

5 March 2021

46/... 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,

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 and 40/1 of 21 March 2019 on promoting reconciliation, accountability and human rights in Sri Lanka,

PP2 bis Recalling also that in Council resolution S11/1 the 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 communique of 26 May 2009 between the President of Sri Lanka and the United Nations Secretary-General, which inter alia, underlined the importance of a accountability process for addressing violations of international humanitarian law and human rights law.

PP3 Reaffirming its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

PP4 Reaffirming also that it is the primary responsibility of each State to respect, ~~promote and fulfil human rights~~ human rights, and to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

PP5 Deploring the acts of terrorism committed in Sri Lanka in April 2019 that led to a large number of injuries and deaths,

PP6 Acknowledging the holding of free and transparent democratic elections in November 2019 and August 2020,

PP7 Noting the ~~passage and operationalization enactment~~ enactment —of the twentieth amendment to the Constitution of Sri Lanka— while stressing the importance of democratic governance and independent oversight of key institutions, and encouraging the Government to respect local governance, including through the holding of elections for provincial councils, and to ensure that all provincial councils are able to operate effectively, in accordance with the thirteenth amendment to the Constitution of Sri Lanka,

PP8 Reaffirming that all individuals in Sri Lankans are entitled to the full enjoyment of their human rights without distinction of any kind such as religion, belief or ethnic origin, in a peaceful and unified land,

PP9 Acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining, land return, resettling internally displaced persons and improving livelihoods, and encouraging further efforts in these areas,

PP10 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.

PP10 bis Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism and violent extremism conducive to terrorism in all their forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, and of the financial, material or political support of terrorism, as unjustifiable in accordance with applicable international law;

PP11 Reaffirming also that measures taken to combat terrorism must fully comply with States' obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, as applicable,

PP12 Emphasizing the importance of a comprehensive approach to dealing with the past, incorporating ~~the full range of~~ 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,

PP13 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, in accordance with the rule of law,

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

PP15 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,

1. *Welcomes* the oral update presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its forty-third session and the report of Office of the United Nations High Commission for Human Rights presented to the Council at its forty-sixth session;¹

2. *Also welcomes* the ~~positive~~ engagement between the Government of Sri Lanka and the Office of the High Commissioner, ~~between 2015 and 2019, and the~~ Special Procedures of the Human Rights Council, urges 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 of the Special Procedures;

3. *Acknowledges* the progress made by the Office on Missing Persons and the Office for Reparations, and stresses the importance of maintaining support for these institutions, safeguarding their independent and effective functioning, providing both offices with sufficient resources and technical means to effectively fulfil their mandates, allowing them to proceed with interim relief measures for affected vulnerable families, with a gender focus, and resolving the many cases of enforced disappearances so that the families of disappeared persons can know their fate and whereabouts;

4. *Stresses* the importance of a comprehensive accountability process for all violations and abuses of human rights committed in Sri Lanka by all parties,

¹ A/HRC/46/20.

including those abuses by the Liberation Tigers of Tamil Eelam, as highlighted in the comprehensive report of the Office of the High Commissioner on Sri Lanka;²

5. *Notes* the persistent lack of accountability of domestic mechanisms, and ~~regrets~~ that the domestic commission of inquiry announced on 22 January 2021 lacks independence and that its mandate is to review reports of previous Commissions and Committees and does not include ~~the~~ mandate to pursue accountability for past gross violations of human rights, or for serious violations of international humanitarian law;

6. *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 strengthen 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, to advocate for victims and survivors, and to support relevant judicial proceedings in Member States with competent jurisdiction;

7. *Expresses serious concern* at the trends emerging over the past year, which represent a clear early warning sign of a deteriorating situation of human rights in Sri Lanka, including the accelerating militarization of civilian government functions; the erosion of the independence of the judiciary and key institutions responsible for the promotion and protection of human rights; ongoing impunity and political obstruction of accountability for crimes and human rights violations in “emblematic cases”; policies that adversely affect the right to freedom of religion or belief; increased marginalization of Tamil and Muslim minorities, surveillance and intimidation of civil society, restrictions on media freedom, and shrinking democratic space; restrictions on public memorialization of victims of war including the destruction of a memorial; arbitrary detentions; alleged torture and other cruel, inhuman degrading treatment or punishment, and sexual and gender-based violence; and that these trends threaten to reverse the limited but important gains made in recent years, and risk the recurrence of policies and practices that gave rise to the grave violations of the past;

8. *Expresses further concern* that the coronavirus disease (COVID-19) pandemic has had an impact on freedom of religion or belief and exacerbated the prevailing marginalization of and discrimination against the Muslim community, and that ~~the decision made by the Government of Sri Lanka to mandate~~ cremations for all those deceased from COVID-19 has prevented Muslims and members of other religions from practicing their own burial religious rites, and has disproportionately affected religious minorities and exacerbated distress and tensions;

9. *Calls upon* the Government of Sri Lanka to ensure the prompt, thorough and impartial investigation and, if warranted, prosecution of all allegations of gross human rights violations and serious violations of international humanitarian law, including for long-standing emblematic cases;

10. *Also calls upon* the Government of Sri Lanka to ensure the effective and independent functioning of the Human Rights Commission of Sri Lanka, the Office on Missing Persons and the Office for Reparations to deliver their respective mandates as established;

11. *Further calls upon* the Government of Sri Lanka, having due regard for the rule of law and human rights 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 and insecurity and threat of reprisals;

² A/HRC/30/61.

12. *Requests* the Government of Sri Lanka to review the Prevention of Terrorism Act, and to ensure that any legislation on combating terrorism complies fully with the State's international human rights and humanitarian law obligations;

13. *Urges* the Government of Sri Lanka to foster religious freedom 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;

14. *Encourages* the Government of Sri Lanka to continue to cooperate with the special procedures of the Human Rights Council, including by responding formally to outstanding requests from them;

15. *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 above-mentioned steps;

16. *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 to present a written update to the Human Rights Council at its forty-ninth session, and a comprehensive report that includes further options for advancing accountability, at its fifty-first session, each to be discussed in the context of an interactive dialogue.