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International
Commission
of Jurists

**United Nations Human Rights Council
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Agenda Item 2**

Oral Statement of International Commission of Jurists (ICJ)

Discussion of the Office of the High Commissioner for Human Rights (OHCHR) Report on
Sri Lanka

JUSTICE AND RECONCILIATION IN SRI LANKA

30 September 2015

Check against delivery

Mr. President,

The International Commission of Jurists (ICJ) welcomes the OHCHR Report on Promoting Reconciliation, Accountability and Human Rights in Sri Lanka (UN Doc A/HRC/30/61), which sets out the principal findings of the Report of the OHCHR Investigation on Sri Lanka (OISL Report, UN Doc A/HRC/30/CRP.2) documenting alleged serious violations and abuses of human rights and related crimes during the armed conflict in Sri Lanka. The ICJ commends the Investigation team for its historic contribution towards reconciliation and the realization of victims' rights in Sri Lanka.

The ICJ works with judiciaries, governments, civil society and victims around the world to address impunity and victims' right to remedy for violations of international human rights and humanitarian law, including in situations of transition.

For over thirty years, the ICJ has documented and reported on a gradual erosion of judicial independence, impartiality and integrity under successive governments in Sri Lanka, and the resulting culture of impunity, including in the judiciary.¹

The ICJ considers the International Criminal Court (ICC) to be the preferred mechanism for individual accountability where national authorities and courts lack the capacity or the willingness to genuinely investigate and prosecute all war crimes and crimes against humanity. In the absence of an ICC process, the ICJ's extensive experience demonstrates that any credible and effective accountability process in Sri Lanka must involve, at a minimum, a majority of international judges, prosecutors and investigators.

The ICJ therefore welcomes the High Commissioner's recommendation for a hybrid court and prosecutor's office that fully integrates international judges, prosecutors, lawyers and investigators.

Also essential are the OHCHR recommendations on: mandate and resources of these mechanisms; legislating retroactive recognition of international crimes under national law; justice and security sector reform; repealing the Prevention of Terrorism Act (PTA); strengthening the Witness and Victim Protection Act; accession to the International Convention on the Protection of All Persons from Enforced Disappearances (CED), the Additional Protocols to the Geneva Convention, and the Rome Statute of the International Criminal Court; and continued monitoring of implementation through an OHCHR country office and the Council.

The ICJ welcomes that the tabled draft resolution explicitly recognises the need for international judges, prosecutors, lawyers and investigators. We call on the Council to adopt the resolution with, and call on the Government of Sri Lanka to urgently implement,

¹ See, e.g., ICJ, *Authority Without Accountability: The Crisis of Impunity in Sri Lanka* (2012), available at <http://icj.wppengine.netdna-cdn.com/wp-content/uploads/2013/01/ICJ-SriLanka-Report.pdf>.

these and other key elements of the recommendations of the High Commissioner's Report in full.

Thank you, Mr. President.

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