

Human Rights Council 51st Session

Agenda Item 2

Draft Resolution ~~4220~~.09.22

Promoting reconciliation, accountability and human rights in Sri Lanka

The Human Rights Council,

PP1 Guided by the purposes and principles of the Charter of the United Nations, reaffirming the Universal Declaration of Human Rights, and recalling the International Covenants on Human Rights and other relevant instruments, (46/1 PP1)

PP1 bis Recalling General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolution 5/1 of 18 June 2007,

PP2 Recalling Human Rights Council resolutions 19/2 of 22 March 2012, 22/1 of 21 March 2013, 25/1 of 27 March 2014, 30/1 of 1 October 2015, 34/1 of 23 March 2017, 40/1 of 21 March 2019 and 46/1 of 23 March 2021 on promoting reconciliation, accountability and human rights in Sri Lanka, (46/1 PP2 updated)

PP3 Recalling also that, in its resolution S-11/1 of 27 May 2009, the Human Rights Council welcomed the resolve of Sri Lanka to begin a broader dialogue with all parties in order to seek a political settlement and to bring about lasting peace and development in Sri Lanka based on consensus among and respect for the rights of those from all ethnic and religious groups, and endorsed the joint communiqué of 26 May 2009 of the President of Sri Lanka and the Secretary-General, in which the Secretary-General, inter alia, underlined the importance of an accountability process for addressing violations of international humanitarian law and human rights law, (46/1 PP3)

PP4 Reaffirming its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka, (46/1 PP4)

PP5 Reaffirming also that it is the primary responsibility of each State to respect human rights and to ensure the full enjoyment of all human rights and fundamental freedoms by its entire population, (46/1 PP5)

PP6 Recognising the severe economic crisis which deteriorated in Sri Lanka since late 2021, exacerbated by the COVID-19 pandemic, and the profound impact that this has had on the people of Sri Lanka, including women-led households, (NEW)

PP7 Underscoring the importance of addressing underlying governance factors and root causes which have contributed to this crisis including deepening militarization, lack of accountability in governance and impunity for serious human rights violations and abuses, which remains a central obstacle to the rule of law, reconciliation and Sri Lanka's sustainable peace and development, —(NEW, based on OHCHR report A/HRC/51/5 Paras 14 and 67)

PP8 Recognising the recent efforts of the Government of Sri Lanka to address the ongoing economic crisis, and welcoming the staff-level agreement reached between the Government of Sri Lanka and the International Monetary Fund, (NEW)

PP9 Recognizing that the promotion and protection of human rights and the prevention of and fight against corruption are mutually reinforcing, that corruption can have a serious negative impact on the enjoyment of human rights, and that the poor and those in marginalized and vulnerable situations, including women and girls, are at particular risk of suffering from the adverse impact of corruption on the enjoyment of human rights, (NEW -based on HRC resolutions 47/7 pp9, pp10 and 23/9 OP2)

PP10 Emphasising that peaceful protests can make a positive contribution to the development, strengthening and effectiveness of democratic systems and to democratic processes, including elections and referendums, as well as to the rule of law and ~~acknowledging that participation in peaceful protests can be an important form of exercising the rights to freedoms of peaceful assembly, of expression, and of association and to participation in the conduct of public affairs,~~ (NEW based on HRC res 50/12 PPs13 and 14)

~~PP11_~~Stressing the importance of the full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information, and for democratic participation, transparency and accountability, and of combating corruption, (NEW from [HRC res 50/12 and HRC 44/12 PP18](#))

PP12 Noting the declaration of four States of Emergency in Sri Lanka since August 2021 and ~~recalling~~ stressing the obligation to comply with Article 4 of the International Covenant on Civil and Political Rights, including in the context of declarations of states of emergency;

~~(that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized in the Covenant as non-derogable in any circumstances and that any measures derogating from other provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations as stated in General Comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001;~~ (NEW: wording based on GA Res 64/163 PP9)

PP13 Acknowledging the Government's stated commitment to constitutional reforms while stressing the importance of the independence of key commissions and institutions including the Human Rights Commission of Sri Lanka, the Election Commission, the National Police Commission, the Judicial Service Commission, the Commission to Investigate Allegations of Bribery or Corruption and the judiciary, (NEW)

PP14 Calling upon the Government of Sri Lanka to fulfil its commitments on the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population, and encouraging the Government to respect local governance, including through the holding of elections for provincial councils, and to ensure that all provincial councils, including the northern and eastern provincial councils, are able to operate effectively, in

accordance with the thirteenth amendment to the Constitution of Sri Lanka, (46/1 PP8)

PP15 Reaffirming that all individuals in Sri Lanka are entitled to the full enjoyment of their human rights without distinction of any kind such as religion, belief or ethnic origin, and the importance of a peaceful and unified land to the enjoyment of human rights, (46/1 PP9)

PP16 Acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining, land return, facilitating the voluntary resettlement of internally displaced persons and improving livelihoods, and encouraging further efforts in these areas, (46/1 PP10)

PP17 Welcoming the continued commitment of the Government of Sri Lanka to remain engaged with ~~and to seek the assistance of~~ the United Nations and its agencies, including human rights mandates and mechanisms, in capacity-building and technical assistance, and to achieve sustainable peace, (46/1 PP10)

PP18 Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, including those committed in Sri Lanka in April 2019 that led to a large number of injuries and deaths, and reaffirming also that all measures taken to combat terrorism must comply fully with States' obligations under international law, in particular international human rights law, and, as applicable, international refugee law and international humanitarian law, (46/1 PP11)

~~PP19 Recalling Sri Lanka's co-sponsorship of Human Rights Council resolution 30/4 of October 2015 which laid out the commitment of the Government of Sri Lanka to undertake a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures based in part on broad national consultations with the inclusion of victims and civil society from all affected communities, (NEW)~~

PP20 Emphasizing the importance of a comprehensive approach to dealing with the past, incorporating judicial and non-judicial measures, to ensure accountability, to serve justice, to provide remedies to victims, to avoid the recurrence of violations of human rights and to promote healing and reconciliation, (46/1 PP12)

PP21 Recognizing that mechanisms to redress past abuses and violations work best when they are independent, impartial and transparent, and use consultative and participatory methods that include the views of all relevant stakeholders, including, but not limited to, victims, women, youth, representatives of various religions, ethnicities and geographic locations, as well as people from marginalized groups, (46/1 PP13)

PP22 Recalling the responsibility of States to comply with their relevant obligations under human rights law and international humanitarian law, including, where applicable, to prosecute those responsible for gross violations of human rights law or serious violations of international humanitarian law, (46/1 PP14)

PP23 Noting with appreciation the work of the Office of the United Nations High Commissioner for Human Rights towards the promotion and protection of human rights and truth, justice, reconciliation and accountability in Sri Lanka, (46/1 PP15)

1. Welcomes the oral update presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its forty-ninth session and the report of Office of the United Nations High Commissioner for Human Rights presented to the Council at its fifty-first session; (46/1 OP1)

2. Also welcomes the engagement of the Government of Sri Lanka with the Office of the High Commissioner and the special procedures of the Human Rights Council, urges-encourages the continuation of such engagement and dialogue, and calls upon Sri Lanka to implement the recommendations made by the Office and to give due consideration to the recommendations made by the special procedures; (46/1 OP2 slightly revised)

3. Expresses concern at the human rights impacts of the economic crisis, including as result of increased food insecurity, severe shortages in fuel, shortages in essential medicines and reductions in household incomes, while stressing the need to promote and protect the rights of the most marginalized and disadvantaged individuals, including daily wage earners, women, children, older persons, and persons with disabilities; (NEW)

4. Also expresses concern over other human rights developments since April 2022 including violence against and arrests of peaceful protestors, as well as violence against Government supporters, resulting in deaths, injuries, destruction and damage to houses of members of Parliament and stresses the importance of independent investigations into all attacks and for those found responsible to be held to account; (NEW)

5. Stresses the importance of preserving civilian government functions from militarization and of Remains concerned at continued militarization of civilian government functions; the erosion of-addressing: the independence of the judiciary and key institutions responsible for the promotion and protection of human rights and fundamental freedoms; lack of progress in-addressing longstanding grievances and demands of Tamil and Muslim populations; prolonged internal displacement; land disputes; surveillance, intimidation and harassment of journalists, civil society activists human rights defenders, families of the disappeared and persons involved in memorialization initiatives; as well as and of combating sexual and gender-based violence; (NEW)

6. Also Sstresses the importance of a comprehensive accountability process for all violations and abuses of human rights committed in Sri Lanka by all parties, including those abuses by the Liberation Tigers of Tamil Eelam; (46/1 OP4)

77. Notes the persistent lack -of independentee, impartiality, and transparency of domestic mechanisms, and stresses the importance of ensuring investigations and, as applicable, appropriate punishments for ~~that emblematic human rights cases have~~

~~been undermined through delays and the granting of Presidential pardon to those accused or convicted of crimes~~ allegations relating to grave violations of human rights; (New)

8. Recognizes the importance of preserving and analysing evidence relating to violations and abuses of human rights and related crimes in Sri Lanka with a view to advancing accountability, and decides to extend and reinforce the capacity of the Office of the High Commissioner to collect, consolidate, analyse and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka, to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction; (46/1 OP6, slightly revised)

OP8bis Takes note of the Sri Lankan Government's initial outreach to overseas persons of Sri Lankan origin encompassing all communities and generations and encourages the Sri Lankan Government to engage further in a broad-based consultative process with stakeholders from all affected communities -and provide remedies to achieve meaningful reconciliation, devolution of political authority, an improved human rights situation, and lasting peace.

15OP9 ter. Urges the Government of Sri Lanka to foster freedom of religion or belief and pluralism by promoting the ability of all religious communities to manifest their religion, and to contribute openly and on an equal footing to society; (46/1 OP13)

~~9. Also expresses concern that the initial response to the coronavirus disease (COVID-19) pandemic had an impact on freedom of religion or belief and exacerbated the prevailing marginalization of and discrimination against the Muslim community, while acknowledging that cremations for those deceased from COVID-19 are no longer compulsory. Further urges the Government of Sri Lanka to take measures to address marginalization of and discrimination against people from the Muslim community and to ensure for Muslims and members of other religions~~ are to be able to continue to practice their own religious rites including burial religious rites; (46/1 OP8 updated)

10. Calls upon the Government of Sri Lanka to ensure the prompt, thorough and impartial investigation and, if warranted, prosecution of all alleged crimes relating to human rights violations and serious violations of international humanitarian law, including for longstanding emblematic cases, with the full participation of victims and their representatives; (46/1 OP9 revised)

11. Calls upon the Government of Sri Lanka to address the ongoing economic crisis ~~and help ensure it does not happen again,~~ including by investigating and, where warranted, prosecuting corruption, including by public and former public officials, and stands ready to assist and support independent, impartial, and transparent efforts in this regard;(NEW)

12. Stresses the importance of ~~re-energising~~ the effective and independent functioning of the Office on Missing Persons and the Office for Reparations, while noting that the tangible results expected by victims and other stakeholders are yet to be achieved, including resolving the many cases of enforced disappearances so that the families of disappeared persons can know their fate and whereabouts, as well as the importance of the effective and independent functioning of the Human Rights Commission of Sri Lanka; (46/1 OP3 and OP10 –modified)

13. Further calls upon the Government of Sri Lanka to protect civil society actors, including human rights defenders, to investigate any attacks and to ensure a safe and enabling environment in which civil society can operate free from hindrance, surveillance, insecurity and threat of reprisals; (46/1 OP11)

14. Takes note of the introduction of amendments to the Prevention of Terrorism Act in March 2022, that detentions under this legislation continue to occur, and the Government's expressed intention in this regard to introduce new legislation on combating terrorism, and encourages the Government to engage in consultations with civil society, the Office of the High Commissioner for Human Rights and relevant UN Special Procedure Mandate holders in the preparation of new legislation, in order to ensure that any legislation on combating terrorism complies fully with the State's international human rights law and international humanitarian law obligations; (46/1 OP12, updated)

16. Notes with appreciation the Government of Sri Lanka's continued engagement with the special procedures of the Human Rights Council and eEncourages the Government of Sri Lanka to continue this to-cooperation e-with the special procedures of the Human Rights Council, including by responding formally to outstanding requests from them; (46/1 OP14 revised)

17. Encourages the Office of the High Commissioner and relevant special procedure mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the abovementioned steps; (46/1 OP15)

18. Requests the Office of the High Commissioner to enhance its monitoring and reporting on the situation of human rights in Sri Lanka, including on progress in reconciliation and accountability, and on the human rights impact of the economic crisis and corruption, and to present oral updates to the Human Rights Council at its fifty-third session and fifty-fifths sessions, and a written update at its fifty-fourth session and a comprehensive report that includes further options for advancing accountability at its fifty-seventh session, both to be discussed in the context of an interactive dialogue. (46/1 OP16)