

Briefing Note on Human Rights: Sri Lanka

1. At the 48th Session of the Human Rights Council in September 2021, Foreign Minister Prof. G.L. Peiris stated that Sri Lanka is engaged in pursuing sustainable peace, through an inclusive, domestically designed and executed reconciliation and accountability process. Sri Lanka also reiterated its long-standing commitment to the promotion and protection of human rights in line with the Constitution and the country's international obligations.
2. This message was reiterated by H.E. the President of Sri Lanka at the 76th Session of the UN General Assembly (UNGA) and more recently at the opening of the 9th Session of the Parliament of Sri Lanka on 18 January 2022.
3. The GoSL remains accountable to its people in discharging its mandate on all fronts in economic, social and human development as well as in the achievement of the SDGs. At the same time and despite economic and human constraints caused by the Covid-19 pandemic, the Government has made important progress in delivering on post-conflict reconciliation, accountability and human rights as undertaken before the people of Sri Lanka and reiterated internationally. The work of the independent domestic institutions – the Office of Missing Persons, the Office for Reparations, the Human Rights Commission of Sri Lanka, the Office for National Unity and Reconciliation and the Sustainable Development Council of Sri Lanka is an important supportive pillar of this effort. The GoSL has empowered these institutions with financial and other support in order to execute their independent statutory mandates. Regular updates related to progress made through these domestic processes on human rights and reconciliation are contained in Sri Lanka's statements to the Human Rights Council in Geneva since 2020.
4. The Government greatly values the goodwill and advice from our international partners, the United Nations as well as local and international NGOs. We have continued our ongoing interaction with them and encourage regular engagement with Sri Lanka. During numerous such exchanges including with dignitaries on bilateral visits as well as with the senior officials from the United Nations and UN human rights special procedure mandate holders on official visits, we have provided updated briefing on the progress made on matters of concern. We have facilitated their access to domestic interlocutors and been open to accepting their encouragement, advice and concerns. We value in particular our interaction with our domestic civil society partners given their established outreach and expertise on many issues related to economic development, reconciliation and human rights. We have engaged them in our efforts to realize the SDGs as well as on matters related to reconciliation. On a broader front, Sri Lanka has also invited the Sri Lankan diaspora groups to partner with us as we move forward.
5. As stated at the 48th Session of the Human Rights Council in September 2021, Sri Lanka will continue its long-standing cooperation with the United Nations human rights mechanisms as well as with the Council. Sri Lanka is delivering on its commitment to address accountability and reconciliation through domestic processes and institutions.

As stated by Foreign Minister “*We are open in acknowledging our challenges and as a responsible and democratic government, we are committed to achieving tangible progress on the entire range of issues relating to accountability, reconciliation, human rights, peace and sustainable development*”.

6. In this context, Sri Lanka is of the view that the evidence gathering mechanism contained in Resolution 46/1, which led to a division in the Council, is unwarranted and unhelpful. It will lead to divisions and polarization in Sri Lanka.

Update on Reconciliation and Human Rights

7. A summary of progress made (as of January 2022) through domestic institutions and processes is as follows:

Office on Missing Persons (OMP):

8. The Office on Missing Persons (OMP) continues to operate with financial provisions allocated for its statutory functions. The Commissioners have been appointed based on their expertise and experience, who have taken measures to expedite the OMP’s work.
9. In order to meet the grievances of those affected and to meet the reconciliation efforts, the Office on Missing Persons (OMP) takes a victim-centric approach in its public engagement and decision- making process.
10. The OMP has published a newspaper notification¹ requesting general public to go through the details of the complaints on the OMP website. If the details of their complaints are not available in the website, the public is requested in the notification to provide information before 3 February 2022. This is a part of an ongoing process of collating data relating to missing and disappeared persons to enable the OMP to develop a comprehensive official record of missing and disappeared persons in Sri Lanka.
11. The OMP continued to receive requests for assistance from civilian and military families of the missing and disappeared on varied subjects including accessing state services, financial services, compensation, obtaining Certificates of Deaths (CoDs) and pensions, obtaining Certificates of Absence (CoAs), ongoing legal cases, disputes regarding assets, ownership and succession. The OMP responded by taking up such matters with the relevant state institutions including the Office for Reparations (OR), Department of the Register General, local government institutions and armed forces. The OMP also assisted with legal advice, practical guidance and referrals where possible.
12. The OMP has vested powers to collate and centralize all available data related to missing persons under the OMP Act. The OMP is currently gathering information on

¹ Public notice available in the OMP website:
<http://www.ompsrilanka.org/storage/app/uploads/public/619/1f4/229/6191f4229a370830619674.pdf>

missing persons in collaboration with other agencies, including State institutions, Department of National Archives (LLRC, Paranagama reports, etc.), the UN Working Group on Enforced or Involuntary Disappearances (WGEID) and the International Committee of the Red Cross (ICRC).

13. In 2020, the OMP published the details of 21,374 complaints received, which is called “the provisional list”. The general public was requested to assist in furnishing the records related to their complaints. Accordingly, out of the 21,374 complaints, 3,742 complaints have been received from the security forces. As compensation for armed forces personnel missing in action is handled by alternate means, these disappearances complaints are being removed from the OMP list. Further, there are 2644 complaints which do not fall within the purview of the Sec 27 of OMP Act. This includes complaints found as duplicates, cases related to natural disasters, elopement, mental disorders, missing due to personal dispute. When such cases are reduced from the total list of cases, the total number of cases received by the OMP to be processed stands at 14,988.
14. The OMP has categorized its data of 14, 988 cases into three major phases in order to give priority to the incidents of the missing persons that have occurred more recently. The first phase or the first priority consists of cases between 2000- 2021. Second phase contains cases between 1981- 1999. Third phase includes cases occurred before 1980. Priority is given to verifying the cases belonging to the first phase. For this, the panel of inquiries was nominated; and total of 113 complaints were inquired.
15. The OMP has decided to accelerate the process to assess the records of 6025 applications/files as Phase 1 (cases between 2000- 2001) referring three major factors:
 - (i) incidents of missing persons that have occurred most recently;
 - (ii) incidents in which there is substantial evidence already available; or
 - (iii) such incidents that are, in the opinion of the OMP, of public importance.
16. Furthermore, the OMP team has revisited all the documents in those 6025 files, and assessed the numbers based on the date of missing reported, gender, location, nature of the incident, and administrative district of the missing person.
17. 2500 complaints were translated, and assessment for the interim report inquiry process already commenced. This includes 68 complaints which were issued Interim reports. All the Regional Coordinators of the OMP have been directed to meet and inquire from the Grama Niladhari and local Police station on the above complaints and they were instructed to update on the following;
 - whether the applicant has lodged any complaints made in the past;
 - whether the officials or the authorities have carried out any investigations or inquires; if so then the details; and
 - whether the officials have collected or gathered any material evidence, if so to obtain such copies

18. The OMP has started the process of cross-verifying and reviewing the cases received from the UN Working Group on Enforced or Involuntary Disappearances (WGEID) in 2021. So far, 3125 files were verified, and out of these, 419 files were found as OMP files (which were directly reported to OMP).
19. In addition, with regard to Certificate of Absence, a Gazette notification² was issued on 2021.10.26 to extend the validity of the operation of the provisions of Registration of Deaths (Temporary Provision) Act, No. 19 of 2010, by another two years from 09th of December 2021 to 09th of December 2023.

Office for Reparations (OR):

20. The policies and guidelines for the grant of reparation under the Office for Reparations Act No. 34 of 2018 were approved by the Cabinet of Ministers on 17 August 2021. This completes the statutory process and provides the basis for the programme of work of the Office for Reparations, based on the core principles in the OR Act. The Reparations Policy will be submitted to Parliament.
21. As set out in the Policy, the OR has identified several initiatives under the 8 support areas which are – Provision of Livelihood Support, Compensation and Financial Support, Restitution of Land Rights, Provision of Housing, Development of Community Infrastructure, Administrative Relief, Psychosocial Support and Measures to advance unity, reconciliation and non-recurrence of violence. Currently, the OR has is engaged in implementing required programmes at field level for the grant of reparations.
22. The Office for Reparations (OR) processed 5,964 claims in 2021 as at 31st December 2021. During 2021, the OR received a total sum of LKR 399.8 million for the payment of compensation and the entire allocation was utilized for the payment of compensation

Office for National Unity and Reconciliation (ONUR):

23. The Office for National Unity and Reconciliation (ONUR) continues to execute its mandate under 8 thematic areas with a view to building national unity and reconciliation.
24. The ONUR organized its first international research conference under the theme “Resolving difference through understanding sustainable peace, security and reconciliation in the modern society” from 30 to 31 October 2021. The objective of the conference is to bring together leading academics, researchers and research scholars, professionals to exchange and share their experiences, ideas, information and research results related to issues of Peace Building, Sustainable Peace, Rights and

² Extraordinary Gazette No. 2251/21 dated 2021.10.26- http://documents.gov.lk/files/egz/2021/10/2251-21_E.pdf

Responsibilities of Citizens, Reconciliation and Security in modern multi-cultural society. It provided a premier interdisciplinary platform for researchers, practitioners, and educators to present and discuss the most recent innovations, trends, and concerns as well as practical challenges encountered and solutions adopted.

25. The ONUR is in the process of developing its long-term Strategic Roadmap for National Healing, Peace-building and Reconciliation to provide a coherent strategy and coordination framework, to organize the multiple government and civil society initiatives on peace-building and reconciliation. It outlines responsibilities for key government actors, working closely with the civil society, to deliver on a programmatic framework for its implementation around three themes: Accounting for the past; managing the present; and Planning for the future. The Roadmap is aligned with the Government policy of Sri Lanka.
26. The ONUR is engaged in a dialogue with civil society to identify possible areas of collaboration under 8 areas as follows: development of a Reconciliation Road Map, Strengthening of the existing Reconciliation Mechanisms and establishing an Early Warning System, conducting awareness programmes and identifying training needs, collating documentation of the International Research Conference and develop activities for implementation, Facilitate a mechanism on consultation with Political Parties, establishing Harmony Centres, supporting the University Reconciliation Units and conducting donor coordination.

Sustainable Development Goals (SDGs): SDG 16- peace, justice and strong institutions:

27. According to the Sustainable Development Report 2021, Sri Lanka is showing steady progress in achieving the SDGs. Sri Lanka's global rank on SDG achievements has increased by 7 positions and is placed at 87th place out of 165 countries in 2021.
28. In order to accelerate progress on SDG 16, an inter-agency Steering Committee was established under the leadership of the Ministry of Justice, under 4 core areas including strengthening public security and law enforcement, corruption control, access to justice and public service delivery. The Steering Committee and its four sub-committees are expected to operationalize time bound action plans to achieve SDG 16 targets through holistic and integrated strategies and actions. Sri Lanka's national policies, planning and budgeting processes are well aligned with SDGs laying a solid foundation for Sri Lanka to achieve the SDGs by the target year of 2030 and at the same time to meet its core international human rights obligations under several international covenants such as ICESR, CEDAW, and CRC among others.
29. Sri Lanka is preparing its Voluntary National Report (VNR) on the implementation of SDGs.

30. A consultation of NGOs and Civil Society took place in the SDG-16 meeting on 13th December 2021, co-convened by the Ministry of Justice and the Sustainable Development Council. The consultation reflected on achievements, challenges and the reform process initiated by the ministry under seven priority areas. Key decisions taken were to nominate Civil Society representatives for SDG 16 sub-committees, to follow up on Open Government Partnership, to conduct a separate meeting with the ONUR and the Integration Division to design programs and to take action to ratify the ILO Convention C190- Violence and Harassment Convention.

Presidential Commission of Inquiry (PCOI):

31. The Presidential Commission of Inquiry headed by Justice Nawaz, a sitting judge of the Supreme Court, is in the process of finalizing its Second Interim Report to be submitted soon to the President of Sri Lanka.

32. The Commission has been holding Public Sitings at the BMICH in the presence of journalists and its proceedings have been open to the public for a long time from the time of its inception. So far, the Commission has its public sittings in Colombo, Jaffna and Kilinochchi. More than 100 of witnesses have testified before the Commission at these public sittings.

33. On accountability, the interim Report of the Commission of Inquiry³ to Investigate and Inquire into the Findings and Recommendations of the Preceding Commissions and Committees appointed to investigate into serious human rights violations of the international humanitarian law and other such serious offences, headed by Justice Nawaz was presented to the President of Sri Lanka on 21 July 2021.

34. The Commission highlighted in its interim report (July 2021) that the PTA should be reformed in line with the laws against the prevention of terrorism in other countries. The Commission, which has paid special attention to Provisions 9, 11 and 13 of the PTA, has made three key recommendations in its interim report with regard to the implementation of the PTA in a manner more consistent with international best practice. These core recommendations are as follows:

- a) the possibility to expedite the hearing of cases of those who are being detained for a minimum of three months or longer under Provision 9 of the PTA by filing indictments against them and;
- b) to confine the detainees to their own home or the residential areas under special security instead of detaining them in prisons in line with Provision 11 of the PTA;
- c) importance of establishing of an Advisory Board consisting of not less than three persons representing all ethnic groups, to advise the President or the Minister in charge of Defence under Provision 13 of the PTA.

³ The COI was appointed as per the Extraordinary Gazette 2211/55 dated 21 January 2021, http://www.documents.gov.lk/files/egz/2021/1/2211-55_E.pdf

35. H.E. the President has appointed retired Chief Justice Hon. Asoka de Silva Esquire as the Chairman of the Advisory Board in terms of Section 13 of the PTA and two other members of the Advisory Board on 24 August 2021. Any person who has been issued a Detention Order or a Restriction Order under the PTA, or any person representing him/her, can make representations to this Advisory Board. The Advisory Board may then advise the Minister on the Order issued. This Board therefore, presents an opportunity for those detained or restricted under the PTA to request a review of the Order.
36. The Commission is also empowered to examine the findings of the previous Commissions⁴ to ascertain whether there have been violations of international human rights law and international humanitarian law as found by those Commissions. If there have been such findings, the Commission is further mandated to find out whether the recommendations of the previous Commissions on accountability have been implemented and what needs to be the measures that should be adopted in the future to further the objectives of accountability. The previous Commissions such as the Lessons Learnt and Reconciliation Commission and Paranagama Commission addressed questions of accountability. The mandates of the previous Commissions called upon the Commissioners to look at accountability. The current Commission has embarked upon, as is clearly spelt out in its interim report, an examination of the issues of accountability and to spell out the measures that should be taken in the future. The current Commission is adequately tasked by its mandate to examine issues of accountability and spell out mechanisms to address the way forward.

Revisiting the Prevention of Terrorism Act (PTA):

37. The Government of Sri Lanka (GoSL) has obtained Approval of the Cabinet of Ministers on 10 January 2022 to propose amendments to key provisions in the PTA, bringing it in line with international norms and best practices. The approval of the Cabinet of Ministers was given on 25 January 2022 to gazette the Bill containing the proposed amendments and thereafter to table the Bill in the Parliament for final approval. This process is expected to be completed expeditiously. This is the first major amendment to the PTA since its enactment 42 years ago.
38. The proposed amendments to the key provisions to the PTA are as follows:
- Detention Orders (sec. 9)
 - Restriction Orders (sec 11)
 - Expressly recognizing judicial review of Orders (detention and restriction) (sec 10,11 and 26)

⁴ This Commission is mandated to build upon previous domestic Commissions, appointed to look into issues on accountability, including missing persons, inter alia: Commission of Inquiry appointed to investigate and inquire into (16 specific cases) of violations of human rights alleged to have occurred since 1st August 2005 (the Udagama Commission) (2006 – 2009); Commission of Inquiry on Lessons Learnt and Reconciliation (LLRC) (2010); Presidential Commission of Inquiry to Investigate into Complaints regarding Missing Persons (Paranagama Commission) (2013); and Presidential Commission of Inquiry into Complaints of Abductions and Disappearances (2014) 11 (Second Mandate of the Paranagama Commission)

- Expeditious disposal of cases of those charged under the PTA to avoid long term detention (sec 15)
 - Repealing sections impinging on freedom of expression (sec 14).
- Introduction of provisions on,
- Access by Magistrates and Judicial Medical Officers
 - Prevent maltreatment and torture during the detention period
 - Right to communicate with the family
 - Grant of Bail to long term detainees
 - Day to day hearing of cases

39. The above amendments were recommended by a Cabinet Sub-Committee chaired by the Foreign Minister, and an Officials committee comprising representatives from the Ministries of Foreign Affairs, Justice, Public Security, Defence, the Attorney General's Department and the Legal Draftsman's Department. Discussions in this regard have been continuing since June 2021.

40. The Government carried out an inclusive and extensive consultation process by including all stakeholders such as civil society and professional associations such as Bar Association of Sri Lanka.

41. The Committee during its deliberations took into cognizance the recommendations made by the Presidential Commission of Inquiry headed by Justice Nawaz, regarding amendments to the PTA.

42. Acting on the recommendations of the Commission to establish an Advisory Board under Section 13 of the PTA to advise the Minister of Defence on long term detainees, HE the President appointed a 3-member Advisory Board under Section 13 of the PTA, chaired by a retired Chief Justice. The Board has commenced its work. Any person who has been issued a Detention Order or a Restriction Order under the PTA, or any person representing the detainee can make representations to this Advisory Board. The Board provides an opportunity for those detained or restricted under the PTA to request a review of the Order.

43. Furthermore, instructions have been issued to all Police Officers with regard to conducting of investigations in terms of the PTA, including treatment of suspects in detention. Circulars were issued to police officers in October and November 2021 in this regard.

44. Presidential pardons were granted to 16 LTTE cadres serving sentences under the PTA in June 2021, and the legal and administrative process has been set in motion to release detainees who have been in judicial custody for extended periods under charges relating to the PTA. Accordingly, 13 more persons were discharged as of 13th January 2022. Further action being initiated to giving bail/indict/conduct non summary

inquiry/sent for rehabilitation another group of PTA detainees. Further action is being taken by the Attorney General's Department to consider remaining cases expeditiously.

Human Rights Commission of Sri Lanka (HRCSL):

45. The Human Rights Commission of Sri Lanka (HRCSL) is an independent Commission, established under the Human Rights Commission Act No. 21 of 1996, to promote and protect human rights in the country. The HRCSL is mindful of Sri Lanka's international human rights obligations and strives to ensure that the country abides by these obligations.
46. The HRCSL is carrying out its mission through ten regional offices and six HRCSL mobile offices i.e. Nuwara Eliya, Puttalam, Polonnaruwa, Mannar, Mullaithivu, and Kilinochchi, led by the head office of the HRCSL is located in Colombo. Treasury has allocated 231 Million rupees to HRCSL from the annual budget for 2021.
47. The HRCSL actively communicates and cooperates with international and regional human rights organizations i.e. CHRI, APF, GANHRI, and UN agencies in Sri Lanka such as UNDP, UNFPA, UNHCR, and OHCHR and protection mechanisms in promoting compliance with international human rights obligations of Sri Lanka as required by the Commission's statutory mandate. In addition, the HRCSL is closely working with independent commissions and other institutions such as the Election Commission and the National Police Commission etc. One of the HRCSL members is representing the Victim and Witness Protection Authority. The HRCSL has prepared a Strategic Plan after consulting Civil Society, head /regional offices HRCSL staff, and experts.
48. In 2021, the HRCSL received more than 7000 complaints at Head Office and Regional Offices. To safeguard the rights of the detainees, the HRCSL conducted a study on Sri Lanka prisons in 2018 – 2020, called a high-profile meeting on the recommendations of the study with aligned ministries, and established a committee to follow up recommendations. In addition, they carry out uninformed visits of nearly about 400 police stations, detention places, prisons, children's homes, Women's homes, elder's homes, Foreign Nationals Holding Centre, TID, and the CID. The HRCSL also submits its own independent reports to UN treaty bodies on human rights related issues and its Research and Monitoring division reports to UN Committee against Torture.
49. The National Human Rights Commission (HRCSL) has been reconstituted in accordance with the procedure mandated by the Constitution and financial provisions have been allocated to implement its statutory mandate.
50. In order to strengthen the HRCSL, a new Chairperson and a Commissioner for the HRCSL were appointed in December 2021.

Land release and resettlement of IDPs:

51. A process is already in place, led by the Ministry of Defence, in order to expedite releasing of remaining private lands which are no longer required for security purposes, under a proper land release process.
52. More than 92 % of the private lands occupied by the military at the end of the conflict in year 2009 have been released to the legitimate civilian owners, through local government authorities.
53. Total extent of private lands released by the Armed Forces from year 2009 to 25 January 2022 is 26,017.96 acres, which is 92.42%.
54. Once a final decision is taken with regard to the exact number of private lands which cannot be released due to national security concerns and requirements, a necessary compensation mechanism will be initiated; owners of such land will be paid compensation, in accordance with the procedures established by law.

Concluding the process of resettlement of IDPS:

55. As at 25 January 2022, a total number of 8,090 persons (2,651 families) remain to be resettled. Out of these 963 persons (291 families) live in welfare centres while 7,127 persons (2,360 families) live with family or friends. Action is being taken to verify the final figure of the remaining IDPs and to find solutions to their problems.

Engagement with the civil society:

56. For decades, civil society has been an important partner for Sri Lanka's progress in matters related to social and human development as well as human rights issues. The government has maintained an active interaction with civil society in our international human rights reporting obligations. The Foreign Minister is engaged in a continuing process in this regard. At a recent meeting, civil society expertise was solicited to contribute to the process of reconciliation and implementation of the SDG 16 through engagement with the Office for National Reconciliation (ONUR) and the Steering Committee on SDG 16.
57. As per the provisions of the Extra-ordinary Gazette, notification No. 2254/30⁵ dated 17 November 2021, the functions, powers and administration of the National NGO Secretariat has been placed as an institution under scope of the Foreign Ministry.

⁵ http://documents.gov.lk/files/egz/2021/11/2254-30_E.pdf

International Human Rights and other Treaty obligations and engagement with the UN Special Procedures Mandate Holders:

58. Sri Lanka will continue to fulfil its ongoing reporting obligations under 09 core UN Human Rights Treaties. Sri Lanka values the interaction with the Treaty bodies, which assists in reviewing Sri Lanka's progress and in addressing improvements where necessary. We also continue to engage regularly with the UPR process.
59. With regard to the special procedures mandate holders, in 2020, the GoSL expressed agreement to receive visits to Sri Lanka by two Special Procedure Mandate Holders, namely the Special Rapporteur on the Right to Education and the Special Rapporteur on Contemporary forms of Slavery, including its causes and consequences. Accordingly, the Special Rapporteur on Contemporary forms of Slavery visited Sri Lanka, at the invitation of the GoSL, from 26 November to 3 December 2021.

Foreign Ministry
Colombo
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