

Human Rights Committee

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

Constitutional and legal framework within which the Covenant is implemented, right to an effective remedy (art. 2)

1. Please provide examples of the application of the Covenant by domestic courts and information on the availability of remedies for individuals claiming a violation of the rights contained in the Covenant. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol, and provide information on measures taken to ensure full compliance with the Committee's Views adopted in 14 communications, including Nos. 1862/2009, 1406/2005 and 1432/2005.

2. Please respond to concerns raised by several UN human rights mechanisms about the 18th Constitutional Amendment of 2010, which eliminated the Constitutional Council and empowered the President to make direct appointments of chairpersons and members to a number of key oversight bodies. Furthermore, please provide information on measures taken to strengthen the independence and role of the Human Rights Commission of Sri Lanka (HRCSL) in compliance with the Paris Principles (CCPR/C/LKA/5, paras. 242 to 248), as well as to ensure that its decisions and recommendations are fully implemented by State authorities.

3. With reference to paragraphs 42 to 53 of the State party's periodic report regarding rehabilitation and reintegration of former combatants, including child soldiers, please outline further efforts made to respond to their difficulties including their diminished mobility due to ad-hoc surveillance and monitoring by the security forces. What steps have been taken by the State party to respond to concern that released former combatants face discrimination and difficulties in finding jobs and other economic opportunities and that female ex-combatants even face a higher risk of rape and violence? Please provide information about the implementation of the National Policy in Reintegration of Ex-Combatants into Civilian Life and other relevant policy documents.

Non-discrimination (arts. 2, 3 and 26)

4. Please provide detailed information on measures taken:

(a) to eradicate the persistent and deep-rooted stereotypes regarding the roles, responsibilities and identity of women and men in all spheres of life and to ensure effective application of relevant legislative and administrative measures, including the Women's Charter (CCPR/C/LKA/5, paras.368-369). Please indicate steps taken to enhance the

participation and representation of women in political and public life and to ensure women's participation in the post-conflict, reconstruction and peace building process.

(b) to eradicate those customs and practices which are harmful and prejudicial to women, including polygamy and underage marriage.

5. Please indicate the measures taken to protect persons from stigmatization and discrimination on the basis of their sexual orientation and gender identities, and indicate whether they are protected by the Constitutional provisions on non-discrimination (CCPR/C/LKA/5, para.339).

Violence against women, including domestic violence (arts. 2, 3, 6, 7 and 26)

6. Please respond to concerns that despite the adoption of the Prevention of Domestic Violence Act, violence against women, including sexual and domestic violence, and impunity for such violence remains a widespread problem that is exacerbated by significant delays in the processing of cases and barriers to bringing perpetrators of marital rape to justice. Is the State party considering criminalizing marital rape regardless of judicial acknowledgement of separation?

7. Please provide information about cases of rape and other acts of sexual violence that occurred in war and following the end of the conflict, in particular in military-controlled camps.

Counter-terrorism measures

8. According to the State party's periodic report (paras.64-67), following the lifting of the Emergency Regulations in August 2011, some of its provisions remained within the framework of the Prevention of Terrorism Act (PTA). Please clarify whether all provisions in the PTA are compatible with the Covenant, including legal safeguards for persons suspected or charged with a terrorist or related crime. Also, please elaborate on the measures taken to ensure comprehensive review of all security-related legislation and the outcome of review of cases of suspects detained under the PTA (CCPR/C/LKA/5, paras.265-267). Please include statistics on the prosecution and the release of detainees and the issuance of the writ of habeas corpus. Please respond to reports that the remedy of habeas corpus in the State party is ineffective, mainly due to long delays in the disposal of complaints, lack of cooperation from security agencies, and unwillingness of the judiciary to exercise its duty to protect the liberty of the individual.

Right to life (art. 6)

9. Please respond to consistent and well-documented reports that unlawful use of force and violations of the right to life by State agents or by paramilitary groups directly under the control of the armed forces, including extrajudicial killings, suspicious deaths in custody and enforced disappearances, remain widespread and unpunished. Please indicate the measures taken to prevent such cases, promptly and impartially investigate them, prosecute and punish the perpetrators, and provide adequate remedies to victims or their relatives. Please provide data on the number of deaths in detention and their causes, the number of police and prison officials who have been disciplined or prosecuted for such cases, including cases of deaths during the riots at Vavuniya prison and Weikada prison in 2012. Does the State party consider establishing enforced disappearance as an offence in domestic law?

10. Please provide an update on whether the State party is considering introducing legislation containing additional exceptions to the prohibition against abortion.

Accountability

11. Please report on concrete measures taken to effectively address impunity for human rights violations committed by both State and non-State actors, in particular by ensuring independent and impartial investigations and applying the rule of law and due process in prosecuting perpetrators. What measures have been taken to ensure the rights of victims of human rights violations to timely, prompt and effective remedies? Does the State party envisage accepting international assistance to resolve outstanding cases of serious human rights violations? How does the State party plan to strengthen the cooperation and coordination between different national and international authorities in investigating allegations of human rights violations during the conflict? Please provide an update on the progress made by the Sri Lanka Army's Court of Inquiry into allegations of civilian casualties, including allegations reported upon by a Channel 4 documentary.

12. Please update the progress in implementing recommendations by the Secretary-General's Panel of Experts on accountability in Sri Lanka. Please elaborate on the measures taken to ensure the investigation of the allegations reported by the Panel, the implementation of the measures recommended by the Panel, as well as the prosecution of all cases of war crimes and crimes against humanity in a non-discriminatory manner.

13. Please update the progress in implementing recommendations made by the Lessons Learnt and Reconciliation Commission (LLRC). Please clarify the State party's position about a number of significant recommendations which were not incorporated in the 2012 National Plan of Action to implement the LLRC recommendations (CCPR/C/LKA/5, para. 76) or in the 2011-2016 National Plan of Action for the Protection and Promotion of Human Rights.

Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of person; fair trial and independence of judiciary (arts. 7, 9, 10 and 14)

14. Please respond to allegations that torture and ill-treatment of detainees remain common and widespread, especially at the moment of apprehension and during pre-trial detention, in order to extract confessions, mainly due to legal and procedural shortcomings and the lack of political will on the part of the authorities. Please specify the measures taken to (a) expand the definition of torture in the domestic law to all acts of torture, including those causing severe suffering; (b) ensure prompt and impartial investigations into all complaints of torture or ill-treatment, by an independent body, not the authority of the police; (c) ensure that evidence obtained under torture is inadmissible and is excluded in court; (d) expedite criminal procedures relating to torture cases by establishing special mechanisms dealing with torture and ill-treatment by public officials, and (e) investigate and disclose the existence of secret detention centres. Please provide data on investigations carried out and prosecutions, convictions and types of penalties imposed.

15. Please describe the measures taken to address arbitrary and unlawful detention by public officials, and to ensure that those responsible for such cases are duly sanctioned and victims are adequately remedied. What steps have been taken (a) to guarantee, in practice, the rights of persons deprived of their liberty to notify their families about their detention, to have access to a lawyer and doctor from the moment of arrest and (b) to establish a central register for all persons in official custody and publish a list of all detainees and places of detention?

16. Please provide an update on the measures taken (a) to address overcrowding in prisons and poor detention conditions, (b) to limit the number and duration of pre-trial detentions, and (c) to segregate incarcerated juveniles from adults and remand detainees from convicted felons. Has a system been established for regular and independent monitoring of places of detention? Please indicate progress made with the recurrent delays in the justice system and the legal reform of prison legislation

17. Please report on the measures taken to strengthen the independence of the judiciary from any outside interference, and ensure the implementation of court orders. Please respond to concerns about the impeachment of the Chief Justice following a series of attacks and acts of intimidation against judges and judicial officers.

Protection of rights of children (art. 2, 7, 24, 26)

18. Please indicate whether the State party considers raising the minimum age of criminal responsibility, currently set at 8 years, to an internationally acceptable level. Please report on the measures taken to strengthen the juvenile justice system and ensure that the detention of juveniles is used as a last resort.

19. Please describe the measures taken (a) to eradicate corporal punishment in all settings in the State party, including in family settings, and to raise awareness about the harmful effects of corporal punishment, and on recourse to non-violent forms of discipline, and (b) to combat child abuse, including sexual abuse and exploitation in family, school and work settings.

20. Please explain what measure is the State party taking to ensure that children with disabilities, including autism and sensory impairment, are not denied proper education.

Elimination of slavery and servitude (art. 8)

21. Please indicate the measures taken to prevent and combat trafficking in person for purposes of sexual exploitation and forced labour, to prosecute and punish perpetrators and to provide victims with effective remedies, including compensation and rehabilitation. Please provide updated information on steps undertaken to train the judiciary to adequately address cases of trafficking and to provide training for officials and professionals involved in combatting trafficking.

Freedom of movement and right to privacy (arts. 12 and 17)

22. In light of the State party's effort to resettle a large number of the internally displaced persons (IDPs) as a result of the conflict (CCPR/C/LKA/5, paras. 30-35), please indicate what further measures have been taken to addressing durable solutions for all IDPs and those who have returned to their areas of origin on a comprehensive basis, including the return of their land and property.

Freedom of expression, freedom of assembly and association (arts. 19, 21 and 22)

23. Please respond to reports of (a) intimidation and harassment, including physical attacks, death threats, and politically motivated charges, against journalists and human rights defenders by state officials; and (b) the State party's failure to bring perpetrators to justice. Please provide an update on the outcome of the investigation into the outstanding cases on attacks against human rights defenders and media personnel. Please describe the measures taken to protect individuals in the exercise of their freedom of expression and prosecute perpetrators of such attacks.

24. Please comment on restrictions imposed on the freedom of expression and peaceful assembly of communities in the North. Please provide information on any measures through which the State party controls or monitors access to web-sites containing news and other political contents.

Right to take part in the conduct of public affairs (art. 25)

25. Please respond to allegations that the legal proceedings against Presidential candidate, General Sarath Fonseka were politically-motivated. Also, please respond to concerns about

the utilization of the 2011 Revival of Underperforming Enterprise and Underutilized Assets Law to seize the property of a prominent opposition politician.

Rights of persons belonging to minorities (arts. 18, 26 and 27)

26. Please indicate the measures taken to eliminate discrimination against ethnic, linguistic and religious minorities, including Muslim and Tamil communities. Please provide information on: (a) cases of schools refusing admission to Protestant children on the grounds of religion, and (b) efforts made to prevent and to punish offences against the free exercise of religion in line with Covenant provisions. In particular, please indicate the outcome of the State party's action regarding allegations of increasing pressure and harassment by the authorities against certain religious groups, including attacks on the places of worship of Hindu, Muslim, Evangelical Christian and Jehovah's Witnesses communities.
