



13 April 2018

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Sri Lanka and welcome your Government's constructive engagement during the 28th session of the UPR Working Group in November 2017.

As the final outcome report on the review of Sri Lanka was recently adopted by the Human Rights Council at its 37th session, I am writing to follow upon a number of areas raised in two reports that my Office prepared for the review of Sri Lanka – the compilation of UN information and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations and/or statements made by 88 countries, Sri Lanka's presentation and responses, and the action taken by Sri Lanka to implement the 113 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

While I welcome Sri Lanka's efforts to undertake a constitutional reform process, I strongly encourage Sri Lanka to ensure that such an ongoing reform process is inclusive and takes into account fundamental principles of equality and non-discrimination, separation of powers, checks and balances and the independence of the judiciary. I also welcome Sri Lanka's accession to the OP-CAT, under which the National Human Rights Commission of Sri Lanka was designated as National Preventive Mechanism (NPM). I note with great interest that on 7 March 2018, the Sri Lanka Parliament passed the International Convention for the Protection of All Persons from Enforced Disappearance Bill thus criminalizing enforced disappearance.

Furthermore, I welcome Sri Lanka's adoption of the National Human Rights Action Plan for 2017-2021 and encourage Sri Lanka to strengthen the plan by integrating the areas contained in the annex in order to achieve concrete results and to facilitate Sri Lanka's preparations for the fourth cycle of the UPR. Such efforts should involve consultations with all stakeholders, in particular the National Human Rights Commission of Sri Lanka and civil society organisations, including victims' organisations, and, where necessary, the support of international organisations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities under the leadership of the UN Resident Coordinator.

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H.E. Mr. Tilak Marapana
Minister of Foreign Affairs &
Minister of Development Assignments
Colombo
Sri Lanka



I also encourage Sri Lanka to strengthen its national mechanism for comprehensive follow up and reporting in relation to international and regional human rights mechanisms and treaty obligations. I am pleased that you have approached OHCHR for facilitation of technical discussions on this topic and that you are studying the practical guide that my Office released in 2016 on this topic and which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. In this regard, I encourage Sri Lanka to submit such a report for the third cycle, by March 2020.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals”*.

I look forward to discussing with you ways in which my Office may assist Sri Lanka to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

cc.: Mr. Harsha de Silva, MP Deputy Minister of National Policies and Economic Affairs

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratify the international human rights treaties, to which Sri Lanka is yet to become a party, including the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Rome Statute of the International Criminal Court and the International Labour Organization Conventions 169 and 189;
- Fully implement and incorporate the ratified treaties into domestic laws;
- Continue its cooperation with international human rights mechanisms;

National Human Rights Framework

- Ensure the independence of the National Human Rights Commission and continue strengthening it, including by providing it with sufficient human, technical and financial resources and ensuring its full alignment with the Paris Principles;

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Take comprehensive measures to eliminate all forms of discrimination against any person based on ethnicity, gender, religion, HIV/AIDS status and sexual orientation and gender identity as well as take effective measures to prevent and address hate speech;
- Repeal sections 365 and 365A of the Penal Code, which criminalize consensual same-sex conduct and amend article 12 of its Constitution to explicitly prohibit discrimination on the basis of sexual orientation and gender identity;

Development, the environment, and business and human rights

- Take measures to address the high use of agro-chemicals and enforce the ban on glyphosate in all sectors as well as ensure regular inspections to prevent the use of agro-chemicals with adverse effect on the health of the population;

Human Rights and counter-terrorism

- Repeal the Prevention of Terrorism Act and replace it with a legislation in conformity with international standards, as well as release those currently detained under the Act;



B. Civil and political rights

Right to life, liberty and security of person

- Abolish capital punishment in its laws and commute all death sentences into prison sentences;
- Eliminate torture and ill-treatment of persons by the law-enforcement officials for the purpose of extracting confessions and take prompt measures to investigate, prosecute and punish perpetrators and provide effective remedies to the victims of such crimes;
- Put an end to unlawful detention, torture and sexual violence by security and military forces;
- Take measures to address poor conditions of detention including overcrowding, insufficient ventilation, excessive heat and humidity, and the denial of adequate access to health care, education, vocational training and recreational activities;

Administration of justice, including impunity and the rule of law

- Implement its commitments under the HRC resolution 30/1 aimed at securing the rights to truth, justice, reparation, memory and non-repetition, including to the families of the disappeared and fight impunity in relation to cases of enforced disappearances;
- Take measures to provide persons in vulnerable situations, including children, people living in remote areas and victims of sexual violence with effective access to justice;
- Ensure that all detainees are provided with legal safeguards from the outset of the deprivation of their liberty;

Fundamental freedoms and the right to participate in public and political life

- Decriminalize defamation and review the laws and regulations that restrict the right to freedom of expression;
- Take measures to put an end to harassment and arbitrary detention of journalists, including Tamil journalists, and human rights defenders and inform of the outcomes of investigations into past violations;
- Ensure and protect the right to freedom of religion of all religious groups, by providing safety of places of worship and fighting hate speech against religious minorities;

Prohibition of all forms of slavery

- Take measures to prevent, suppress and punish trafficking in persons, and provide prompt and thorough investigations to all allegations of trafficking in persons, prosecute and punish those responsible as well as provide protection, assistance and compensation to victims;

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Take measures to address the situation of informal workers, by regularizing informal economy and creating income generating opportunities, in particular for women in rural areas and women heads of households;

Right to adequate standard of living

- Strengthen its efforts to combat extreme poverty and alleviate poverty through health, education and housing programmes;
- Provide legal protection from forced evictions and provide compensation and redress to those forcibly relocated as well as restitution of lands confiscated by the military forces;
- Urgently address the malnutrition, especially among children, pregnant and lactating women and ensure nutritional security of its population;

Right to health

- Increase the budget allocations to public health care services and ensure that good quality health services are available and accessible to its population throughout the country;
- Ensure that sexual and reproductive health information and services, including contraception and family planning services, are available and youth friendly in all parts of the country;

Right to education

- Ensure that education is available to all children, including children belonging to religious minority groups and children of asylum seekers, and take measures to improve the quality of education and academic freedom in higher educational establishments;

D. Rights of specific persons or groups

Women

- Put an end to gender-based violence and sexual violence against women, including through criminalization of marital rape, ensuring that perpetrators are prosecuted and punished as well as providing effective protection and redress to victims of such violence;
- Review the Muslim Marriage and Divorce Act of 1951 containing discriminatory provisions against women, including early marriages, unfair divorce practices, polygamy, marital rape and others;
- Take measures to fight stereotypes against women and patriarchal attitudes and ensure equality between men and women in all areas of life;

Children

- Put an end to corporal punishment in all settings and take measures to promote positive non-violent forms of discipline;
- Eliminate child labour, especially the worst forms of child labour in hazardous conditions as well as exploitation of children in domestic work;
- Take urgent measures to independently investigate the cases of missing children;

Persons with disabilities

- Eliminate discrimination against persons with disabilities in all areas of life and ensure accessibility of quality health care services, education, employment, public transportation, infrastructure and other services;
- Ensure that all children with disabilities are certified and registered from the moment of detection of their disability irrespective of their age and provide access to social and welfare benefits reserved for such children;

Minorities and indigenous persons

- Ensure effective participation of all minority groups in decision making processes, and provide them with equal social and economic opportunities and create avenues to accommodate ethnic, linguistic and religious diversity;

Migrants, refugees, asylum seekers and internally displaced persons

- Ensure that migrants in irregular situations are detained only as a measure of last resort and for the shortest time possible and that migrant children are not detained under any circumstances;
- Put in place a national legal framework for refugees and asylum seekers and provide them with access to the labour market, social assistance, public education and health services as well as accede to the 1951 Convention relating to the Status of Refugees;
- Review its laws, regulations and practices to provide durable solutions to the needs of internally displaced persons and refugee returnees;
- Address the factors that impede the resettlement of internally displaced persons and ensure that internally displaced persons living in camps have access to necessary facilities for adequate standards of living.