



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
22 August 2016

Original: English

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## Committee on the Elimination of Racial Discrimination Ninetieth session

### Summary record of the 2468th meeting\*

Held at the Palais Wilson, Geneva, on Monday, 15 August 2016, at 3 p.m.

*Chair:* Ms. Crickley

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Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

*Combined tenth to seventeenth periodic reports of Sri Lanka*

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\* No summary record was issued for the 2467th meeting.

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Combined tenth to seventeenth periodic reports of Sri Lanka (CERD/C/LKA/10-17 and CERD/C/LKA/Q/10-17)*

1. *At the invitation of the Chair, the delegation of Sri Lanka took places at the Committee table.*
2. **Mr. Aryasinha** (Sri Lanka), introducing the State party's report (CERD/C/LKA/10-17), said that the delegation had engaged in a consultative process to prepare for the presentation of the report and was grateful for the comments received from civil society. Sri Lanka had been a party to the International Convention on the Elimination of All Forms of Racial Discrimination for 34 years, and its constructive engagement with the Committee and with other human rights treaty bodies had proved useful for the fulfilment of its obligations.
3. Sri Lanka had held presidential and parliamentary elections in 2015, resulting in the formation of a national unity government by the two main political parties. After over two decades of conflict, the new administration would provide the political stability needed to implement policies to uphold and promote human rights, strengthen democracy and move towards national reconciliation and development. The change in political culture had heralded a fresh emphasis on human rights and reconciliation, as demonstrated by the recent passage of legislation establishing the Office on Missing Persons to address a phenomenon that had long plagued many communities but could not be resolved constructively in the previous climate. All political parties, including those in the opposition, supported the Government in that initiative. In addition, consultations were under way on reform of the Constitution and a national human rights action plan for the period 2017-2021.
4. The State party's re-engagement with the Committee was illustrative of the priority that the Government and people of Sri Lanka accorded to human rights, equality, democracy and reconciliation. Although its report had been lacking in a number of areas, largely due to the policies pursued by the previous administration, Sri Lanka was now pursuing a policy of constructive engagement with the international community, including all human rights mechanisms.
5. During nearly three decades of conflict, the prevailing atmosphere in Sri Lanka had been one of fear, anxiety and suspicion. Suicide bombings, the targeting of non-military installations, political assassinations, the recruitment of child combatants and the killing of civilians from all walks of life had been a daily reality. Successive administrations had failed to reach a negotiated political settlement with the separatist group, which had been listed as a terrorist organization by numerous Governments. As in many other parts of the world, preserving human rights while fighting terrorism had presented a considerable challenge for the authorities. Although the conflict had ended in 2009, many key issues, such as violations of human rights and humanitarian law by both sides, remained unaddressed. The Government had now embarked on steps to put the situation right.
6. In making the transition to peace in a multi-ethnic, multi-religious country such as Sri Lanka, it was essential to address the root causes of the conflict and to ensure the equal enjoyment of human rights and individual rights for all peoples without discrimination. Since the end of the conflict, priority had been given to rebuilding infrastructure, restoring public order and reintroducing political structures in conflict-affected provinces. Considerable strides had been made in the clearance of mines, resettlement of internally displaced persons and infrastructure development, but a determined effort to address certain

crucial aspects of national reconciliation had not materialized. The rule of law had been weakened and media freedom stifled; and there had been disengagement and confrontation with the international community, including human rights mechanisms, as well as an absence of credible measures to combat large-scale corruption, inadequate governance and a lack of initiative to tackle the issue of missing persons.

7. Against that backdrop, in 2015 the country had voted twice to usher in stronger democracy, reconciliation and respect for human rights and the rule of law to ensure prosperity for all Sri Lankans. Economic growth and sustainable development had also been made a priority, and appropriate reforms were being reviewed by the Government.

8. A number of important developments had already been consolidated. In 2015, on the country's national day, the Government had issued a Declaration of Peace in which it pledged to ensure non-recurrence, and the following year's celebrations had seen a return to the practice of singing the national anthem in both of the official languages, Sinhalese and Tamil. The annual victory parades held on 19 May to mark the end of the conflict had been discontinued and families on both sides of the conflict were permitted to grieve for the loss of loved ones. The Constitution had been amended to reintroduce the limit of two five-year terms for the President. That same legislation had re-established independent commissions to oversee key institutions, acknowledged the right of access to information as a fundamental right and recognized the promotion of national reconciliation and integration as constitutional duties of the President.

9. In addition, a four-pillared mechanism had been proposed to address the right to truth, the right to justice, reparations and non-recurrence, although the exact modalities were still pending the outcome of consultations led by a representative task force of civil society leaders. Media freedom had been restored and all local and foreign journalists were free to travel throughout the country. Journalists in exile had been invited to return to Sri Lanka under a guarantee of safety, and the previous administration's restrictions on issuing Sri Lankan passports to those who had sought asylum overseas had been lifted.

10. Since the submission of the combined periodic reports in 2015, the Government had taken numerous steps to prevent racial discrimination and to ensure a rights- and merit-based society. A new chief had been appointed to the national Human Rights Commission, whose mandate had also been broadened. A 10-year multilingualism plan had been launched in 2012 and included a programme to ensure that public sector workers could speak both official languages. Efforts were under way to recruit more Tamil-speaking police officers, especially in the north of the country. Bilingual computerized identity cards were now being issued to all citizens, rather than only to members of minority communities.

11. In addition, Sri Lanka had continued its constructive engagement with the Human Rights Council, special procedures mandate holders and the human rights treaty bodies. Since October 2015, it had received visits from the United Nations High Commissioner for Human Rights, the Working Group on Enforced and Involuntary Disappearances and several Special Rapporteurs. The country was on track to fulfilling its reporting obligations under the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

12. **Mr. Azeez** (Sri Lanka) said that his Government had embarked on a process of constitutional reform to ensure the sustainable progress of national reconciliation mechanisms, as well as to guarantee equal rights and justice for all and the non-recurrence of conflict. Accordingly, a parliamentary committee had been set up to seek the advice and views of the public and, ultimately, draft a bill for consideration by the Parliament; a report on the findings of its consultations had been published online.

13. The Government had undertaken a voluntary commitment to introduce a national human rights action plan for the period 2017-2021 with the aim of creating a comprehensive human rights framework that drew on different elements, including the recommendations from the universal periodic review of the Human Rights Council and the national action plans drawn up by various line ministries. Emphasis would be placed on the conclusions and observations of the United Nations human rights treaty bodies to which Sri Lanka was a party. An interministerial committee, which included civil society representatives and members of the national Human Rights Commission, had been placed in charge of that process and was assisted by various subcommittees, including one devoted to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The action plan was expected to be finalized by October 2016.

14. The Government had adopted various mechanisms to provide Sri Lanka with a human rights framework that would advance its development and fulfil its international obligations. In February 2016, it had ratified the International Labour Organization (ILO) Employment Policy Convention, 1964 (No. 122) and the Convention on the Rights of Persons with Disabilities and, in May 2016, the International Convention for the Protection of all Persons from Enforced Disappearance. The Government had also enacted relevant legislation in that area, such as the Prescription (Special Provisions) Act and the Assistance to and Protection of Victims of Crime and Witnesses Act.

15. **Mr. Pulle** (Sri Lanka) said that there were other legal mechanisms that also supported the implementation of the Convention. For instance, article 12 (2) of the Constitution stipulated that no citizen may be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds. The nineteenth amendment to the Constitution, adopted in May 2015, sought to ensure that persons nominated to the Constitutional Council reflected the pluralistic character of Sri Lankan society, including its professional and social diversity. That amendment included provisions designed to make certain that the members of independent commissions were representative of society, including in terms of gender. Recently adopted legislation had put in place the necessary institutional support for implementation of the Convention.

16. In response to the questions on hate speech and counter-terrorism legislation raised in the list of themes (CERD/C/LKA/Q/10-17), he said that the Government's commitment to upholding fundamental human rights was guaranteed by the supreme law of the country. In view of the societal, cultural and historical norms of Sri Lanka, regular dialogue took place at different levels to ensure inter-faith harmony and understanding. Persons committing acts in places of worship with intent to insult religion were criminally liable under the Criminal Code. In 2007, the State party had passed the International Covenant on Civil and Political Rights Act, which included the provision that no person may propagate war or advocate national, racial or religious hatred that constituted incitement to discrimination, hostility or violence.

17. The Prime Minister had appointed a committee to study the legal and political framework for counter-terrorism activities. The Government was aware that concerns had been expressed with regard to the provisions on national security and had taken on board those concerns. The committee would draw on inputs from the Executive Directorate of the Counter-Terrorism Committee of the United Nations Security Council to ensure that the new legislation was on a par with international standards while respecting the human rights obligations and national security interests of Sri Lanka.

18. **Mr. Calí Tzay** (Country Rapporteur) said that he welcomed the resumption of the State party's dialogue with the Committee as part of its concerted effort to renew discussions with all human rights bodies. That effort had generated a sizeable body of information, not least the concluding observations from seven human rights treaty bodies, five reports under the universal periodic review and three reports from special procedures

mandate holders. All of that information reflected the various problems and challenges facing the State party as well as the complex situation on the ground.

19. He thanked the delegation for its candour in acknowledging that there had been some gaps in its report and said that, in fact, a number of periods had not been fully covered, for instance, the armed conflict from 2001 to 2002, the beginning of the peace process from 2002 to 2004, the relapse between 2005 and 2009 and the post-conflict period between 2009 and 2015, and that those periods had seen serious human rights violations.

20. Noting the commitment undertaken by the Government to introduce reforms and foster reconciliation, he said that minority groups had reported that little had changed in practice and that many of their members continued to face discrimination and hostility on a daily basis. The Committee had been informed that discrimination against the Tamil community in the Northern and Eastern Provinces had increased, particularly against Muslim and Christian minority groups. It had also been notified that the periodic report did not reflect the complexity of the period covered or examine the major role played by ethnic and religious discrimination in the conflicts that had taken place.

21. He welcomed the constitutional reform process, including the adoption of the nineteenth amendment to the Constitution, which restored the Constitutional Council and enabled it to recommend appointments to the senior judiciary and key independent institutions, such as the Human Rights Commission of Sri Lanka. The Commission had already yielded results but required strengthening in terms of resources and staff. He hoped that other government bodies would accord the Commission greater cooperation and respect and involve it fully in the transitional justice and constitutional reform process. Although the delegation had stated that all forms of discrimination were prohibited by the Constitution, no information had been provided on how such provisions and safeguards operated in practice.

22. The various shadow reports submitted by civil society organizations offered a very different picture from the one presented in the periodic report. The resolutions adopted by the Human Rights Council, the reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the statements issued by other treaty bodies appeared to support the findings of the civil society organizations and gave the impression that, despite the Government's good intentions, significant action was still required to address the issues faced by the affected populations and comply with the basic requirements of the Convention. The Committee was deeply concerned by the significant inconsistencies in the information provided. As had been emphasized by numerous members of the State party delegation, the first step towards achieving reconciliation, based on full respect for the human dignity of all citizens and the full application of the Convention, was to acknowledge the errors of the past and the challenges of the present.

*The meeting was suspended at 4 p.m. and resumed at 4.05 p.m.*

23. **Mr. Avtonomov** asked whether the Veddah community had the opportunity to study in their own language and whether those members who had decided to stay in the Maduru Oya reserve experienced any difficulties or restrictions. Inasmuch as the report indicated in paragraph 29 that Sri Lanka did not recognize the concept of "indigenous peoples" but in paragraph 31 that the Government had launched specific programmes to promote and protect the rights of indigenous peoples, he requested clarification on the official status of indigenous peoples in the country. He said that it would also be useful to have information on the status of ratification of the amendment to article 8 of the Convention and on the position of the State party with regard to article 14.

24. According to the periodic report, personal law was regulated not only by statutory law but also by customary law, including Islamic, Roman-Dutch, Kandyan and Tesawalamai law. In that regard, he wished to know whether the mixed legal system

created any contradictions with international law and whether a mechanism was in place to monitor the fulfilment of international obligations in the field of customary law.

25. **Mr. Murillo Martínez** asked whether the new administration was maintaining the Special Presidential Task Force on Reconciliation and, if so, what kind of structure it had and whether it involved the participation of all political parties and represented all ethnic groups. The State party should also elaborate on land distribution, use and rights in relation to the ethnic composition of the country. He said that it would be useful to learn what ethnic groups had benefited from the ongoing land redistribution process, particularly in the Eastern Province. Further details would also be welcome on the operation, scope and impact of transitional justice in Sri Lanka and on the progress made in identifying missing persons. He requested the delegation to provide information on the prospective new Constitution, including on the areas that it would cover, the establishment of a constitutional assembly that would guarantee participation by ethnic groups and the extent to which the new Constitution would consolidate the peace effort.

26. He welcomed the appointment of the head of the Tamil National Alliance as the leader of the opposition in the Parliament and enquired what mechanism was used for such appointments, what guarantees the opposition had within the State party and what role the opposition played. Additional information would be welcome on the practical application of the Official Languages Commission Act No. 18 of 1991, including on the punishment that public servants would be liable to under the legislation, as well as on the implementation of the Trilingual Policy.

27. As the periodic report indicated that marriage between minors was discouraged in Sri Lanka although permitted under Islamic law, it would be pertinent to know whether, under Islamic law, marriages were celebrated between adults and minors.

28. **Mr. Yeung Sik Yuen** asked how many children from the plantation community attended school and what percentage they represented among all children attending school in those regions. He wished to know why the number of physically impaired children was so low in comparison with the number of deaf and intellectually impaired children. He also enquired as to how many cases of infringement of fundamental constitutional rights by an executive or administrative action had been brought before the Supreme Court pursuant to article 126 of the Constitution and whether the Government would consider extending the excessively short period in which such petitions could be filed. Had the national Human Rights Commission referred any cases of discrimination under article 126?

29. Noting with concern that the Constitutional Council was composed of seven politicians and only three members of civil society, he said that it was alarming that the executive had the possibility to interfere in the work of the Council, as demonstrated by the fact that the Parliament could vote to remove judges and had indeed done so in the past. He asked if the State party contemplated improving provisions to ensure the independence of the judiciary. Referring to article 9 of the Constitution, which accorded Buddhism a foremost place, he urged the State party to consider giving equal status to all religions. With an eye to fostering unity and uniformity within the country, the State party should consider adjusting the wording of article 18 of the Constitution, which stated that the official language of Sri Lanka was Sinhala and that Tamil was also an official language.

30. **Ms. Shepherd** said that, although the Government was committed to promoting multiculturalism in Sri Lanka, there seemed to be significant resistance from the Sinhalese majority in the country, as many of them failed to see the need for racial equality. The Committee remained concerned by the fact that racial discrimination continued to pervade all sectors of Sri Lankan society and that vulnerable groups, such as the plantation community, remained marginalized and did not seem to benefit from national development policies. It would be useful to hear about the main obstacles preventing the State party from

addressing and eliminating the myriad problems affecting that community, such as high illiteracy rates, high unemployment, frequent caste-based discrimination, difficulties in accessing sufficient land to live on and land-grabbing. Noting that many members of that community struggled to obtain official identity documents as proof of citizenship on account of employers refusing to provide essential documents, she asked whether the State party planned to hold those employers accountable for their actions. Furthermore, the fact that some members of that community were effectively stateless prevented them from exercising their right to freedom of movement enshrined in article 5 of the Convention.

31. She also wished to know where the migrant workers living in Sri Lanka hailed from, whether they included foreign domestic workers and how the State party guaranteed their rights. She asked how the State party had reconciled the deep divisions and disagreements between the country's ethnic and religious communities when developing the national history component of the State curriculum. She was pleased to note that the State party was in the process of introducing a mechanism to guarantee the right to truth, justice and reparation in view of the recent conflict. She would like to hear more about the forms of reparation that the State party envisaged providing to the victims of the conflict.

32. **Mr. Marugán** said that, notwithstanding the fact that article 12 of the Constitution prohibited several forms of discrimination, including racial discrimination, the dearth of socioeconomic statistics in the State party's periodic report on access to housing, employment, education and social benefits, disaggregated by ethnicity and religion, made it difficult for the Committee to evaluate the situation with respect to discrimination in the country.

33. Noting that the Government had recently recruited some 1,000 Tamil-speaking police officers, he invited the delegation to describe the evolution of the recruitment of Tamils and members of other ethnic and religious minority groups to posts in the public administration, the measures in place to ensure that those groups were fairly represented at that level and the steps taken by the State party to ensure that new recruitment practices were conducive to reconciliation between groups that had been historically opposed.

34. In the absence of appropriate socioeconomic statistics, he invited the delegation to comment on the veracity of reports that members of certain ethnic groups did not earn a liveable wage. He asked whether the national human rights action plan would include specific measures to tackle racial discrimination in the employment sector.

35. Noting that, despite the steps taken by the State party to restore the freedom of the press, the right to freedom of speech and expression could still be restricted in the interest of racial and religious harmony, he asked in what circumstances that right could be restricted and how such restrictions were imposed in practice. He also wished to know about the measures the State party envisaged taking to foster racial and religious tolerance in the media.

36. He would also like to know whether the national human rights action plan would provide for the creation of an institution to combat racial prejudice, to promote understanding, tolerance and friendship among the different ethnic and religious groups living in the country and to monitor the prevalence of hate speech. In addition, it would be useful to receive statistical data on the prevalence of intersectional discrimination, disaggregated by sex, ethnicity and caste, as well as statistical data illustrating the extent to which speaking a minority language constituted a barrier to accessing the labour market in the different regions of the country. The delegation should also indicate whether the State party had adopted a strategy to improve the situation of human rights defenders working throughout the national territory.

37. **Mr. Bossuyt**, observing that the State party's periodic report described the Liberation Tigers of Tamil Eelam as a separatist, terrorist group which had finally been

“defeated” in May 2009, said that, in view of the information received from alternative sources, it might be more accurate to use the term “eliminated” or “exterminated”. He welcomed the Government’s efforts to promote reconciliation, to seek truth, justice and guarantees of non-recurrence and to provide reparation in the wake of the armed conflict, which had culminated in the creation of a special commission for that purpose. It was also an encouraging sign that Sri Lanka had extended numerous invitations to, inter alia, the special procedures mandate holders of the Human Rights Council, which had already resulted in a number of visits being conducted to the country.

38. Turning to the composition of the new Government, he asked how many members belonged to the Tamil community. In his view, Tamil, which, despite being the language of the Tamil community and of the majority of the Muslims living in Sri Lanka, had only been made an official language in 1978, should have been accorded that status long before that date.

39. He would also appreciate additional information on the respective mandate and powers of the Constitutional Council and the Supreme Court and on how they interacted with one another. He asked whether the Constitutional Council was composed of judges and, if so, whether they enjoyed the necessary independence to exercise their functions and how long their term of office lasted.

40. Lastly, he wished to know whether the national Human Rights Commission had been accorded category A status by the Global Alliance of National Human Rights Institutions.

41. **Ms. Mohamed** said that it was her understanding that the State party recognized customary law, which applied only to certain groups. In that regard, she asked whether the State party considered the Muslims living in Sri Lanka to be an ethnic group in their own right and how customary laws were formulated and approved. Lastly, the delegation should indicate the current level of representation of minority women in the political sphere.

42. **Ms. Hohoueto** said the fact that the application of personal laws relating to marriage and divorce, which remained a matter of choice for the individual concerned, irrespective of their ethnic origin or religion, was also subject to customary and religious law, appeared to constitute an infringement of the right to equal recognition before the law enshrined in article 12 of the Constitution. She invited the delegation to explain that perceived contradiction.

43. Although Sinhalese and Tamil both enjoyed the status of national language and official language of administration throughout Sri Lanka, in practice the two languages were not taught or spoken to the same extent in all regions of the country; in certain regions, that could prevent Sri Lankans who did not speak the majority language from accessing justice and performing administrative tasks. As it was not feasible to expect every Sri Lankan living in a region where the majority language was not their mother tongue to learn the other language simply to access judicial and administrative services or to ask them to uproot their lives and move to another region, she would be interested to know whether the State party envisaged taking steps to guarantee the availability of those services in both of the national languages in all regions of the country.

44. **Ms. Li Yanduan** said that the State party was to be commended on its efforts to promote and protect human rights and to improve the living conditions of the Sri Lankan people in the wake of the armed conflict that had ravaged the country. Noting that the scope of application of general (statute) law could be limited by customary laws, she asked which law prevailed if the customary law in question was found to run counter to the Convention and how the State party resolved such conflicts.



45. **Mr. Kemal**, recalling that Sri Lanka was still reeling from the effects of the armed conflict and that the new administration was still engaged in the daunting task of rebuilding the country, said that the State party was to be commended on its efforts to address the human rights situation and to foster reconciliation between ethnic and religious communities that had been hitherto opposed.

46. Noting that recent constitutional and legislative amendments had granted the national Human Rights Commission increased independence, he asked when the State party planned to endow it with the financial resources necessary to ensure its full compliance with the Paris Principles and to enable it to take part in interactive dialogues with the United Nations human rights treaty bodies.

47. As the State party's periodic report appeared to contain contradictory information, he would appreciate clarification as to what proportion of the Sri Lankan population was Muslim and whether Muslims were considered to be a separate ethnic group. If that was the case, he would be interested to know on what basis such a distinction had been made and whether Sinhalese and Tamil Muslims were also considered part of that separate ethnic group.

48. The Committee had received reports that members of minority religious groups faced serious obstacles in obtaining the permission required to set up a place of worship. He asked whether Buddhists were also required to obtain permission for that purpose and whether the requirement in question was laid down in law or was simply an administrative formality. Moreover, the Committee had been informed of the existence of obstacles preventing the burial of the members of certain religious groups.

49. Lastly, it had been brought to the Committee's attention that a number of extremist groups belonging to the Sinhalese majority routinely proffered hate speech against persons practising a different religion; if left unchecked, that could serve to incite acts of violence against minority religious groups. He asked what measures the State party had taken to curb the activities of such groups. He drew the State party's attention to the Committee's general recommendation No. 35 on combating racist hate speech, which could provide useful guidance in that respect.

50. **Mr. Lindgren Alves** said that he had been perplexed to find that many of the positive developments outlined in the State party's periodic report were controverted by information that the Committee had received from alternative sources, which portrayed the situation in the country in a much more negative light.

51. He noted with interest that persons arrested under the Prevention of Terrorism Act were entitled to receive visits from family members, lawyers, magistrates, medical officers, members of the clergy and representatives of the International Committee of the Red Cross and the national Human Rights Commission. If that was indeed the case, many countries in the West could learn a lesson from the State party's approach to dealing with terrorist suspects.

52. He welcomed the fact that Sri Lanka had ranked number 73 out of 187 countries and territories on the human development index in the United Nations Development Programme Human Development Report 2014. He asked whether the delegation believed the human development index score in question to adequately capture the situation of all the ethnic and religious groups living in the country.

53. **Ms. Hohoueto** said that she was concerned that the policy of allowing police officers to be trained in the language of their choice would make it difficult for them to ensure human rights if they were assigned to a part of the country where they did not speak the language of local residents.

54. She wished to know why the title of the Ministry of Resettlement, Reconstruction and Hindu Religious Affairs referred only to the Hindu religion. What about other religions?

55. **Ms. Shepherd** asked whether the State party had any plans to mark the United Nations Decade for People of African Descent and, if so, in what ways?

56. **Mr. Calí Tzay** said that he would be interested to know if Sri Lanka was considering making a voluntary declaration under article 8 of the Convention with regard to funding for the Committee being allocated from the regular budget of the United Nations, which would not entail any additional financial contribution from States parties, and under article 14 with regard to the competence of the Committee to receive individual communications.

57. He had been informed that, in 1960, 38 per cent of public servants had been Tamils, who accounted for 25 per cent of the total population at the time, whereas currently only 8 per cent of public officials were Tamils, who now made up 15 per cent of the population. He wished to know why there had been a fall not only in the size of the Tamil population but also in the percentage of Tamils holding positions as public servants.

58. Non-governmental organizations had reported a direct link between racially motivated hate speech and racially motivated hate crimes in Sri Lanka. What steps was the State party taking to combat that problem?

59. Noting that the Official Languages Commission Act No. 18 had been passed in 1991, he wondered why it had taken until 2012 to launch a national plan for a trilingual Sri Lanka.

60. He asked which population group most prisoners came from and which minority groups could be found in prisons. Information from the Lessons Learnt and Reconciliation Commission had revealed that 11,000 Tamils had voluntarily turned themselves in and had been imprisoned in 2009 and that 250 of them were still awaiting trial. Given that legislation stipulated that prisoners should be tried within 18 months of their detention, why had those cases not been tried? A government official had also stated that, apart from those 250 prisoners, nothing was known about the remainder of the 11,000 detainees and that it had been presumed that they had died, meaning that they had probably died in prison. Could the State party provide any information in that connection and on the general situation in prisons in Sri Lanka?

61. **Mr. Avtonomov**, noting that the periodic report gave a detailed explanation of the procedure for obtaining Sri Lankan citizenship by descent or by persons of Indian origin, said that he would appreciate receiving information on the procedure to follow for other persons wishing to obtain citizenship, such as migrant workers who had subsequently settled in the country.

62. **The Chair** said that she was concerned by the use of the term “perceptions of discrimination” in the periodic report, because in Sri Lanka, like in all other countries, racial discrimination inevitably existed. Many processes within State structures could give rise to discrimination towards minorities. She would therefore be interested to hear more details about the transitional processes that the State party had established and about the four pillars of the new mechanism.

63. She was also concerned at the reference in the periodic report to the re-establishment of the national Human Rights Commission with “greater independence”. A national human rights institution should be fully independent, although funded by the Government, and should have the capacity to challenge and create the conditions for the exercise and respect of human rights.

64. She asked who decided when customary law was applied, particularly on behalf of women from minority groups.

65. She would appreciate receiving information on the numbers of prisoners detained under the Prevention of Terrorism Act, as well as from which communities they had originated, how many were men and how many were women, and for how long they had been detained. In her experience, such legislation had seldom helped to create the conditions for the kind of country that the Government was struggling to establish. In fact, it often had the opposite effect in peace and reconciliation processes and tended to be used against minority groups that were also vulnerable to racial discrimination.

66. She would like to know whether the personal safety and freedom from discrimination of the people who opted not to move to the high-security zones would be guaranteed. Minority groups that had been part of the struggle and were vulnerable to racial discrimination were the people most likely to be affected.

67. In view of the high number of domestic workers in Sri Lanka, many of whom were migrant workers, she asked whether the State party had already signed and ratified the ILO Domestic Workers Convention, 2011 (No. 189), or if it was considering doing so.

68. **Mr. Pulle** (Sri Lanka) said that the jurisdiction of the Supreme Court was provided for under article 118 of the Constitution. The procedure for invoking the fundamental rights jurisdiction was distinct from the constitutional jurisdiction, which was also exercised by the Supreme Court. When the jurisdiction of the Supreme Court was invoked with regard to a fundamental rights application, the Court would interpret the provisions of the chapter of the Constitution on fundamental rights. The constitutional jurisdiction, meanwhile, was concerned with the pre-enactment judicial review of legislation. The Supreme Court could determine the constitutionality of a bill; within one week of a bill being placed on the Order Paper of the Parliament, any person could invoke the jurisdiction of the Supreme Court to challenge the constitutionality of the bill. The Court could declare that the bill could be passed by a simple majority of the Parliament, by a two-thirds majority or by a two-thirds majority and a referendum.

69. The rule laid down in article 126 of the Constitution whereby the jurisdiction of the Supreme Court must be invoked within one month of the infringement of a fundamental right by an executive or administrative action had been overridden in cases where the Court had found certain violations to be continuing violations. Although chapter III of the Constitution, on fundamental rights, indicated that such jurisdiction had to be invoked by a person, jurisdiction had been expanded to encompass a wide area of issues. Article 126 of the Constitution should be read in conjunction with article 4 (d), which mandated that fundamental rights should be advanced and protected by all government organs.

70. **Mr. Azeez** (Sri Lanka) said that some of the Committee's questions and concerns would be addressed in the national human rights action plan that was being prepared. The process to finalize and implement the plan should begin in parallel with the constitutional process and should draw from other national action plans and input from civil society and other organizations. The Committee's concluding observations and other international obligations that the Government had failed to comply with would also be addressed in the action plan. The aim was to have an overarching plan with a human rights-based approach, guiding both governmental and non-governmental actors. Disaggregated data had not been provided in the periodic report because the State party had not been able to do so, but they would be included in the action plan. A copy of the plan would be forwarded to the Committee.

71. **Mr. Aryasinha** (Sri Lanka), responding to the question on the four-pillared mechanism, said that the Office on Missing Persons had just been established by law. It was the first time that a commission had been created through legislation passed through the Parliament, and the primary objective was to guarantee the families of the victims their right to know, which was the first pillar. The Office's mandate had been left open-ended

and it was free to examine any case of a missing person, past or present, and irrespective of where the person had disappeared in the country. The Government, having consulted with the International Committee of the Red Cross and other experts, had initiated a process to issue certificates of absence to enable the families to act on legal matters such as inheritance, property rights and matrimonial issues. The right to justice was the second pillar, while the third pillar would be a reparations mechanism and the fourth pillar would be ensuring non-recurrence. A secretariat to coordinate the reconciliation mechanisms had been set up in December 2015 under the Office of the Prime Minister, and in March 2016 a secretary general had been appointed to the secretariat. A consultation task force had been established to help take the process forward, and the Government was awaiting its report.

*The meeting rose at 5.50 p.m.*