resolution A/HRC/22/L.1/Rev.1 was adopted with
25 in favour 13 against 8 abstentions 1 didn't take part in the voting!

Austria, Belgium* , Bulgaria* *, Canada , Croatia* , Denmark* , Estonia, Finland* , France* , Georgia* , Germany, Greece* , Hungary* , Iceland* , Ireland, Italy, Liechtenstein* , Lithuania* , Malta* , Monaco* , Montenegro, Norway* , Poland, Portugal* , Romania, Saint Kitts and Nevis* , Slovakia* , Slovenia* , Spain, Sweden* , Switzerland, United Kingdom of Great Britain and Northern Ireland* , United States of America: draft resolution

22/... Promoting reconciliation and accountability in Sri Lanka

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations, Guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Bearing in mind General Assembly resolution 60/251 of 15 March 2006,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the code of conduct for special procedures mandate holders, of 18 June 2007,

Recalling also Human Rights Council resolution 19/2 of 22 March 2012 on promoting reconciliation and accountability in Sri Lanka,

Reaffirming that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

Reaffirming also that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, as applicable,

Welcoming the announcement made by the Government of Sri Lanka that elections to the Provincial Council in the Northern Province will be held in September 2013,

Welcoming and acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining, and resettling the majority of internally displaced persons, and noting nonetheless that considerable work lies ahead in the areas of justice, reconciliation and the resumption of livelihoods, and stressing the importance of the full participation of local populations, including representatives of civil society and minorities, in these efforts,

Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka and its findings and recommendations, and acknowledging its possible contribution to the process of national reconciliation in Sri Lanka,

Taking note also of the national plan of action to implement the recommendations of the Lessons Learnt and Reconciliation Commission of the Government of Sri Lanka and its commitments as set forth in response to the findings and recommendations of the Commission,

Noting that the national plan of action does not adequately address all of the findings and constructive recommendations of the Commission,

Recalling the constructive recommendations contained in the Commission's report, including the need to credibly investigate widespread allegations of extrajudicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all and enact rule of law reforms,

Noting with concern that the national plan of action and the Commission's report do not adequately address serious allegations of violations of international human rights law and international humanitarian law,

Expressing concern at the continuing reports of violations of human rights in Sri Lanka, including enforced disappearances, extrajudicial killings, torture and violations of the rights to freedom of expression, association and peaceful assembly, as well as intimidation of and reprisals against human rights defenders, members of civil society and journalists, threats to judicial independence and the rule of law, and discrimination on the basis of religion or belief,

Calling upon the Government of Sri Lanka to fulfil its public commitments, including on the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population,

Expressing appreciation for the efforts of the Government of Sri Lanka in facilitating the visit of a technical mission from the Office of the United Nations High Commissioner for Human Rights, and encouraging the Government to increase its dialogue and cooperation with the Office of the High Commissioner,

Noting the call made by the High Commissioner for an independent and credible international investigation into alleged violations of international human rights law and international humanitarian law,

1. Welcomes the report of the Office of the United Nations High Commissioner for Human Rights on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka¹ and the recommendations and conclusions contained therein, in particular on the establishment of a truth-seeking mechanism as an integral part of a more comprehensive and inclusive approach to transitional justice;
2. Encourages the Government of Sri Lanka to implement the recommendations made in the report of the Office of the High Commissioner, and also calls upon the Government to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law, as applicable;
3. Reiterates its call upon the Government of Sri Lanka to implement effectively the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission, and to take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans;
4. Encourages the Government of Sri Lanka to cooperate with special procedures mandate holders and to respond formally to their outstanding requests, including by extending invitations and providing access;

5. Encourages the Office of the High Commissioner and relevant special procedures mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the abovementioned steps;

6. Requests the Office of the High Commissioner, with input from relevant special procedures mandate holders, as appropriate, to present an oral update to the Human Rights Council at its twenty-fourth session, and a comprehensive report followed by a discussion on the implementation of the present resolution at its twenty-fifth session

<https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/22ndSession/Resolutions/Forms/ResolutionDS/docsethomepage.aspx?ID=172&FolderCTID=0x0120D520005A4381ABFFD48642897E02288D058A2200BF8E625ABCFAEC42B6CDB25F641266CE&List=1ae34e4d-3798-424f-8cad-dffbe2c66e52&RootFolder=%2Fsites%2Fhrc%2FHRCSessions%2FRegularSessions%2F22ndSession%2FResolutions%2FPromoting%20reconciliation%20and%20accountability%20in%20Sri%20Lanka%20%28Rev%2E1%29>

UN HRC RESOLUTION – 19th session

Human Rights Council Thirtieth session Agenda item 2 - (A/HRC/19/L.2)

Resolution A/HRC/19/L.2 was adopted on 22 March 2012 with

24 in favour 15 against and 8 abstentions

Submitted by United States of America.

19/... Promoting reconciliation and accountability in Sri Lanka

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Reaffirming that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, as applicable,

Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka and its findings and recommendations, and acknowledging its possible contribution to the process of national reconciliation in Sri Lanka,

Welcoming the constructive recommendations contained in the Commission's report, including the need to credibly investigate widespread allegations of extra-judicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all and enact rule of law reforms,

Noting with concern that the report does not adequately address serious allegations of violations of international law,

1. Calls upon the Government of Sri Lanka to implement the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission and to take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans;

2. Requests the Government of Sri Lanka to present, as expeditiously as possible, a comprehensive action plan detailing the steps that the Government has taken and will take to implement the recommendations made in the Commission's report, and also to address alleged violations of international law;

3. Encourages the Office of the United Nations High Commissioner for Human Rights and relevant special procedures mandate holders to provide, and the Government of Sri Lanka to accept, advice and technical assistance on implementing the above-mentioned steps, and requests the Office of the High Commissioner to present a report on the provision of such assistance to the Human Rights Council at its twenty-second session.

<https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/19thSession/Resolutions/Forms/ResolutionDS/docset/homepage.aspx?ID=57&FolderCTID=0x0120D520005A4381ABFFD48642897E02288D058A2200A8BBF105E3EEEE48BE535901740E4EBC&List=9dceaedc-9927-4eef-81cf-44d61c603188&RootFolder=%2Fsites%2Fhrc%2FHRCSessions%2FRegularSessions%2F19thSession%2FResolutions%2FPromoting%20Reconciliation%20and%20Accountability%20in%20Sri%20Lanka>

UN HRC RESOLUTIONS (Special session)

Human Rights Council 11th Special session (26th & 27th June 2009)

Resolution A/HRC/19/L.2 was adopted on 27th June 2009 with

29 in favour 12 against and 6 abstentions

Submitted by Sri Lanka and adopted on 26 May 2009

S-11/1 Assistance to Sri Lanka in the promotion and protection of human rights

I. Resolution adopted by the Council at its eleventh special session S-11/1 Assistance to Sri Lanka in the promotion and protection of human rights. A/HRC/S-11/2

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant human rights instruments,

Reaffirming the purposes and principles of the United Nations as contained in Articles 1 and 2 of the Charter, including the principle of non-interference in matters that are essentially within the domestic jurisdiction of States,

Bearing in mind General Assembly resolution 60/251 of 15 March 2006, Recalling Council resolutions 5/1 and 5/2 on institution-building of the Human Rights Council,

Recalling also that States have the duty and responsibility to provide protection and humanitarian assistance to all segments of the population, including internally displaced persons, without discrimination,

Recalling further its decision 2/112 and its resolutions 6/28, 7/7 and 10/15, and recalling General Assembly resolutions 57/219, 58/187, 59/191, 60/158, 61/171, 62/159 and 63/185, and welcoming the efforts of the States Members of the United Nations in the protection of human rights and fundamental freedoms, and reaffirming the obligations of States to respect human rights law and international humanitarian law while countering terrorism,

Reaffirming the respect for the sovereignty, territorial integrity and independence of Sri Lanka and its sovereign rights to protect its citizens and to combat terrorism,

Condemning all attacks that the Liberation Tigers of Tamil Eelam launched on the civilian population and its practice of using civilians as human shields,

Reaffirming its commitment to promote international cooperation, as set forth in the Charter, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 for enhancing genuine cooperation among Member States in the field of human rights,

Recognizing that the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Welcoming the conclusion of hostilities and the liberation by the Government of Sri Lanka of tens of thousands of its citizens that were kept by the Liberation Tigers of Tamil Eelam against their will as hostages, as well as the efforts by the Government to ensure the safety and security of all Sri Lankans and to bring permanent peace to the country,

Welcoming also the recent reassurance given by the President of Sri Lanka that he does not regard a military solution as a final solution, **as well as his commitment to a political solution with implementation of the thirteenth amendment to bring about lasting peace and reconciliation in Sri Lanka,**

Emphasizing that, after the conclusion of hostilities, the priority in terms of human rights remains the provision of assistance to ensure the relief and rehabilitation of persons affected by the conflict, including internally displaced persons, as well as the reconstruction of the country's economy and infrastructure,

Encouraged by the provision of basic humanitarian assistance, in particular, safe drinking water, sanitation, food and medical and health-care services to the internally displaced persons by the Government of Sri Lanka with the assistance of United Nations agencies,

Encouraged also by the recent announcement by the Government of Sri Lanka of the proposal to safely resettle the bulk of internally displaced persons within six months,

Welcoming the successful rehabilitation of reintegration of former child soldiers after the conflict ended in the Eastern Province of Sri Lanka,

Acknowledging the continued engagement of the Government of Sri Lanka in regularly and transparently briefing and updating the Council on the human rights situation on the ground and the measures taken in that regard,

1. Commends the measures taken by the Government of Sri Lanka to address the urgent needs of internally displaced persons;

2. Welcomes the continued commitment of Sri Lanka to the promotion and protection of all human rights and encourages it to continue to uphold its human rights obligations and the norms of international human rights law;
3. Encourages the Government of Sri Lanka to continue to pursue its existing cooperation with relevant United Nations organizations, in order to provide, to the full extent of their capabilities, in cooperation with the Government of Sri Lanka, basic humanitarian assistance, in particular, safe drinking water, sanitation, food and medical and health-care services to internally displaced persons;
4. Welcomes the announcement of the proposal to safely resettle the bulk of internally displaced persons within six months, and encourages the Government of Sri Lanka to proceed in these endeavours with due respect for persons belonging to national, ethnic, religious and linguistic minorities;
5. Acknowledges the commitment of the Government of Sri Lanka to provide access as may be appropriate to international humanitarian agencies in order to ensure humanitarian assistance to the population affected by the past conflict, in particular internally displaced persons, with a view to meeting their urgent needs and encourages the Sri Lankan authorities to further facilitate appropriate work;
6. Encourages the Government of Sri Lanka to continue to persevere in its efforts towards the disarmament, demobilization and rehabilitation of former child soldiers, recruited by non-State armed actors in the conflict in Sri Lanka, their physical and psychological recovery and reintegration into society, in particular, through educational measures, taking into account the rights and specific needs and capacities of girls, in cooperation with relevant United Nations organizations;
7. Urges the Government of Sri Lanka to continue strengthening its activities to ensure that there is no discrimination against ethnic minorities in the enjoyment of the full range of human rights;
8. Welcomes the continued cooperation between the Government of Sri Lanka, relevant United Nations agencies and other humanitarian organizations in the provision of humanitarian assistance to the affected people, and encourages them to continue to cooperate with the Government of Sri Lanka;
9. Also welcomes the recent visits to Sri Lanka by the Under-Secretary-General for Humanitarian Affairs and the Representative of the Secretary-General on the human rights of internally displaced persons, and encourages them to continue to cooperate in the mobilization and provision of humanitarian assistance to the affected populations;
10. Further welcomes the visit to Sri Lanka of the Secretary-General at the invitation of the President of Sri Lanka, and endorses the joint communiqué issued at the conclusion of the visit and the understandings contained therein;
11. Welcomes the resolve of the Sri Lankan authorities to begin a broader dialogue with all parties in order to enhance the process of political settlement and to bring about lasting peace and development in Sri Lanka based on consensus among and respect for the rights of all the ethnic and religious groups inhabiting it, and invites all stakeholders concerned to actively participate in it;
12. Urges the international community to cooperate with the Government of Sri Lanka in the reconstruction efforts, including by increasing the provision of financial assistance, including official development assistance, to help the country fight poverty and underdevelopment and to continue to ensure the promotion and protection of all human rights, including economic, social and cultural rights. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/144/09/PDF/G0914409.pdf?OpenElement>

Foreign judges not considered in war crimes probe - Foreign Minister Mangala Samaraweera

Colombo Gazette, 29 August 2016 - The Government today asserted that foreign judges have not been considered in the investigation on the war.

Foreign Minister Mangala Samaraweera told a group of journalists today that the judicial process will be domestic with the possibility of obtaining the advise of foreign experts.

He said Sri Lanka's commitment to address issues related to the war had drawn support from the international community, including the US, China and India.

Samaraweera said that this was clear from the support Sri Lanka had when it co-sponsored a resolution at the UN Human Rights Council in Geneva last year on Sri Lanka.

The resolution calls on Sri Lanka to take several measures to address concerns related to the war, including to investigate complaints on hundreds missing during the war.

The Foreign Minister dismissed allegations that President Maithripala Sirisena was not updated on the contents of the resolution before Sri Lanka supported it in Geneva last October.

Samaraweera said the President's advise was sought on the text of the resolution before it was tabled and approved by the UN Human Rights Council.

The Minister also dismissed allegations over the proposed Office on Missing Persons which will investigate complaints on those missing.

He insisted that investigating the whereabouts of those missing is not an attempt to frame the military as alleged by the opposition.

The Minister also said that a Truth Seeking Commission will also be established soon to seek answers related to the war. **(Colombo Gazette)**

<http://colombogazette.com/2016/08/29/foreign-judges-not-considered-in-war-crimes-probe/>

Lanka accountability process would be purely domestic: FM

The Island, 25 October 2015 - The process to fix accountability as mandated by the latest UNHRC resolution for the alleged rights abuses during the conflict with the LTTE will be completely domestic, Foreign Minister Mangala Samaraweera has said rejecting claims that it was a hybrid mechanism.

Minister Samaraweera told Parliament on Friday that the process would be completely domestic and dismissed the Opposition's claim that it would instead be a hybrid mechanism and would also investigate war-crimes allegations.

"I wish to stress that this would be a Sri Lankan process, not a hybrid process. It will be the Sri Lankan institutions and systems who will be implementing the process," he said. (Excerpt)

http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=134183

Outrage as President insists no foreign judges

The Sunday Leader, 27 March 2016 - A public statement made last weekend by President Maithripala Sirisena that he will not agree to inviting foreign judges to get involved in the accountability process related to the war, has drawn sharp criticism.

The criticism stems from the fact that the need to have foreign judges is part of the Resolution adopted by the UN Human Rights Council (UNHRC) last year, which was co-sponsored by Sri Lanka.

Speaking at the Law Conference in Wadduwa last weekend, the President said that he has faith in the local judiciary and he feels all that needs to be done is to strengthen the judiciary and ensure it is independent.

International human rights groups have been calling on Sri Lanka to invite foreign judges to ensure the domestic process to investigate human rights abuses related to the war are credible.

“If there is a need to conduct a judicial process after investigating human rights abuses, I will not agree to invite foreign judges to come to Sri Lanka and be involved in that process,” he said. (Excerpt)

<http://www.thesundayleader.lk/2016/03/27/outrage-as-president-insists-no-foreign-judges/>

Daily Press Briefing by the Office of the Spokesperson for the Secretary-General

The following is a near-verbatim transcript of today's noon briefing by Farhan Haq, Deputy Spokesman for the Secretary-General.

21-03-2016

Question: Sure. I wanted to ask you on Sri Lanka, *the President is quoted on Friday, this is a direct quote at a legal conference in Sri Lanka, that even if there proves to be a need for a judicial process after investigating human rights, I will not agree to invite foreign judges to come to Sri Lanka to be part of it*, end quote, and given what the Secretary-General has said about transitional justice and the need for the international component, *now that President has outright said he will not*, what is the Secretary-General's response as the Human Rights Council meetings on Sri Lanka are set to begin?

Deputy Spokesman: Well, the Human Rights Council can evaluate for themselves how it's going, but we want to make sure there is a credible investigation into this. *And we have made clear what our guidelines are for what a credible investigation will entail and so we will continue to be in dialog to make sure it happens. (Excerpt)*

<http://www.un.org/press/en/2016/db160321.doc.htm>

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