



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

Distr.
GENERAL

CAT/C/LKA/CO/2/Add. 1
20 February 2007

Original: ENGLISH

COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Comments by the Government of Sri Lanka* to the conclusions
and recommendations of the Committee against Torture
(CAT/C/LKA/CO/2)**

[22 November 2006]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Response of the Government of Sri Lanka to the conclusions and recommendations of the Committee Against Torture after consideration of the second periodic report at its 671 and 674 meeting held on 10th and 11th November 2005.

1. The submissions made hereunder are in addition to the submissions made by the delegation of the Government of Sri Lanka to the Committee against Torture at the time of consideration of its second periodic report, and the submissions made in response to the queries raised by the several members of the Committee against Torture at the said meeting.
2. The Government of Sri Lanka reiterates therefore mentioned submissions and in addition states as follows:
3. The Government of Sri Lanka notes that the Committee against Torture has welcomed the submission of the second periodic report of Sri Lanka and acknowledges the focus made by the said report on the Committee's conclusions and recommendations as well as the recommendations from the Article 20 inquiry visit in the year 2000. The Government of Sri Lanka also notes the Committee's expression of its appreciation for the dialogue with the state party delegation and the Committee's acknowledgement to the extensive responses to the list of issues in written form which facilitated the discussion between the delegation and the committee members. The Government of Sri Lanka also notes the appreciation of the Committee to the responses given to questions raised and concerns expressed during the consideration of the report. The Government of Sri Lanka wishes to thank the Committee for the constructive dialogue with its delegation and reaffirms the commitment of the Government of Sri Lanka to continue and maintain such constructive dialogue and to answer all questions and queries to the best of its ability and to constructively consider adopting all the recommendations made by the committee. Considering that the combined 3rd and 4th periodic reports are due by the 1st February 2007 the government of Sri Lanka will endeavor to meet the deadline and submit a comprehensive report .At this stage the government of Sri Lanka will briefly respond to the conclusions and recommendations of the Committee. With regard to the delay in submitting the second periodic report as stated in the introduction of the conclusions and recommendations the Government of Sri Lanka, while acknowledging such delay wishes to state that upon inquiry it was informed to await a request by the Committee before submitting its report as the committee had a backlog to be cleared before it could consider the second periodic report of Sri Lanka.
4. The Government of Sri Lanka notes and acknowledges the satisfaction of the Committee to the positive aspects and positive developments listed as (a) to (g).

The Government of Sri Lanka wishes to make the following further submissions.

5. The Government of Sri Lanka is committed to the ceasefire agreement entered into with the Liberation Tigers of Tamil Eelam in February 2002. However due to the LTTE continuing to provoke and undermining the ceasefire agreement with assassinations, suicide bombings, mine attacks etc. culminating with the closure of the sluice gates in Mavil Aru depriving water to nearly

15,000 innocent and helpless civilians who depended on such water for their livelihood, the Government was compelled to take defensive action in neutralizing the LTTE offensives.

6. The Human Rights Commission and the National Police Commission continue to play a major role in dealing with violations of human rights including torture effectively and promoting human rights. Institutional measures such as the Permanent Inter-Ministerial Standing Committee and the Working Group on Human Rights have been further strengthened by bringing them under the direct control of the newly established Ministry of Human Rights. Such Ministry was formed for the first time as an initiative of HE the President, himself a strong activist and advocate of human rights. Under this Ministry the Honourable Minister in charge has established an advisory group on human rights consisting of leaders of civil society. The said advisory group meets regularly with representatives of key government ministries and institutions including the Army, Navy, Air force, Police, Attorney General Department, and Foreign Ministry. During these meetings the civil society leaders are given an opportunity to receive answers to their queries and to advise the Government through the Ministry of human rights what further steps are required to strengthen existing measures to improve the Human Rights situation in the country. Based on such recommendations of the advisory committee, a committee consisting of members of the civil society and a Deputy Inspector General of Police has been formed to make surprise visits to police stations with a view of ascertaining if any suspect in custody is held illegally or has been subjected to torture. Further on the recommendation of the advisory committee the Minister of Human Rights has taken up the issue of establishing a procedure of recruiting civilian translators to perform the task of translating record statements of the suspects in a language of their choice.

7. A directive was issued by HE the President detailing the steps that should be taken in accordance with the law with regard to any arrestee. This directive was disseminated to all the police stations in Sri Lanka in all three languages to be prominently displayed in all police stations to ensure any arrestee would be aware of his rights. Further steps were taken to give wide publicity to the said directive in the mass media with a view of educating the people of their rights.

8. The Government of Sri Lanka notes the Committee's acknowledgement of the difficult situation arising from the internal armed conflict in Sri Lanka. The Government of Sri Lanka is fully aware that no exceptional circumstances whatsoever maybe invoked as a justification of torture. The fact that the Government of Sri Lanka signed the Convention against Torture at the height of an internal armed conflict further shows the commitment of the Government of Sri Lanka to ensure conformity with such international mechanisms and procedures. The Government of Sri Lanka promptly enacted domestic legislation to give effect to the provisions in the Convention internally and under its domestic legislation specified a mandatory period of seven years imprisonment and fine for those convicted of the offense of torture. The Attorney General has indicted over 100 police and security personnel against whom there was a prima facie case established.

Principal subjects of concern and recommendation as stated in the Committee's conclusion and recommendation.

9. In this submission the Government of Sri Lanka will first deal with paragraph numbers 5,9,10,13,14,16,17 under the respective subheadings; Definition, Non-refoulment, Universal Jurisdiction, Sexual violence and abuse, Delay of trial and Rehabilitation.

Definition

10. The Government of Sri Lanka reiterates its position that there is no material difference between the definition in the Convention and in the domestic legislation. However the Government will take steps to refer this matter for the consideration of the Sri Lanka Law Commission to recommend any changes if necessary to bring the domestic legislation in full conformity with the Convention.

Non-refoulement and Universal Jurisdiction

11. These matters too will be submitted to the Sri Lanka Law Commission for its consideration and recommendations.

Sexual violence and abuse

12. The Government of Sri Lanka notes the concern expressed by the Committee in this regard. However the Government wishes to submit that there has been a vast decrease in such allegations. However the Government re-affirms its commitment to monitor the behaviour of law enforcement officials and impartially investigate all such allegations with a view to prosecuting those responsible. The Government has taken steps to set up Women's and Children's desks in key police stations and will continue to take all necessary measures to prevent any such acts.

Delay in trials

13. The Government of Sri Lanka continues to try and reduce delays of trials, especially criminal trials. However delays in trials remain a problem that is faced not only in Sri Lanka but in most other countries in the region as well. The vast number of cases and the inadequate number of judges and courthouses continue to prevent an effective solution to this problem. Preference given to one case over another would only add to the further delay of the other cases. The Government recently introduced legislation giving the Judges power to continue with criminal trials on a day to day basis with an aim to expeditiously conclude criminal trials. The Attorney General has also instructed his officers to give preference to cases coming under the Convention against Torture act.

Rehabilitation

14. The Law Commission is in the process of finalizing legislation to be presented to parliament with regard to witness protection. This legislation would include provisions for reparation of victims of crime.

15. This submission will now deal with information of its response to the Committee's recommendations contained in paragraphs 6, 7, 8, 11, 12, and 15 under the respective headings Human Rights Commission of Sri Lanka, National Police Commission, Fundamental Safeguards, Systematic Review of all places of detention, Prompt and impartial investigations and Intimidation and threats.

Human Rights Commission of Sri Lanka

16. The Government of Sri Lanka acknowledges the important role played by the Human Rights Commission of Sri Lanka in the promotion and protection of human rights. The Government of Sri Lanka continues to strengthen the Human Rights Commission of Sri Lanka to function effectively. All government institutions have been directed by circular to cooperate fully with the Human Rights Commission and to comply with its recommendations. The Police and the Security Forces have been given adequate training to comply with the provisions with the Human Rights Commission Act, and in particular with the particulars informing the Human Rights Commission of persons detained. All police stations have also been specifically instructed to cooperate fully and give full assistance to the officers of the Human Rights Commission with regard to their mandate of making surprise visits to alleged places of detention.

17. The appointment of the members of the Human Rights Commission when the three year term of office of the existing commissioners ended in March 2006 created some controversy. Under the 17th amendment to the Constitution the Constitutional Council had to play a role in the appointment of the commissioners. However, due to the fact that the minority parties represented in parliament could not agree with regard to its nominee for the Constitutional Council, prevented the constituting of the Constitutional Council. Since the Constitutional Council depended on a proper political balance it was imperative that the minority party's representative was included to properly constitute the Constitutional Council. In the absence of a properly constituted Constitutional Council, H.E. the President had to make the appointments of the Commissioners without consultation of the Constitutional Council to prevent legal complications that would have arisen by the absence of a Human Rights Commission. A parliamentary select committee has now been appointed to consider necessary improvements to the seventeenth amendment to the constitution with an aim to rectify flaws that exist and prevent such crisis arising in the future.

National Police Commission

18. The Government of Sri Lanka reiterates its submissions made in the preceding paragraph which also apply to the appointment of commissioners to the National Police Commission.

Fundamental Safeguards

19. The Government of Sri Lanka respectfully denies the statement made by the Committee concerning the non-observance of the fundamental legal safeguards for persons detained by Police, including Habeas Corpus rights. The Government of Sri Lanka submits that a person detained by the police has many rights guaranteed by the Constitution itself. Such remedies include petitioning the Supreme Court by way of a fundamental rights application, writ applications, Habeas Corpus applications and a reference to the Human Rights Commission. Further as referred to above in this communication a directive was issued to all police stations and security establishments reiterating the rights of detainees.

Prompt and impartial investigations

20. The Government of Sri Lanka continues to investigate all allegations of human rights violations including torture. The domestic law requires a police investigation to precede criminal action in a court of law. In addition to such investigations H.E. the President has also appointed a Commission to investigate alleged disappearances. H.E. the President has also appointed a Commission to investigate serious violations of human rights. An Independent International Group of Eminent Persons are also in the process of being appointed to work parallel to the Commission investigating serious violations of human rights. Before making such appointments the Government had a wide ranging dialogue with UN agencies including OHCHR, Governments, members of the civil society and international NGO's .

Intimidation and threats

21. The Government of Sri Lanka through the police have continued to give protection to persons who allege intimidation and threats for reporting acts of torture, whenever such allegations were found to be credible. Even in instances where such allegations were not found to be credible the police have wherever possible granted police protection. Further, as mentioned above in this submission, steps are being taken to present a witness protection bill to parliament in the near future.

22. The Government of Sri Lanka takes note of the serious concerns expressed by the Committee about allegations of continued abductions and military recruitment of child soldiers by the LTTE. In this regard the Government recently invited Mr. Alan Rock a representative of Ms. Radhika Coomaraswamy, the special representative of the UN Secretary General for children in armed conflict to Sri Lanka for a fact finding mission.

23. The Government of Sri Lanka will also give due consideration to the committee's recommendations to the following.

- a) Consider declaration under Article 21 & 22 of the convention.
- b) Consider becoming party to the Optional Protocol of the Convention.
- c) Consider becoming party to the Rome Statute of the International Criminal Court.

Conclusion

24. The Government of Sri Lanka wishes to thank the Committee for its recommendations and wishes to inform the Committee that it intends to give its highest consideration to all such recommendations. The Government of Sri Lanka will consider implementing such recommendations to the best of its ability. The Government of Sri Lanka also wishes to reiterate its commitment to continue a constructive dialogue with the Committee. The Government of Sri Lanka will also endeavor to submit its combined 3rd and 4th reports by the 1st of February 2007 as requested by the Committee.
