



The Permanent Mission of Sri Lanka to the United Nations and other International Organizations in Geneva

Human Rights Council

34th Regular Session

Report of the 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

Presented under the Agenda Item 3,
Clustered Interactive Dialogue with the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur on the Situation of Human Rights Defenders

Statement by
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Ambassador / Permanent Representative of Sri Lanka

(Geneva, 2 March 2017)

**Clustered Interactive Dialogue with the Special Rapporteur on Torture and
other Cruel, Inhuman or Degrading Treatment or Punishment
2 March 2017**

Mr President

As this Council is aware, since the January 2015 Presidential Election and August 2015 Parliamentary Election, the National Unity Government in Sri Lanka pursues a policy of frank and active engagement with the UN and its systems and procedures. It is our firm belief that such engagement and deliberation will help us identify the problems and challenges faced in human rights and related areas, thereby enabling us to find solutions to problems, to ensure that we take the steps that are necessary for the promotion and protection of rights of all in our country. It also helps us identify specific areas where we require technical assistance for capacity building.

In keeping with this policy, in December 2015, Sri Lanka extended a standing invitation to all Special Procedures Mandate Holders.

We were accordingly pleased to have received the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment as well as the Special Rapporteur on the Independence of Judges and Lawyers on a joint visit from 29 April – 7 May 2016, at the invitation of the Government.

In addition to the visit of these two Special Rapporteurs, Sri Lanka also received the Working Group on Enforced or Involuntary Disappearances from 9 – 18 November 2015 and the Special Rapporteur on Minority Issues from 10 – 20 October 2016.

These visits reflect the Government's commitment to address, in all sincerity, its obligations to the people of Sri Lanka with respect to the promotion and protection of their human rights.

In keeping with our commitment to transparency and honest engagement, the Special Rapporteur on Torture was granted unrestricted and unhindered access to all places that he wished to visit, and practically all the meetings requested, were secured. The Special Rapporteur and his team had unrestricted access to all places of detention and unimpeded access to meet with detainees in private, in any part of the country. We are extremely pleased that the Special Rapporteur has acknowledged this in his Report and we wish to continue this level and nature of engagement with all Special Rapporteurs who visit our country.

We are also pleased that the Report has acknowledged the positive developments that have taken place in Sri Lanka since January 2015. The Minister of Foreign Affairs, a few days ago, on 28th February, addressing this Council, elaborated on some of the steps that have been taken by the Government towards the promotion and protection of human rights in the country, and the process of reconciliation. On the specific matter of incidence of **torture**, the National Unity Government is firm in its commitment to a **zero-tolerance policy** on torture, which was demonstrated by the participation of the President's participation in a walk against torture organised by the National Human Rights Commission of Sri Lanka last year. The Minister, giving

voice to the Government's approach in this regard, stressed that **even one incident of torture is one too many.**

Mr. President,

We take note of the Report submitted by the outgoing Special Rapporteur, to this Council, on his visit to the country, at an important transformative time in Sri Lanka. We are studying the Report with due diligence. Our end objective and aim is to prevent and combat torture and we are committed to taking steps towards this end. In seeking a comprehensive approach to address issues raised, we have drafted, through a wide-ranging consultative process, the National Human Rights Action Plan 2017-2021, which has been approved by the Cabinet of Ministers in January. Apart from that, we are currently in the process of deliberating on establishing an effective mechanism for constant and continuous follow-up and implementation of recommendations by Special Procedures and other human rights mechanisms.

Some of the steps taken so far include the following:

- **Issuance of directions**, in June 2016, by the President, who is also the Commander-in-Chief of the Armed Forces and Minister of Defence, requiring the Armed Forces and the Police to,
 - (1) ensure that fundamental rights of persons arrested or detained are respected and that such persons are treated humanely; and
 - (2) assist and facilitate the Human Rights Commission of Sri Lanka to exercise and perform its powers, functions and duties.
- **Depositing a Declaration** with the UN Secretary-General under Article 22 of the Convention Against Torture in August 2016. This allows Sri Lanka to participate in the communication procedure of the Committee Against Torture;
- In February 2015, the Parliament unanimously enacted the **Assistance to and Protection of Victims of Crime and Witnesses Act**. The Ministry of Justice has established a Committee to undertake a review of all the provisions of this Act and to recommend amendments based on that review;
- In keeping with its pledge to the people to uphold, promote and protect the human rights of all, and in accordance with international treaty obligations, the Government approved a **National Human Rights Action Plan** for the period 2017-2021. Prevention of Torture is one of the thematic areas of focus in the Action Plan;
- The **Right to Information Act** that was approved by Parliament on 24 June came into effect on 3rd February this year;
- The Cabinet of Ministers approved an Amendment to the Criminal Procedure Code providing for a suspect to have access to legal counsel.
- Following the visit of the Special Rapporteur, a Committee was established in July 2016 by the Ministry of Law and Order to visit / examine and take preventive measures on allegations of torture,

- requiring the Police to forward a monthly report to the Committee in respect of torture cases reported to the Police during each month;
- providing tools, mechanisms, methodologies in order to enhance the capacity to investigate and trace scientific evidence;
- providing suggestions and recommendations to improve the skills of investigation officers on modern investigation methods;
- adopting best-practices and modern methodologies followed by police forces elsewhere;
- studying the sociological and psychological factors that lead to the practice of torture; and
- implementation of a monitoring mechanism to prevent torture

Experts on torture prevention, representatives of the Bar Association of Sri Lanka, the Attorney-General's Department, and senior members of the Sri Lanka Police are on this Committee.

The **ICRC** in Sri Lanka has been granted access and visits persons detained in prisons, based on a MoU between the ICRC and the Government. This Agreement primarily focuses on persons held under the Prevention of Terrorism Act. However, in practice, Sri Lankan authorities have provided broader access to all detainees held in places of detention.

The Human Rights Commission of Sri Lanka receives complaints; conducts investigations pertaining to incidents of torture; regularly monitors activities in places of detention, and makes recommendations. Pursuant to the 19th Amendment to the Constitution, which was passed in April 2015, the Commission has been strengthened further as an independent institution. With a view to facilitating the effective discharge of its functions, the Government has taken steps to increase the resources allocated to the Commission, with Rs. 192 million allocated for 2017.

Towards facilitating the investigation of allegations of torture, we would be grateful for further information being provided to the Government to ensure investigation and justice.

In the context of the concern raised by the Special Rapporteur in para 15 of his report regarding the **definition of torture**, we wish to inform that there is a clear jurisprudence in Sri Lanka where the Supreme Court, which is the Apex Court, observed that the definition of torture is sufficiently broad to cover the aspect of 'suffering' and that no ambiguity exists in that regard.

On the specific issue of the **Prevention of Terrorism Act**, the draft policy and legislative framework for the Counter terrorism Act was approved by the Cabinet in January 2017. It seeks to effectively and comprehensively respond to contemporary manifestations and threats of terrorism, consistent with principles of democracy, good governance and the rule of law. The role and contributions of the UN Counter

Terrorism Executive Directorate (CTED), OHCHR and UNODC were useful in this regard and we appreciate their contributions. The Government expects to continue its collaboration on technical assistance with the CTED as the work on the draft counter terrorism legislation progresses.

Mr. President

The issue of arrest of suspects by the TID - those arrested are produced before the JMO within 24 hours and a report is obtained. Similarly, the Human Rights Commission of Sri Lanka, the ICRC Sri Lanka, and the Next of Kin are informed of the custody.

Prison overcrowding is an issue that has seized our attention very much in recent times, as work is being carried out to introduce a new Prison Administration Act. Further, a new circular that was issued encourages sending more prisoners to the Open Prison Camp to reduce overcrowding.

At present, in line with the relevant 2007 Government Gazette, three detention centres are being maintained, namely, in Colombo, Boossa, and Vavuniya.

A Policy Framework and National Plan of Action to address **Sexual and Gender-based Violence** (NPoA) was officially launched in November 2016 to provide a holistic policy guideline and to comprehensively address the issue of violence against women through a three-pronged approach of prevention, intervention and policy advocacy.

Mr. President

Consistent with the HRC resolution 30/1, the Government continues to make progress on the **reconciliation mechanisms**. The Consultation Task Force on Reconciliation Mechanisms handed over its report to the Government in January, and this report is presently being studied with respect to designing mechanisms for truth-seeking, justice, reparation and other steps and processes related to reconciliation.

The Secretariat for Coordinating Reconciliation Mechanisms (SCRM) is consulting experts and is working on obtaining the required training and capacity building for all the relevant mechanisms. In all these processes, the Government works closely and in consultation with the United Nations system and the OHCHR as well as other international organizations and bilateral partners.

Mr. President,

We consider Human Rights mechanisms of value to all Member States. We reiterate our commitment to continue cooperation with the Human Rights Special Procedures Mandate Holders in the spirit of open and constructive engagement, for the benefit of the people of our country.

Thank you.