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**INTERNATIONAL COMMISSION OF JURISTS' SUBMISSION TO THE UNIVERSAL  
PERIODIC REVIEW OF SRI LANKA**

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## **SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS TO THE UNIVERSAL PERIODIC REVIEW OF SRI LANKA**

### **Introduction**

1. The International Commission of Jurists (ICJ) welcomes this opportunity to contribute to the third cycle of the Human Rights Council's (HRC) Universal Periodic Review (UPR) of Sri Lanka.

2. The present submission focuses primarily on the period following the change of government in 2015 though the review period also covers the final two years under the former government. In this submission, the ICJ draws the attention of the HRC's Working Group on the UPR and that of the HRC itself to its concerns about the Government of Sri Lanka's (GOSL) respect for its human rights obligations, in particular, in relation to the following issues:

- a) Transitional justice;
- b) Enforced disappearances;
- c) Torture and cruel, inhuman or degrading treatment;
- d) Detention;
- e) Counter-terrorism; and
- f) Impunity.

3. With respect to each of the above-mentioned concerns, the ICJ calls upon the Working Group on the UPR and the Human Rights Council to make a number of recommendations to the Sri Lankan authorities.

### **(a) Transitional justice**

4. Following the statement by Foreign Minister Samaraweera at the general debate of the 30th session of the Human Rights Council on 14 September 2015,<sup>1</sup> the Human Rights Council adopted a consensus resolution 30/1 titled 'Promoting reconciliation, accountability and human rights in Sri Lanka,' in October 2015.<sup>2</sup> However, notwithstanding the undertakings of the GOSL detailed in the above-mentioned resolution with regard to the rights to truth, justice, reparations and guarantees of non-recurrence, the recent comprehensive report by the Office of the High Commissioner for Human Rights (OHCHR)<sup>3</sup> presented during the 34<sup>th</sup> session of the HRC (27 February to 24 March 2017) noted that,

"Eighteen months after the adoption of resolution 30/1, Sri Lanka has made some measure of elementary progress in reconciliation, in addressing the root causes of the conflict and in truth-seeking. Stronger, tangible results need to be forthcoming without further delay to prevent any further dissipation of hard-earned trust."<sup>4</sup>

6. Comprehensive, participatory and broad national public consultations on reconciliation mechanisms were undertaken by eleven eminent persons in accordance with the GOSL's commitments set out in UNHRC resolution 30/1<sup>5</sup> with a view to informing the design and

implementation of these processes. However, since the release of the final report by the Consultation Task Force (CTF) on reconciliation mechanisms,<sup>6</sup> several government ministers have dismissed its contents and recommendations.<sup>7</sup> The ICJ called for GOSL to implement CTF recommendations to deliver justice for victims of human rights.<sup>8</sup>

7. One of the four mechanisms promised, the Office on Missing Persons (OMP), was established through legislation even before public consultations were concluded.<sup>9</sup> However, it is yet to be operational following proposals to amend its powers.<sup>10</sup> The promised truth seeking mechanism, the Office of Reparations, and the Judicial mechanism with special counsel are yet to be established. It is particularly concerning that the GOSL is backtracking<sup>11</sup> on its stated commitment to involve 'Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators'.<sup>12</sup>

8. A number of additional commitments such as security sector reform, demilitarization of the conflict affected areas, returning land to rightful civilian owners, repealing the Prevention of Terrorism Act (PTA) and full implementation of the 13<sup>th</sup> Amendment to the Constitution, are all currently pending. The GOSL committed through a second consensus resolution at the 34<sup>th</sup> session of the HRC to implement these commitments over a period of two years,<sup>13</sup> however there is no publicly available timeline on when the government plans to implement the rest of these commitments.

## **(b) Enforced Disappearances**

9. The ICJ remains profoundly concerned about the lack of accountability for enforced disappearances. Despite a change in government, the attitude of the leadership, which is to safeguard 'war heroes',<sup>14</sup> and the fact that cases of disappearances continued to be reported – even following the change of government – as recently as 2016<sup>15</sup> call into question the GOSL's commitment to ensuring an end to enforced disappearances.

10. A number of protests and hunger strikes,<sup>16</sup> including in 2017, is illustrative of the continuing agony of the families of the disappeared still searching answers almost eight years since the end of the war.

11. The Sri Lankan victims' experience in the pursuit of truth and justice for the large number of disappeared in the past has been abysmal, including with respect to a number of ad-hoc government initiatives, usually in the form of Presidential Commissions of Inquiry, established to inquire into tens of thousands of cases.<sup>17</sup> The OMP – which, as mentioned previously, was set up through legislation enacted in 2016 – is the latest in a series of measures to clarify the fate of missing persons. However, despite claims that the budget for the year 2017 has, in the interim, allocated over a billion Rupees for the office, it has yet to become operational.<sup>18</sup>

12. During the visit of the UN Working Group on Enforced or Involuntary Disappearances (WGEID)<sup>19</sup> in 2015, it was noted that the Working Group had transmitted more than 12,000 cases to the GOSL, of which 5750 are still outstanding.<sup>20</sup> It is crucial that GOSL carries out investigations in order to clarify the fate or whereabouts of the disappeared persons, and inform the Working Group of the results.

13. In a welcome measure the GOSL ratified the International Convention for the Protection of All Persons from Enforced Disappearance in 2016 and enabling legislation was published in official gazette.<sup>21</sup> However the bill to give effect to the Convention, as currently drafted, fails to include provisions referencing the offense as a crime against humanity under aggravated circumstances, or as a continuing crime subject to retroactive application of the statute.

14. The Registration of Deaths (Temporary Provisions) Act No 19 of 2010 was amended by Parliament in 2016, and the issuance of Certificates of Absence was enabled, however it is unclear if the certificates have been yet issued. A number of recommendations emerging from public consultations around the certificate were not incorporated, including to rename its title, extend the validity period beyond two years and to include a provision to cancel any Certificates of Death already issued in place of a Certificate of Absence for families who are uncertain of the fate of their loved ones, were not heeded.<sup>22</sup>

### **(c) Torture and cruel, inhuman or degrading treatment**

15. Sri Lanka ratified the Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1994 and enacted domestic legislation giving effect to it.<sup>23</sup> Sending a welcome symbolic message, President Maithripala Sirisena in July 2016 joined the Human Rights Commission of Sri Lanka's (HRCSL) launch of its Anti-Torture Campaign to eradicate torture, especially in police custody.<sup>24</sup> The HRCSL<sup>25</sup> and the Office of the President<sup>26</sup> also issued Directives to be followed by law enforcement authorities when arresting persons under the PTA.

16. Despite these welcome moves, complaints received by the HRCSL illustrate that 'torture is routinely used in all parts of the country regardless of the nature of the suspected offence for which the person is arrested.'<sup>27</sup> Reports indicate in particular that torture continues to be practiced by law enforcement authorities even following the change of government in 2015.<sup>28</sup> Alarming reports of deaths in police custody in disputed circumstances, including under torture, have continued.<sup>29</sup> In addition, investigations into these deaths continue to be conducted by members of the same police stations where the fatalities occurred.<sup>30</sup>

17. Overcrowding and prison conditions were also observed during the visit of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Sri Lanka in April 2016, where he stated that some detention centres were overcrowded by 200-300%.<sup>31</sup>

18. The report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka<sup>32</sup> echoed concerns that were also raised in the Concluding Observations on the fifth periodic report of Sri Lanka by the UN Committee Against Torture (UNCAT).<sup>33</sup> The Committee identified a number of concerns including but not limited to, allegations of routine torture during police detention, alleged "white van" abductions and torture in unacknowledged detention facilities<sup>34</sup> – which the government claims are now no more –<sup>35</sup> and inadequate investigations into allegations of torture and ill-treatment. The Attorney General, who headed the government delegation during the examination of the report of Sri Lanka by the UNCAT, however reiterated that Sri Lanka remained committed to a zero tolerance policy on torture.<sup>36</sup> However, his own department

has been criticized for its lack of willingness to take action against police officers.<sup>37</sup> The GOSL also came under heavy criticism<sup>38</sup> for its decision to include Sisira Mendis, the Deputy Inspector General (DIG) of the Criminal Investigations Department (CID) during the former government, whose department has been accused of having carried out torture<sup>39</sup>, in the Sri Lankan delegation to UNCAT.

19. In this context it is concerning that the GOSL is seeking to bring in amendments to the Criminal Procedure Code (CrPC) seeking to legislate restrictions for detainees to access legal counsel. This will be elaborated in the section below on Detention.

#### **(d) Detention**

20. Unlisted detention centres, deaths in custody in disputed circumstances, and detention conditions in detention centres, continue to give rise to concern, as mentioned above. Given the widely documented and acknowledged<sup>40</sup> instances of torture in detention, it is alarming that the GOSL is seeking to curtail detainees' access to legal counsel through an amendment to the CrPC.<sup>41</sup> The Amendment Bill in question was proposed as an improvement to a previous Amendment Bill,<sup>42</sup> which sought to restrict a detainee's access to counsel till after the first statement is recorded by the Police. This Bill was withdrawn heeding calls from the HRCSL, the Bar Association and other stakeholders.

21. The present proposals are inconsistent with the fundamental rights such as the right to a fair trial, to freedom from torture and access to legal representation. These rights are enshrined in the Constitution, as well as under international instruments, such as the ICCPR, by which Sri Lanka is bound.

#### **(e) Counter-Terrorism**

22. Although the GOSL has undertaken to repeal the PTA, and to replace it with anti-terrorism legislation in accordance with contemporary international best practices<sup>43</sup>, the draft "Policy and legal framework of the proposed Counter Terrorism Act of Sri Lanka" prepared by the government as a replacement to the PTA is arguably more problematic from a rule of law and human rights perspective than the original PTA; it is inconsistent with international best practices<sup>44</sup>, most notably because of the even more expansive breadth of offences falling under its purview, the inclusion of a mandatory 72-hour period of detention prior to a detainee being produced before a magistrate, the denial of prompt access to legal counsel and the admissibility into evidence of "confessions" made to a Police Officer in circumstances raising concern about whether they were freely made and other information that may have been unlawfully obtained.

23. The GOSL has since pulled this draft framework back and claimed that it is an "evolving draft"<sup>45</sup> and assured that "the formulation of the Policy and Legal Framework of the proposed Counter Terrorism Act has progressed in keeping with accepted international practices."<sup>46</sup> Nevertheless, the process highlights a flawed, opaque, non-inclusive legal drafting process that continues to defer heavily to the security and defense establishment and an approach overwhelmingly deferential to purported State security objectives favored by the drafters.

24. The report of the Human Right Commission of Sri Lanka to UN Committee Against Torture

stated that as at May 2016, 111 persons remained in remand custody under the PTA. 29 have not been indicted. The longest period a person has been on remand without indictment being filed is 15 years. The longest period a trial has been ongoing is since 2002, i.e. 14 years. 41 persons are appealing their sentences under the PTA with the longest period the person has been awaiting a decision being 14 years.<sup>47</sup>

## **(f) Impunity**

25. Justice and accountability for human rights violations is one of the key failings of consecutive governments. Such failing has justified calls for foreign participation in an accountability mechanism. A number of key emblematic cases have seen little progress despite the change of government in 2015. A handful of cases have witnessed some progress.

26. The 'Trinco Five' case<sup>48</sup>, where five ethnic Tamil students were fatally shot in January 2006 in Trincomalee<sup>49</sup> allegedly by members of the Special Task Force (STF),<sup>50</sup> has seen little progress since 12 STF members were arrested and subsequently released on bail in 2013.<sup>51</sup>

27. The case<sup>52</sup> of 17 humanitarian workers with the Paris-based Action Contre La Faim (ACF) who were killed at their compound in Muttur in August 2006, has also seen limited progress.<sup>53</sup> A presidential Commission of Inquiry commissioned by the former President in 2007 exonerated the Army and Navy in the massacre and stated it had insufficient evidence to identify the perpetrators.<sup>54</sup> In response to increasing international pressure, the former President directed a review of the case in July 2013, however little legal action is known to have taken since then.<sup>55</sup>

28. A few cases have seen limited progress following the change of government in 2015. The investigation into the murder of the Editor of the Sunday Leader, Lasantha Wickrematunge was reopened and his remains were exhumed in 2016 for a second autopsy, which revealed in March 2017 that his death was caused by stabbing by a sharp instrument,<sup>56</sup> as opposed to the previous finding that he had been shot. In October 2016, an apparent suicide note found in the pocket of a retired military officer confessed to the killing.<sup>57</sup> The case is currently under investigation.

29. Cartoonist and journalist Prageeth Eknaligoda was disappeared in January 2010, just days preceding Presidential elections. The Criminal Investigation Department (CID) investigation into the incident has revealed that he was detained in Colombo and later taken to an Army camp in Giritale.<sup>58</sup> A number of soldiers arrested in connection to the disappearance were all released on bail in October 2016.<sup>59</sup> The case is currently under investigation. The CID has informed the Mount Lavinia magistrate's court of the existence of a unit that operated outside the Army command structure and was used to target journalists and other dissidents under the control of Gotabhaya Rajapaksa, the brother of the former President and former Secretary of Defence. This information was based on the testimony of the former Army Commander Sarath Fonseka;<sup>60</sup> Rajapaksa has refuted it.<sup>61</sup>

## Recommendations

30. In light of the concerns set out above, the ICJ calls upon the UPR Working Group and the Human Rights Council to recommend the following to the GOSL:

- Fully implement the recommendations of the CTF.
- Make public a timeline for implementing all of the commitments in UNHRC Resolution 30/1.
- Promptly investigate cases of enforced disappearances with a view to bringing those responsible to justice, uncovering the truth and providing reparation and redress to the families of the disappeared.
- Carry out investigations into the outstanding cases transmitted by the WGEID in order to clarify the fate or whereabouts of the disappeared persons.
- Operationalize the OMP without further delay.
- Enact the Bill giving effect to the International Convention on Enforced Disappearance, with the inclusion of provisions specifically referencing the offense as a crime against humanity under aggravated circumstances and as a continuing crime subject to retroactive application of the statute.
- Take prompt action against police officers alleged to have practiced torture and cruel, inhuman or degrading treatment on detainees.
- Withdraw or amend sections of the proposed Amendment to the Code of Criminal Procedure (Special Provisions) Act, No. 2 of 2013 in line with international standards, in order to ensure that those arrested have prompt access to legal counsel.
- Repeal and replace the PTA with anti-terrorism legislation in accordance with contemporary international best practices, through a transparent process that includes consultation and input from the HRCSL, civil society and all relevant stakeholders.
- Release all PTA detainees or charge them with a recognizable crime.
- Conduct prompt and thorough investigations with a view to prosecuting those responsible for human rights violations, including those emblematic cases that have come to illustrate Sri Lanka's culture of impunity for human rights violations.

## END NOTES

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<sup>1</sup> Statement by Foreign Minister Samaraweera at the General Debate of the 30th Session of the UNHRC, 14 September 2015, available at: <http://www.mfa.gov.lk/index.php/en/media/media-releases/6178-slfm-hrc30>

<sup>2</sup> UNHRC Resolution A/HRC/RES/30/1, available at: [http://www.mfa.gov.lk/images/stories/pdfs/docs/FINAL\\_published\\_-\\_thirty\\_slash\\_one.pdf](http://www.mfa.gov.lk/images/stories/pdfs/docs/FINAL_published_-_thirty_slash_one.pdf)

<sup>3</sup> Report of the OHCHR assessing progress in the implementation of UNHRC resolution 30/1 presented during the 34<sup>th</sup> session of the UNHRC, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/20](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/20)

<sup>4</sup> See paragraph 61 of Report of the OHCHR assessing progress in the implementation of UNHRC resolution 30/1 presented during the 34<sup>th</sup> session of the UNHRC, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/20](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/20)

<sup>5</sup> O.P. 3 of UNHRC Resolution A/HRC/RES/30/1

<sup>6</sup> Final report of the CTF, available at: <https://drive.google.com/drive/folders/0Bxbk4wYolphwSXBKSEIMYnhlYTg>

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<sup>7</sup> For e.g. see *Sri Lanka Mirror*, “CTFRM report fulfills LTTE’s needs- JHU”, 12 January 2017, <http://srilankamirror.com/news/1384-ctfrm-report-fulfills-ltte-s-needs-jhu> and *Daily Mirror*, “I have no confidence in the CTF: Wijeyadasa”, 06 January 2017, <http://www.dailymirror.lk/article/I-have-no-confidence-in-the-CTF-Wijeyadasa-121817.html>

<sup>8</sup> ICJ statement, *Sri Lanka: implement Task Force recommendations to deliver justice for victims of human rights abuse*, available at: <https://www.icj.org/sri-lanka-implement-task-force-recommendations-to-deliver-justice-for-victims-of-human-rights-abuse/>

<sup>9</sup> See Executive Summary of CTF Interim report on the OMP, available at: [http://media.wix.com/ugd/bd81c0\\_92e14b9f69fb497caa5b818ff69a3213.pdf](http://media.wix.com/ugd/bd81c0_92e14b9f69fb497caa5b818ff69a3213.pdf)

<sup>10</sup> The Amendment Bill on the OMP seeks to repeal the paragraph giving the office the power ‘to enter into agreements, as are necessary to achieve the mandate of the OMP, with any person or organization’. The Amendment Bill to the Act is available at:

[http://documents.gov.lk/files/bill/2017/3/05-2017\\_E.pdf](http://documents.gov.lk/files/bill/2017/3/05-2017_E.pdf). The Act is available at: [http://documents.gov.lk/files/act/2016/8/14-2016\\_E.pdf](http://documents.gov.lk/files/act/2016/8/14-2016_E.pdf)

<sup>11</sup> For e.g. see *Ada Derana*, “No provisions in present constitution to bring foreign judges – Mangala”, 16 March 2017, <http://www.adaderana.lk/news/39657/no-provisions-in-present-constitution-to-bring-foreign-judges-mangala> and *Ceylon News*, “Ranil rejects UN call for international judges in war crimes probe – VIDEO”, 21 March 2017, <http://www.ceylonnews.com/2017/03/ranil-rejects-un-call-for-international-judges-in-war-crimes-probe-video/> and *Daily Mirror*, “President rejects foreign judges”, 07 January 2017, <http://www.dailymirror.lk/121833/President-rejects-foreign-judges>

<sup>12</sup> O.P. 6 of UNHRC Resolution A/HRC/RES/30/1. O.P. 1 of the UNHRC Resolution A/HRC/RES/30/1 further encourages GOSL to implement the recommendations contained in the OHCHR investigation on Sri Lanka (OISL report) calling for a hybrid court.

<sup>13</sup> UNHRC Resolution A/HRC/34/L.1, available at: [http://www.un.org/ga/search/viewm\\_doc.asp?symbol=A/HRC/34/L.1](http://www.un.org/ga/search/viewm_doc.asp?symbol=A/HRC/34/L.1)

<sup>14</sup> The President is quoted as saying, ‘As long as I am the President of this country, I will not allow for any international courts, international judges and international organizations to interfere with the internal affairs of Sri Lanka and the judiciary.’ *Colombo Telegraph*, “‘As Long As I Am The President, No International Participation In Judicial Process’ Sirisena Declares”, 09 July 2016, <https://www.colombotelegraph.com/index.php/as-long-as-i-am-the-president-no-international-participation-in-judicial-process-sirisena-declares/>

<sup>15</sup> Reports indicate that, ‘Alarming, cases of abductions continue to be reported, with at least 10 cases reported between 30th March and 30th June this year. At least two of those who disappeared have not returned, despite complaints to the Police and Human Rights Commission. Some have been reported to have been found in Police or remand custody after being abducted.’ *Ruki Fernando*, “Latest measures to address disappearances in Sri Lanka”, 24 August 2016, <https://rukiiii.wordpress.com/category/fr-jim-brown/>

<sup>16</sup> *The New York Times*, “‘Give Us Our Children Back’: Hunger Strikers in Sri Lanka Demand Answers”, 26 January 2017, <https://www.nytimes.com/2017/01/26/world/asia/sri-lanka-hunger-strike-missing.html?r=0>

<sup>17</sup> Foreign Minister Mangala Samaraweera stated that, ‘We still cannot determine the exact number of disappearances as various reports have come up with various figures. The ICRC came up with a figure of 16,008 missing persons in the recent times, while the UN Working Group of Enforced Disappearances handed over a list of information on 12,000 missing persons to the Government. Out of them 5,100 were tri-forces personnel. The Paranagama report indicated the number of missing persons to be about 24,000.’ *Daily News*, “OMP, a mechanism to help truth finding: Mangala”, 12 August 2016, <http://dailynews.lk/2016/08/12/local/90327>

<sup>18</sup> Statement by Foreign Minister Mangala Samaraweera at the High Level Segment of the 34th Session of the UNHRC, available at: <http://www.mfa.gov.lk/index.php/en/media/ministers-statements/6861-fm-34hrc>

<sup>19</sup> Report of the WGEID on its mission to Sri Lanka, available at:

[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/33/51/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/33/51/Add.2)

<sup>20</sup> Preliminary observations of the WGEID at the conclusion of its visit to Sri Lanka, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16771&Lang=E>

<sup>21</sup> Bill to give effect to the Convention on Enforced Disappearances, available at: [http://documents.gov.lk/files/bill/2017/3/175-2017\\_E.pdf](http://documents.gov.lk/files/bill/2017/3/175-2017_E.pdf)

<sup>22</sup> See pp. 222-224 of the Final report of the CTF, available at: <https://drive.google.com/drive/folders/0Bxbk4wYolphwSXBKSEIMYnhlYtQ>

<sup>23</sup> Sri Lanka’s Convention Against Torture Act, available at: [http://www.hrcsl.lk/PFF/LIbrary\\_Domestic\\_Laws/Legislations\\_related\\_to\\_Torture/Convention%20aainst%20Torture%201994%20of%2022.pdf](http://www.hrcsl.lk/PFF/LIbrary_Domestic_Laws/Legislations_related_to_Torture/Convention%20aainst%20Torture%201994%20of%2022.pdf)



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<sup>24</sup> *Daily FT*, "President joins Human Rights Commission's Anti-Torture Campaign", 02 July 2016, <http://www.ft.lk/article/552290/President-joins-Human-Rights-Commission-s-Anti-Torture-Campaign>

<sup>25</sup> Directives issued by the HRCSL on arrest and detention under the PTA, available at: <http://hrctl.lk/english/2016/05/27/directives-issued-by-the-human-rights-commission-of-sri-lanka-on-arrest-and-detention-under-the-prevention-of-terrorism-temporary-provisions-act-no-48-of-1979/>

<sup>26</sup> *Colombo Page*, "Sri Lankan President issues new directives to police and armed forces on arrests under PTA", 19 June 2016, [http://www.colombopage.com/archive\\_16B/Jun19\\_1466353649CH.php](http://www.colombopage.com/archive_16B/Jun19_1466353649CH.php)

<sup>27</sup> Report of the HRCSL to the UN Committee Against Torture (UNCAT), available at: [https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab\\_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit](https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit)

<sup>28</sup> ITJP Report, *Silenced: Survivors of Torture and Sexual Violence (2016)*, available at: <http://www.itjpsl.com/reports/silenced-report>

<sup>29</sup> Report of the HRCSL to UNCAT states that, 'There continue to be reports of deaths of suspects in police custody. In 2012 the Commission received nine complaints, three in 2013, eight in 2014, seven in 2015 and in 2016 two complaints to date.' Report is available at: [https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab\\_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit](https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit)

<sup>30</sup> *Ibid*

<sup>31</sup> Preliminary observations and recommendations of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr. Juan E. Mendez on the Official joint visit to Sri Lanka – 29 April to 7 May 2016, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19943&LangID=E>

<sup>32</sup> The report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/54/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/54/Add.2)

<sup>33</sup> Concluding observations on the fifth periodic report of Sri Lanka at the 59<sup>th</sup> session of UNCAT (Report CAT/C/LKA/CO/5), available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fCO%2f5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fCO%2f5&Lang=en)

<sup>34</sup> Report of the HRCSL to UNCAT states that it 'has received complaints of persons being held at detention centres that are not gazetted, which creates opportunity for torture, which the Commission brought to the attention of all relevant authorities. Upon inquiry it was revealed the places at which persons were held for at least twelve hours were offices of the TID but not gazetted detention centres.' Report is available at: [https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab\\_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit](https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit)

<sup>35</sup> *News.lk*, "No new secret detention centres in Sri Lanka – Mangala", 04 December 2015, <https://www.news.lk/news/politics/item/11171-no-new-secret-detention-centres-in-sri-lanka-mangala>

<sup>36</sup> *Daily News*, "Lanka committed to zero tolerance policy on torture: AG", 16 November 2016, <http://www.dailynews.lk/2016/11/16/local/99275>

<sup>37</sup> HRW report, "*We Live in Constant Fear*": *Lack of Accountability for Police Abuse in Sri Lanka*, 23 October 2015, available at: <https://www.hrw.org/report/2015/10/23/we-live-constant-fear/lack-accountability-police-abuse-sri-lanka>. HRCSL report to UNCAT further states that it has requested information from the Attorney-General's Department on the number of indictments filed and convictions under the Convention Against Torture Act, but has not received the requested information. The report is available at:

[https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab\\_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit](https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit). The Preliminary observations and recommendations of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr. Juan E. Mendez on the Official joint visit to Sri Lanka – 29 April to 7 May 2016 noted that 'Since 1994, there have only been five or six prosecutions, but not a single conviction yet under the Torture Act.' The observations are available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19943&LangID=E>

<sup>38</sup> *Ceylon News*, "Colombo sending officer in-charge of torture to UN an insult: ITJP", 15 November 2016, <http://www.ceylonnews.com/2016/11/colombo-sending-officer-in-charge-of-torture-to-un-an-insult-itjp/>

<sup>39</sup> The OISL report on Sri Lanka, available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>

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- <sup>40</sup> UNCAT findings on Sri Lanka, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20996&LangID=E>
- <sup>41</sup> Clause 6A (2) holds that "The right of an Attorney-at-Law, to have access to the police station, and to make representations, **shall not affect the investigations that may be conducted** in respect of the person being represented." Additionally, clause 6A (6) states that "Such Attorney-at-Law shall, if he so requests, be allowed to have access to the person in custody, **unless such access is prejudicial to the investigation being conducted**" (emphasis added). The Amendment Bill, available at: [http://www.documents.gov.lk/files/bill/2017/3/165-2017\\_E.pdf](http://www.documents.gov.lk/files/bill/2017/3/165-2017_E.pdf)
- <sup>42</sup> The Amendment Bill (now withdrawn), available at: [http://www.documents.gov.lk/files/bill/2016/8/119-2016\\_E.pdf](http://www.documents.gov.lk/files/bill/2016/8/119-2016_E.pdf)
- <sup>43</sup> O.P. 12 of UNHRC Resolution A/HRC/RES/30/1
- <sup>44</sup> *The Sunday Times*, "Is this counter-terrorism in a far deadlier garb?", Focus on Rights by Kishali Pinto Jayawardene, 16 October 2016, <http://www.sundaytimes.lk/161016/columns/is-this-counter-terrorism-in-a-far-deadlier-garb-212670.html>
- <sup>45</sup> *Daily FT*, "Big changes to counterterrorism framework", 11 January 2017, <http://www.ft.lk/article/590844/Big-changes-to-counterterrorism-framework>
- <sup>46</sup> Statement by Foreign Minister Mangala Samaraweera at the High Level Segment of the 34th Session of the UNHRC, available at: <http://www.mfa.gov.lk/index.php/en/media/ministers-statements/6861-fm-34hrc>
- <sup>47</sup> Report of the HRCSL to UNCAT, available at: [https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab\\_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit](https://docs.google.com/document/d/1Cc3ICXzqXNk00Ab_SPnqkCxb78DoCBWZu7XNA3BZQF4/edit)
- <sup>48</sup> For the case narrative, see pp. 145-148 of ICJ report *Authority without Accountability: The Crisis of Impunity in Sri Lanka* (2012), available at: <https://www.icj.org/sri-lanka-new-icj-report-documents-crisis-of-impunity/>
- <sup>49</sup> *HRW*, "Awaiting Justice For Trinco Five", 22 November 2015, <https://www.hrw.org/news/2015/11/22/awaiting-justice-trinco-five>
- <sup>50</sup> The OISL report on Sri Lanka, available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>
- <sup>51</sup> *Daily FT*, "STF men arrested for Trinco-5 murders granted bail", 15 October 2013, <http://www.ft.lk/article/201532/STF-men-arrested-for-Trinco-5-murders-granted-bail>
- <sup>52</sup> For the case narrative, see pp. 148-151 of ICJ report *Authority without Accountability: The Crisis of Impunity in Sri Lanka* (2012), available at: <https://www.icj.org/sri-lanka-new-icj-report-documents-crisis-of-impunity/>
- <sup>53</sup> The OISL report on Sri Lanka, available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>
- <sup>54</sup> *HRW*, "Sri Lanka: 10 Years Since Aid Worker Massacre", 31 July 2016, <https://www.hrw.org/news/2016/07/31/sri-lanka-10-years-aid-worker-massacre>
- <sup>55</sup> *Ibid*
- <sup>56</sup> *The Sunday Leader*, "Lasantha Was Stabbed Thrice Using A Sharp Instrument", 26 March 2017, <http://www.thesundayleader.lk/2017/03/26/lasantha-was-stabbed-thrice-using-a-sharp-instrument/>
- <sup>57</sup> *Daily Mirror*, "Alleged suicide note: Rtd. Army officer claims he killed Lasantha", 14 October 2016, <http://www.dailymirror.lk/article/Alleged-suicide-note-Rtd-Army-officer-claims-he-killed-Lasantha-117448.html>
- <sup>58</sup> *The Sunday Leader*, "New Details Emerge In Prageeth's Disappearance", 22 January 2017, <http://www.thesundayleader.lk/2017/01/22/new-details-emerge-in-prageeths-disappearance/>
- <sup>59</sup> *Hiru News*, "Two more Army Intelligence Officers connected to Prageeth Eknaligoda case granted bail", 24 October 2016, <http://www.hirunews.lk/145961/two-more-army-intelligence-officers-connected-to-prageeth-eknaligoda-case-granted-bail>
- <sup>60</sup> *Aljazeera*, "Ex-leader's brother 'led death squad' in Sri Lanka", 20 March 2017, <http://www.aljazeera.com/news/2017/03/leader-brother-led-death-squad-sri-lanka-170320151120965.html>
- <sup>61</sup> *Daily Mirror*, "Gota rejects 'Death Squad' claims", 27 March 2017, <http://www.dailymirror.lk/article/Gota-rejects-Death-Squad-claims-126229.html>