



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### List of issues in relation to the fifth periodic report of Sri Lanka\*

#### Articles 1 and 4

1. In the light of the previous concluding observations adopted by the Committee (see CAT/C/LKA/CO/3-4, para. 25)<sup>1</sup> and bearing in mind that the definition of torture contained in section 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act (Act No. 22 of 1994) still omits the word “suffering”,<sup>2</sup> please clarify whether the State party intends to amend the definition of torture to include acts that cause severe mental suffering, in line with article 1 of the Convention. With reference to the information provided by the State party regarding the finding in the judicial decision on *De Silva v. Fertilizer Corporation* that mental aggression can constitute torture,<sup>3</sup> please indicate whether any individual has been convicted of torture on those grounds.

2. With regard to the Committee’s previous concluding observations, in which the Committee expressed serious concern about continued and consistent allegations of widespread use of torture and other cruel, inhuman or degrading treatment of suspects in police custody (para. 6), and noting the information provided in the State party’s report,<sup>4</sup> please provide:

(a) Additional information concerning the reported cases of alleged torture attributed to the Sri Lankan police,<sup>5</sup> including how many of those cases have led to a criminal or disciplinary investigation, and by which authority, how many have led to prosecutions; how many have led to convictions, and the criminal and disciplinary sanctions that have been imposed. Please also provide updated data on allegations of torture received in 2015;

(b) Annual statistical data on complaints of torture and ill-treatment received during the reporting period and attributed to public officials other than the Sri Lankan

\* Adopted by the Committee at its fifty-seventh session (18 April-13 May 2016).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

<sup>2</sup> See CAT/C/LKA/5, para. 132.

<sup>3</sup> Ibid., para. 133.

<sup>4</sup> Ibid., paras. 9-12.

<sup>5</sup> Ibid., para. 12.



police,<sup>6</sup> with details on: (i) the number of complaints received relating to torture and ill-treatment, including sexual violence; (ii) how many of those complaints have led to a criminal or disciplinary investigation, and by which authority; (iii) how many have led to prosecutions; (iv) how many have led to convictions; and (v) the criminal and disciplinary sanctions that have been imposed, specifying the length of prison sentences;

(c) Information on any *ex officio* investigations undertaken by the authorities concerning places where allegations of torture have been particularly numerous, such as the Terrorism Investigation Division and the Criminal Investigation Department headquarters (the so-called “fourth floor”), Joseph camp, Boosa detention camp, Manik farm, Trincomalee naval dockyard, “rehabilitation” camps for suspected former members of the Liberation Tigers of Tamil Eelam (LTTE) in Vayuvuniya and Jaffna; and Thanthirimale army camp;

(d) Updated information on the status of any ongoing investigations or prosecutions concerning allegations of torture and ill-treatment in the following cases:

(i) The disappearance of journalist Prageeth Eknaligoda, the subject of an investigation;<sup>7</sup>

(ii) The trial of a Deputy Inspector General of Police on charges of conspiracy, abduction and murder;<sup>8</sup>

(iii) The alleged severe torture of Liyanarachchilage Samantha by a group of six police officers in Sooriyawewa police station on 19 February 2015, which resulted in his death.

#### **Article 2<sup>9</sup>**

3. With reference to the recommendations contained in the report on the investigation on Sri Lanka carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the information provided in the State party’s report,<sup>10</sup> please provide details on any measures taken by the State party to ensure that military and security forces are informed and given clear and unequivocal instructions that torture and rape and other forms of sexual violence are prohibited and that those responsible, either directly or as commander or superior, will be investigated and punished.<sup>11</sup>

4. Bearing in mind the Committee’s previous concluding observations, in which the Committee expressed serious concern at the State party’s failure to provide all detainees with all fundamental safeguards against torture and ill-treatment from the very outset of their detention (paras. 7 and 12), and the information provided by the State party in its report<sup>12</sup> and in its follow-up to the concluding observations,<sup>13</sup> please provide information on:

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<sup>6</sup> Ibid.

<sup>7</sup> See CAT/C/LKA/5, para. 40.

<sup>8</sup> Ibid., para. 9.

<sup>9</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

<sup>10</sup> See CAT/C/LKA/5, paras 10-11.

<sup>11</sup> Ibid.

<sup>12</sup> See CAT/C/LKA/5, paras. 13 and 29.

(a) Whether the comprehensive database of all arrested suspects mentioned in paragraph 34 of the State report is operational, whether information is recorded about each detained person and whether persons in all places of custody, *inter alia* prisons, police stations and “rehabilitation centres”, are included in the database. Please indicate whether relatives of detainees can access the database and the procedure for doing so. Please provide information about any cases in which officers have been disciplined for failing to properly register detained persons in the database during the reporting period;

(b) The measures the State party is taking to ensure that all detainees are afforded the right to access a lawyer of their choice from the very outset of deprivation of liberty, including during the initial interrogation by the police. Please indicate whether the State party envisages providing increased resources to the Legal Aid Commission to ensure that all persons deprived of their liberty have effective access to counsel;<sup>14</sup>

(c) Whether medical officers are available to conduct initial medical examinations in all detention centres and prisons and, if not, what measures have been taken to ensure that all persons deprived of their liberty receive a prompt medical examination.<sup>15</sup> Please indicate if safeguards are in place to ensure that medical officers are able to examine detained persons out of the hearing and sight of custodial staff, and the measures in place that allow medical officers to confidentially report incidents of suspected torture and ill-treatment to prosecuting authorities. Please provide data on cases in which medical officers raised concerns about torture and ill-treatment on the basis of such examinations during the reporting period;

(d) The measures taken by the State party to ensure that the families and next of kin of all persons deprived of their liberty are expeditiously informed of the detention of their relatives and of the place of detention, including transfers, from the moment of the deprivation of liberty. Please indicate whether any State officials have been disciplined for failing to expeditiously inform family members of the arrest or transfer of a person deprived of his or her liberty during the reporting period;<sup>16</sup>

(e) Whether any officials have been disciplined for holding persons in detention before presenting them before a magistrate for longer than the 24-hour limit prescribed by the law during the reporting period;

(f) Annual statistical data on the total number of claims for habeas corpus brought before the High Court and the Court of Appeal, as well as fundamental rights applications alleging arbitrary detention brought before the Supreme Court during the reporting period, and indicate the number of successful claims. Please provide information on any measures taken by the State party to address reports of exceedingly long delays in the processing of habeas corpus claims and fundamental rights applications before the Supreme Court;<sup>17</sup>

(g) Cases in which the Supreme Court has ordered disciplinary action against a State official for failure to comply with any of the legal safeguards described above during the reporting period, and indicate how the State party has ensured that all such orders are enforced.

5. With regard to the Committee’s previous concluding observations, in which the Committee expressed concern that the Prevention of Terrorism Act (Act No. 48 of 1979) unduly restricts legal safeguards against torture and ill-treatment for persons charged with

<sup>13</sup> See CAT/C/LKA/CO/3-4/Add.1, paras. 5-11.

<sup>14</sup> *Ibid.*, para. 7.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.* See also CAT/C/LKA/5, para. 29, and CCPR/C/LKA/CO/5, para. 17.

<sup>17</sup> See A/HRC/WG.6/14/LKA/3, para. 39.

terrorism or related crimes (para. 10), and the information provided in the State party's report,<sup>18</sup> please:

(a) Indicate whether the State party has repealed or amended the provisions of the Prevention of Terrorism Act that subject detainees' access to a lawyer to the discretion of the Chief of the Terrorism Investigation Division;

(b) Indicate how many habeas corpus claims have been brought in relation to detention under the Prevention of Terrorism Act and the number of such claims that have been successful;<sup>19</sup> and whether the State party has taken measures to ensure that detention orders issued under section 9 (1) of the Act can be challenged before the courts;<sup>20</sup>

(c) Provide information, disaggregated by sex, ethnicity and place of detention of the detainees, on: (i) the number of persons detained under the Prevention of Terrorism Act without charge and the average and maximum duration of detention of persons in that category;<sup>21</sup> and (ii) the number of persons detained under the Act pending trial, and the average and maximum duration of detention of persons in that category. Please describe any other measures taken to review the cases of all persons deprived of their liberty under the Act and ensure that they are either promptly formally charged and remanded pending trial or released;<sup>22</sup>

(d) Indicate any measures taken to ensure that persons suspected of terrorism or related offences can be detained only in officially designated detention centres or prisons, in contrast to apparent deviations from this principle permitted under sections 7 (3) and 9 of the Prevention of Terrorism Act;

(e) Indicate when the State party intends to repeal the Prevention of Terrorism Act, as noted in its report,<sup>23</sup> and to replace it with legislation that conforms with the State party's obligations under the Convention.

6. With reference to the Committee's previous concluding observations, in which the Committee expressed concern about the reported inactivity of and challenges to the independence and impartiality of the Human Rights Commission of Sri Lanka (paras. 16-17), and the information provided in the State party's report,<sup>24</sup> please:

(a) Provide details on any measures taken to strengthen the independence of the Human Rights Commission of Sri Lanka during the reporting period. Please indicate if, following the adoption of the nineteenth amendment to the Constitution, a clear, transparent and participatory process for the selection and appointment of members of the Commission has been adopted and implemented;

(b) Provide an update on any measures taken to ensure that State authorities implement the recommendations of the Commission. Please provide examples of recommendations made by the Commission relating to the prevention and investigation of torture and ill-treatment, as well as the prosecution of those responsible, that have been implemented by the authorities during the reporting period;

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<sup>18</sup> See CAT/C/LKA/5, paras. 23-32.

<sup>19</sup> Ibid., paras. 23 and 26.

<sup>20</sup> OHCHR report on the investigation on Sri Lanka, para. 340.

<sup>21</sup> See A/HRC/30/61, para. 19.

<sup>22</sup> See CAT/C/LKA/5, para. 29, and CCPR/C/LKA/CO/5, paras. 11 and 17. See also the OHCHR report on the investigation on Sri Lanka, recommendation 24, and the oral update of the United Nations High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka, para. 14.

<sup>23</sup> See CAT/C/LKA/5, para. 32, A/HRC/25/23, para. 18, and the oral update of the High Commissioner, para. 14.

<sup>24</sup> See CAT/C/LKA/5, paras. 67 and 69-77.

(c) With reference to paragraph 74 of the State party's report, provide details concerning any matters that the High Court has referred to the Commission concerning allegations of torture and ill-treatment;

(d) Notwithstanding the information provided in paragraph 67 of the State party's report, respond to reports that, in practice, the Commission is not always informed of arrests within 48 hours and that it has been denied access to places of detention, including military premises.<sup>25</sup> Please provide data on the number of visits to places of detention that the Commission has undertaken during the reporting period, specifying the number that were unannounced in advance, and provide examples of the results of these visits;

(e) Provide information on measures taken to ensure that the Commission has sufficient resources to conduct independent investigations and alleviate its backlog of complaints;

(f) Provide annual statistical data for the period under review on the number of complaints of torture and ill-treatment received by the Commission, on investigations into allegations of torture and ill-treatment conducted by the Commission on its own initiative or upon request and the results of such investigations.<sup>26</sup> Please indicate if the results of those investigations are made public.

7. With reference to the Committee's previous concluding observations (para. 18), please describe measures taken during the reporting period to strengthen the independence of the judiciary vis-à-vis the executive,<sup>27</sup> including changes to the process for the appointment, transfer, discipline and removal of judges following the adoption of the nineteenth amendment to the Constitution.<sup>28</sup> Please comment on the impeachment of the Chief Justice in 2013 and provide information on measures taken to ensure that, in the future, proceedings that might lead to the removal of a judicial officer are independent, impartial and include appropriate safeguards to ensure fairness.<sup>29</sup>

8. Recalling the Committee's previous concluding observations (para. 22), please provide further information on the measures taken to combat violence against women, in particular:

(a) Information on whether the State party will reconsider amending its legislation so that a judge's legal recognition of the separation of spouses is not required in order for a husband to be charged with domestic violence or the rape of his wife, as recommended by several United Nations treaty bodies;<sup>30</sup>

(b) Annual statistical data from 2011 onwards, disaggregated by type of crime, on the number of complaints of violence against women registered by the police, the number of such complaints that have been investigated, how many of those complaints have led to prosecutions and convictions and the punishment imposed in those cases. Please also indicate the average period of time that elapsed between the filing of a complaint and the conclusion of the trial;

<sup>25</sup> See the OHCHR report on the investigation on Sri Lanka, para. 378.

<sup>26</sup> See CAT/C/LKA/5, para. 76.

<sup>27</sup> *Ibid.*, para. 5.

<sup>28</sup> See CCPR/C/LKA/CO/5, para. 5.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*, para. 9. See also CEDAW/C/LKA/CO/7, paras. 24 and 25 (d), and E/C.12/LKA/CO/2-4, para. 25.

- (c) Information on measures taken to train law enforcement personnel, prosecutors and judges on the provisions of the Domestic Violence Act and in preventing, detecting and responding to incidents of domestic violence;<sup>31</sup>
  - (d) Information on redress provided to women victims of violence, including the number of cases in which women victims of violence have received compensation and the amount awarded;
  - (e) Information regarding measures taken to protect women from violence, including the number of protection orders requested and granted during the reporting period, and the number of shelters in the country and their capacity.
9. With reference to the Committee's previous concluding observations (para. 24) and noting that the State party has acknowledged that many victims of trafficking "are dissuaded from complaining in fear of reprisals",<sup>32</sup> please provide information on:
- (a) Whether the Protection of Victims of Crime and Witnesses Act (Act No. 4 of 2015) offers protection to victims of trafficking;
  - (b) Measures taken to prevent victims of trafficking from being detained or prosecuted for acts committed as a direct consequence of their situation;<sup>33</sup>
  - (c) Any efforts made to provide victims of trafficking with residence permits and protection against return to their countries of origin, particularly if they are in danger of torture, ill-treatment or exploitation;
  - (d) Updates on redress provided to victims of trafficking, including the procedure for obtaining compensation, the number of cases in which compensation was awarded and the compensation granted;<sup>34</sup>
  - (e) Prosecutions for trafficking offences, with reference to paragraph 121 of the State party's report, in particular on: (i) how many prosecutions led to convictions; (ii) the sentences and penalties imposed; (iii) whether compensation was provided to victims; and (iv) any measures taken to expedite the pending investigations.<sup>35</sup>

### Article 3

10. With reference to the Committee's previous concluding observations (para. 27), please provide information on:
- (a) Measures taken to explicitly incorporate into national legislation the prohibition of returning a person to a country where he or she would face a substantial risk of torture;
  - (b) Measures taken to establish a national asylum procedure with an adequate screening process to determine whether persons subject to return face a substantial risk of torture;
  - (c) Whether individuals are able to appeal expulsion orders against them and whether the expulsion proceedings are suspended pending the resolution of the appeal;
  - (d) Whether asylum seekers and persons subject to extradition have access to independent legal assistance free of charge, including during the appeals process. If so,

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<sup>31</sup> See CCPR/C/LKA/CO/5, para. 9.

<sup>32</sup> See CAT/C/LKA/5, para. 116.

<sup>33</sup> See CCPR/C/LKA/CO/5, para. 20.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid. See also CEDAW/C/LKA/CO/7, para. 26.

please provide data on the number of cases in which free legal assistance was provided to asylum seekers during the reporting period, disaggregated by year.

11. Please provide statistical data for the period under review, disaggregated by year and country of origin, on:

- (a) The number of asylum requests registered during the reporting period;
- (b) The number of requests for asylum or refugee status or other forms of humanitarian protection granted during the reporting period;
- (c) The number of torture victims identified among asylum seekers, the procedures applied to undertake such identification and the measures taken towards those identified as torture victims;
- (d) The number of persons extradited, expelled or returned and the countries to which they were removed.

12. Please provide information concerning reports that in 2014 the State party forcibly returned 183 asylum seekers to Afghanistan and Pakistan who had been registered with the Office of the United Nations High Commissioner for Refugees and who were at risk of being persecuted in their country of origin because of their religion.

#### **Articles 5-9**

13. Please indicate whether the State party has rejected, for any reason, the request of a State for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

#### **Article 10**

14. With reference to the Committee's previous concluding observations (para. 28) and the information provided in the State party's report,<sup>36</sup> please provide information on any training provided for any State agents involved in holding persons in custody, interrogation or treatment of any individual under any form of detention or imprisonment, with respect to:

- (a) The provisions of the Convention;<sup>37</sup>
- (b) Non-coercive investigation techniques;
- (c) Guidelines for the detection of signs of torture and ill-treatment reflecting the standards set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol);
- (d) Identification of victims of trafficking, torture and sexual violence among asylum seekers.

15. Please outline any measures taken to develop and implement a methodology to monitor and assess the effectiveness of those training programmes in reducing the incidence of torture and ill-treatment.

#### **Article 11**

16. With reference to the Committee's previous concluding observations (para. 20) and the information provided in the State party's report indicating that as at the end of June

<sup>36</sup> See CAT/C/LKA/5, paras. 140-148.

<sup>37</sup> See the OHCHR report on the investigation on Sri Lanka, recommendation 9.

2015 there were still 44,934 internally displaced persons living in welfare centres or with friends and relatives,<sup>38</sup> please provide information on the number of persons currently living in welfare centres and whether there is a deadline for their resettlement.<sup>39</sup> In particular, please comment on measures taken to address the findings of the investigation on Sri Lanka carried out by OHCHR regarding the lack of medical care, overcrowding and poor living conditions in those centres.<sup>40</sup>

17. With reference to the Committee's previous concluding observations (para. 8) and the information provided in the State party's report,<sup>41</sup> please provide an update on the status of the investigation into the existence of secret detention centres allegedly run by the Sri Lankan military intelligence and paramilitary groups. In that regard, please comment on reports alleging the existence and continued use of secret detention centres.

18. With reference to the rehabilitation of persons detained under the Prevention of Terrorism Act,<sup>42</sup> please provide updated information regarding the number of persons currently subjected to rehabilitation and the average and maximum duration of their detention in rehabilitation centres. Please also comment on reports documenting torture and ill-treatment in rehabilitation centres perpetrated by State officials<sup>43</sup> and whether investigations have been carried out as a result of those reports and their outcome. With reference to the State party's assertion that rehabilitation is conducted only where the suspect voluntarily agrees to it, please describe the procedure whereby persons may petition to be released from rehabilitation and the maximum legal period during which rehabilitation may be imposed.

19. In the light of the Committee's previous concluding observations (para. 15) and with reference to the information provided in the State party's report on deaths in custody,<sup>44</sup> please provide:

(a) Annual data since 2011, disaggregated by place of deprivation of liberty, on the number of deaths in custody attributed to public officials or other prisoners, the number of investigations opened into cases of death in custody, and whether prosecutions were instituted and their outcomes;

(b) Information on the outcome of any investigations and penalties imposed for deaths in custody in the following cases:

(i) The death of Chandrasiri Dassanayake, a witness in a human rights case, who was allegedly beaten by police and died in police custody on 15 April 2013;

(ii) The deaths of four suspects arrested in connection with the killing of a police officer and his wife at Kamburupitiya in 2013;

(iii) The death of P.H. Sandun Malinga on 9 May 2014 due to injuries allegedly sustained from beatings;

(iv) The death of M.D. Chaminda Pushpakumara, who was reportedly arrested on 4 March 2015 and died while in police custody, allegedly with visible injuries from torture.

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<sup>38</sup> See CAT/C/LKA/5, para. 82.

<sup>39</sup> See the OHCHR report on the investigation on Sri Lanka, para. 1110.

<sup>40</sup> *Ibid.*, paras. 1081-1105.

<sup>41</sup> See CAT/C/LKA/5, para. 14.

<sup>42</sup> *Ibid.*, paras. 30-31.

<sup>43</sup> See the OHCHR report on the investigation on Sri Lanka, para. 372.

<sup>44</sup> See CAT/C/LKA/5, paras. 63-65.



20. With reference to the Committee's previous concluding observations (para. 14) and the information provided in the State party's report addressing conditions of detention,<sup>45</sup> please provide the following updated information:

(a) Annual statistical data since 2011, disaggregated by place of detention, on the capacity and occupancy rates of all places of detention, indicating the number of pretrial detainees at each place of detention;

(b) Information on measures taken to address reports of extremely poor conditions in places of detention, including severe overcrowding, unsanitary facilities and insufficient access to medical facilities, including updates on the impact of the "Urban prison relocation programme" on overcrowding in prisons<sup>46</sup> and information on whether the proposed draft amendments to the Prison Ordinance and the New Prison Administration Bill address these concerns and, if so, whether they have been adopted;<sup>47</sup>

(c) Details on measures taken to reduce long-term pretrial detention,<sup>48</sup> including the use of alternative measures to detention, including data on the number of cases in which alternatives to pretrial detention have been implemented.

21. With reference to the Committee's previous concluding observations (para. 16) and the information provided in the State party's report,<sup>49</sup> please provide details of the number of visits to places of detention conducted by the Human Rights Commission of Sri Lanka,<sup>50</sup> non-governmental organizations and the International Committee of the Red Cross, disaggregated by location. Do these entities have access to facilities holding internally displaced persons and former LTTE members? What measures have been taken to establish an independent and systematic monitoring system at the national level for all detention facilities? Please indicate whether the State party envisages ratifying the Optional Protocol to the Convention.

## Article 12

22. With reference to the Committee's previous concluding observations (para. 18) and the information received from the State party on follow-up to the concluding observations<sup>51</sup> indicating that "all investigations are conducted by the officers attached to the police",<sup>52</sup> please explain:

(a) Whether the State party is taking measures to create an independent body to investigate allegations of torture or ill-treatment by police officers in order to ensure that there is no hierarchical or institutional link between the suspected perpetrators and the investigators. In that regard, please address concerns that the Special Investigation Unit of the Department of Police is not sufficiently independent from the police to carry out that function. Please also clarify whether the Prosecution of Torture Perpetrators Unit of the Attorney General's Department supervises all investigations carried out by the Special Investigation Unit into allegations of torture and ill-treatment;

<sup>45</sup> Ibid., paras. 43-62.

<sup>46</sup> Ibid., paras. 50-52.

<sup>47</sup> Ibid., paras. 43-45.

<sup>48</sup> Ibid., para. 54.

<sup>49</sup> Ibid., paras. 66-67.

<sup>50</sup> See the OHCHR report on the investigation on Sri Lanka, para. 378.

<sup>51</sup> See CAT/C/LKA/CO/3-4/Add.1, paras. 17-25.

<sup>52</sup> Ibid., para. 21.

(b) Whether the State party is taking measures to respond to reports that police and other officials who have been credibly accused of torture are not suspended or reassigned pending the investigation of the allegations;<sup>53</sup>

(c) Whether the National Police Commission is currently active, the measures taken to ensure its independence, the number of complaints it has received, the number of investigations conducted into allegations of torture or ill-treatment by police officers and whether any investigations have resulted in prosecutions or disciplinary action.

23. With reference to the Committee's previous concluding observations (para. 21) and noting the information provided in the State party's report,<sup>54</sup> please provide updated information on measures taken to investigate allegations of torture and ill-treatment committed in the course of the armed conflict during the period covered by the Lessons Learned and Reconciliation Commission (21 February 2002-19 May 2009).<sup>55</sup> In particular, please provide updated information and details on the investigations conducted or reopened with respect to:

(a) The murder of five students in Trincomalee in 2006, which according to the State party's report was to be the subject of proceedings at the Magistrates Court of Trincomalee on 7 December 2015;<sup>56</sup>

(b) The death in 2006 of 17 aid workers for Action contre la faim, which according to the State party is the subject of an ongoing investigation;<sup>57</sup>

(c) Alleged cases of executions of surrendered persons by personnel of the Sri Lankan army,<sup>58</sup> including: (i) Balachandran Prabhakaran, the 12-year-old son of the LTTE leader Villupillai Prabhakaran; (ii) T. Thurairajasingham (alias Colonel Ramesh); (iii) Shoba (alias Isaipriya); (iv) the high-level LTTE leaders allegedly executed on 18 May 2009 in the "white flag" incident;<sup>59</sup> and (v) the Tamil captives depicted in videos and photographs broadcast in the United Kingdom of Great Britain and Northern Ireland by Channel 4 news.<sup>60</sup>

24. Please comment on reports questioning the independence of military courts of inquiry<sup>61</sup> and indicate whether civilian authorities will reopen investigations into allegations of torture and ill-treatment referred to in the report of the Lessons Learned and Reconciliation Commission that are alleged to have been perpetrated by the military or the armed forces.

25. Please provide an update on the progress made in relation to the establishment of the judicial mechanism with a special counsel referenced in the State party's report<sup>62</sup> and whether it will have jurisdiction in relation to crimes of torture, sexual violence and enforced disappearance, including the principle of command responsibility,<sup>63</sup> and also clarify its temporal jurisdiction.<sup>64</sup> Please also indicate how the independence of that mechanism will be ensured. Please clarify whether the mechanism will integrate

<sup>53</sup> See the OHCHR report on the investigation on Sri Lanka, paras. 621 and 624.

<sup>54</sup> See CAT/C/LKA/5, paras. 90-95 and 106-107.

<sup>55</sup> See CAT/C/LKA/Q/3-4/Add.1, para. 100.

<sup>56</sup> See CAT/C/LKA/5, paras. 91-94.

<sup>57</sup> *Ibid.*, para. 95.

<sup>58</sup> See A/HRC/25/23, paras. 56-64, and A/HRC/30/61, para. 27.

<sup>59</sup> See A/HRC/25/G/9, para. 82.

<sup>60</sup> See A/HRC/25/23, paras. 56-64, and the OHCHR report on the investigation on Sri Lanka, para. 285.

<sup>61</sup> See A/HRC/25/23, para. 39.

<sup>62</sup> See CAT/C/LKA/5, para. 7.

<sup>63</sup> See the OHCHR report on the investigation on Sri Lanka, recommendation 18.

<sup>64</sup> *Ibid.*, paras. 66 and 1113, and A/HRC/30/61, paras. 1 and 24.

international judges, prosecutors, lawyers and investigators, as recommended by OHCHR in the report on the investigation on Sri Lanka.<sup>65</sup>

26. Please provide an update on the progress made in relation to the establishment of the commission for truth, justice, reconciliation and non-recurrence referred to in the State party's report<sup>66</sup> and indicate whether that commission will have jurisdiction in relation to the crimes of torture, sexual violence and enforced disappearance, what its temporal jurisdiction will be and what its envisaged relationship will be with the above-mentioned judicial mechanism.

27. Please indicate what measures have been taken by the State party to investigate allegations that State agents have engaged in increased levels of torture and ill-treatment, including sexual violence and abuse, against suspected LTTE supporters during the post-conflict period, including as described in the March 2015 report of the Secretary-General on conflict-related sexual violence.<sup>67</sup> In that respect, please explain whether any investigations have been conducted into allegations of torture and ill-treatment allegedly perpetrated by the Sri Lankan security forces after 18 May 2009.<sup>68</sup>

28. With reference to the Committee's previous concluding observations (para. 9) and the information provided in the State party's report,<sup>69</sup> please provide updated information on:

(a) The State party's plans to make enforced disappearance a separate offence in the criminal code;<sup>70</sup>

(b) The findings of the report submitted to the President of Sri Lanka and to Parliament by the commission of inquiry established to investigate complaints regarding missing persons (also known as the Paranagama Commission) in the northern and eastern provinces, indicating the measures that have been taken to investigate the 18,099 complaints received;<sup>71</sup>

(c) Any progress made in cases of enforced disappearance, including the so-called "white van" abductions, including whether perpetrators have been held accountable in any such cases. With reference to the 604 investigations completed and the 1,688 cases referred to the State party by the Working Group on Enforced or Involuntary Disappearances that have been solved,<sup>72</sup> please indicate how many of those cases have led to prosecutions and convictions and their outcome. Please clarify whether the investigation of all cases of disappearances are carried out by the Terrorism Investigation Division and explain how the independence of the Division is guaranteed so that there is no hierarchical or institutional link between the suspected perpetrators and the investigators;

(d) Whether the State party has established an office on missing persons<sup>73</sup> and, if so, whether it has taken any measures to ensure the independence of that body;

(e) Measures taken to ensure that relatives of disappeared persons receive prompt, full and integral reparation without any type of discrimination.

<sup>65</sup> See the OHCHR report on the investigation on Sri Lanka, para. 1278 and recommendation 20.

<sup>66</sup> See CAT/C/LKA/5, para. 7.

<sup>67</sup> See S/2015/203, para. 77, and the OHCHR report on the investigation on Sri Lanka, paras. 573 and 591.

<sup>68</sup> See the OHCHR report on the investigation on Sri Lanka, paras. 540-544.

<sup>69</sup> See CAT/C/LKA/5, paras. 7 and 15-22.

<sup>70</sup> *Ibid.*, para. 15.

<sup>71</sup> *Ibid.*, paras. 19-20 and 22.

<sup>72</sup> *Ibid.*, para. 16.

<sup>73</sup> *Ibid.*, para. 18.

**Article 13**

29. In the light of the Committee's previous concluding observations (para. 19) and the information provided in the State party's report,<sup>74</sup> please explain what measures have been taken by the State party to protect victims and witnesses of torture and ill-treatment from reprisals, including:

(a) Any measures taken to investigate the death in police custody of Chandrasiri Dassanayake, a witness in a human rights case, at Wadduwa police station on 15 April 2012;

(b) Whether the National Authority for the Protection of Victims of Crime and Witnesses mentioned in the Assistance to and Protection of Victims of Crimes and Witnesses Act (Act No. 4 of 2015) has been established, indicating the measures taken to ensure the independence and integrity of its members and to ensure that it is properly equipped and financed to protect victims, including children and victims of sexual violence;<sup>75</sup>

(c) The measures in place to protect victims and witnesses of torture and ill-treatment from reprisals, and the number of victims and witnesses that have received such protective measures;

(d) Statistics, disaggregated by the gender, age and ethnicity of the complainant, on: (i) the number of complaints received pertaining to threats or reprisals against victims or witnesses of torture and ill-treatment; (ii) the number of investigations or inquiries conducted by the National Authority into complaints of alleged infringements of a right or entitlement of a victim of crime or of a witness; and (iii) the outcome of those investigations;

(e) The measures in place to ensure the confidentiality and independence of the mechanism for filing complaints of torture and ill-treatment, particularly when the victims are deprived of their liberty.

**Article 14**

30. With reference to the Committee's previous concluding observations (para. 29), please provide statistical data on the redress and compensation measures granted each year, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture or ill-treatment and their families since the examination of the previous periodic report, in 2011. That information should include the number of applications for State compensation for torture and abuse lodged, the number of applications time-barred due to courts' inaction, the number of applications granted and the range of awards in successful cases.

31. Please clarify whether the fund for protecting and assisting victims and witnesses of crimes foreseen in section 29 of the Protection of Victims of Crimes and Witnesses Act has already been established. If so, please indicate the number of claims for compensation lodged under the Act by victims of torture and ill-treatment, including sexual violence and enforced disappearance, and whether redress has been awarded.

32. Please indicate if the State party is taking measures to address reports that many victims of torture are unable to access redress and compensation, for example by ensuring that victims can obtain compensation even in cases where a perpetrator is not identified and ensuring that claims for redress for torture are not subject to a statute of limitations. Please also provide an update as to whether the Office for Reparations mentioned in the State

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<sup>74</sup> Ibid., paras. 78-80.

<sup>75</sup> See the OHCHR report on the investigation on Sri Lanka, recommendation 17.

party's report<sup>76</sup> has been established, and provide data on redress awards it has made concerning torture and ill-treatment.

33. With reference to the State party's report,<sup>77</sup> according to which there are "no programs specifically aimed at rehabilitation of torture victims", please clarify whether the State party intends to introduce a rehabilitation programme specifically aimed at torture victims.

#### Article 15

34. In the light of the Committee's previous concluding observations, in which the Committee expressed concern that in certain cases the Prevention of Terrorism Act places the burden of proof on the accused to show that a confession was obtained by the police under duress (para. 11), and noting the information received from the State party in follow-up to the concluding observations,<sup>78</sup> please provide updated information on whether measures have been taken to bring the provisions of the Act in line with the provisions of article 15 of the Convention,<sup>79</sup> such that State officials always bear the burden of proof for establishing that a confession has not been produced through torture or ill-treatment.<sup>80</sup> Please also indicate whether the State party plans to amend or repeal the Act so that confessions are not regarded as dispositive evidence unless made in the presence of a magistrate, as provided in the Evidence Ordinance of Sri Lanka.

35. In the light of recent reports by non-governmental organizations alleging that members of the police force routinely torture criminal suspects to coerce confessions, please provide statistical information for the period under review on the number of cases in which detainees have alleged that their confessions were extracted through torture, the number of such complaints that have led to investigations and their outcomes, including punishments meted out to convicted perpetrators, if any, and reparations and compensation offered to victims. In particular, please indicate whether investigations into the use of torture and ill-treatment to extract confessions were opened in relation to the following cases:

(a) Jeevandarage Ashan Tharanga, a 17-year-old juvenile from the Gampaha District who was reportedly arrested on 9 March 2015 by police officers attached to Meegahawatte police station and severely beaten until he confessed to the charge of stealing a vehicle;

(b) W.T. Presley Fernando, who was allegedly arrested on 10 May 2014 and beaten and tortured by police officers at Chilaw police station to compel him to confess to a robbery;

(c) H.M. Ajith and H.M. Akila, who were reportedly severely assaulted by the police in Matara district on 10 September 2013 as punishment for having damaged private property.

#### Article 16

36. With reference to the Committee's previous concluding observations (para. 13) and the information provided in the State party's report,<sup>81</sup> please comment on continued reports of intimidation and harassment, including physical attacks and administrative detention by

<sup>76</sup> See CAT/C/LKA/5, para. 7.

<sup>77</sup> Ibid., para. 149.

<sup>78</sup> See CAT/C/LKA/CO/3-4/Add.1, paras. 12-16.

<sup>79</sup> Ibid., para. 11.

<sup>80</sup> See CCPR/C/LKA/CO/5, paras. 11 and 16 (b), and CAT/C/LKA/CO/3-4, para. 11.

<sup>81</sup> See CAT/C/LKA/5, paras. 39-42.

State officials, against human rights defenders, lawyers and journalists and their family members. Please also provide the following:

- (a) Examples of investigations undertaken by the State party into complaints of such intimidation and harassment and information on any resulting prosecutions, trials and penalties;<sup>82</sup>
- (b) Information on progress made in any investigations undertaken by the State party into the following cases of alleged intimidation and harassment:
  - (i) Alleged attacks against journalists Poddala Jayantha, Lasantha Wickrematunge and J.S. Tissainaygam, as well as against the lawyer J.C. Welliamuna;<sup>83</sup>
  - (ii) Alleged cases of threats and harassment of persons who cooperated with the Working Group on Enforced or Involuntary Disappearances during its country visit in November 2015;
  - (iii) Alleged harassment and intimidation against individuals and groups meeting or attempting to meet with the United Nations High Commissioner for Human Rights on her visit to Sri Lanka in August 2013;<sup>84</sup>
  - (iv) The alleged targeting of Nimalka Fernando, a human rights defender who, on 4 November 2013, was allegedly subjected to threats during a radio broadcast hosted by the State-owned Sri Lankan Broadcasting Corporation.<sup>85</sup>

37. Please provide details on the measures taken to ensure prompt, impartial and effective investigations into acts of violence by the police or private persons against members of ethnic and religious minority groups, including members of the Tamil, Muslim and Christian communities.<sup>86</sup> In particular, please provide details on whether investigations and prosecutions have been conducted in relation to the attacks by the Buddhist group Bodu Bala Sena on the Muslim community in Aluthgama in June 2014, during which four people were reportedly killed and 80 injured.<sup>87</sup>

38. With regard to the Committee's previous concluding observations (para. 30) and the information provided in the State party's report,<sup>88</sup> please provide details on any measures taken to explicitly prohibit corporal punishment in all settings.<sup>89</sup> Please provide annual statistical data on the number of complaints received on the use of corporal punishment and information on any punishments imposed as a result. Please also indicate whether any measures have been taken to encourage non-violent forms of discipline and to raise awareness about the harmful effects of corporal punishment.

### **Other issues**

39. Please indicate whether the State party is considering accepting the competence of the Committee under articles 21 and 22 of the Convention.

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<sup>82</sup> See A/HRC/WG.6/14/LKA/1, para. 48 (f).

<sup>83</sup> See CCPR/C/LKA/CO/5, para. 21, the oral update of the High Commissioner, para. 25, and A/HRC/25/23, para. 21

<sup>84</sup> A/HRC/25/23.

<sup>85</sup> See A/HRC/29/50, p. 75, and A/HRC/25/23, para. 21.

<sup>86</sup> See A/HRC/30/61, paras. 22-23.

<sup>87</sup> *Ibid.*, para. 23.

<sup>88</sup> See CAT/C/LKA/5, paras. 153-160.

<sup>89</sup> See CAT/C/LKA/CO/3-4, para. 30, and CRC/C/LKA/CO/3-4, para. 41.