



# International Covenant on Civil and Political Rights

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## Human Rights Committee 137th session

### Summary record of the 3971st meeting

Held at the Palais Wilson, Geneva, on Thursday, 9 March 2023, at 10 a.m.

*Chair:* Ms. Abdo Rocholl

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Sixth periodic report of Sri Lanka (continued)* (CCPR/C/LKA/6; CCPR/C/LKA/Q/6; CCPR/C/LKA/RQ/6)

1. *At the invitation of the Chair, the delegation of Sri Lanka joined the meeting.*
2. **The Chair**, welcoming the delegation of Sri Lanka to the meeting, explained that additional members of the delegation would be participating via video link. She invited the delegation to continue replying to the questions raised by Committee members at the previous meeting.
3. **A representative of Sri Lanka**, speaking via video link, said that, according to Mental Diseases Ordinance No. 1 of 1873, any police officer, village headman or private person with reason to believe that another person was of unsound mind could petition the competent district court in writing to inquire into the state of mind of the person in question and adjudicate accordingly. Therefore, judicial oversight of the situation of persons with psychological or intellectual disabilities was provided for by law.
4. **A representative of Sri Lanka** said that, in 2021, the National Anti-Human-Trafficking Task Force had established a special investigative unit to strengthen its capacity to identify victims of trafficking among migrant workers and other groups, investigate cases and initiate court proceedings against traffickers. Since 2020, 11 indictments had been served and one conviction had been secured under article 360C of the Penal Code. In addition to the pre-existing anti-trafficking hotline, an online service had been set up to facilitate referrals, and a new shelter for victims of serious offences, including trafficking in persons, had been opened. Training courses on investigative techniques and the prosecution of the perpetrators of human-trafficking offences were regularly organized for police officers and prosecutors, respectively.
5. **A representative of Sri Lanka** said that, according to the amended Public Security Ordinance, a state of emergency could be declared in the interests of public security, to preserve public order, to suppress mutinies, riots or other forms of civil commotion or to protect essential supplies and services. Due care was taken to ensure that the rights of the people of Sri Lanka were protected during states of emergency in accordance with article 4 of the Covenant. The Supreme Court handled cases related to the enforcement of the regulations governing states of emergency, some of which were currently under judicial review. The Protection of Victims of Crime and Witnesses Act had been amended in 2017 to allow crime victims who had fled the country to testify and give evidence remotely. Article 105 (3) of the Constitution, on contempt of court, was applicable in cases of interference in judicial processes, as was article 111C, which made interference with the judiciary an offence. Interference with the Judicial Service Commission was also punishable under the Constitution.
6. **Ms. Arunatilaka** (Sri Lanka) said that additional replies would be provided in writing in due course.
7. **Ms. Kran** said that the Committee remained concerned that the President had undue influence over the appointment of members of the Judicial Service Commission. She wished to know what steps were being taken to make the work of the Commission more transparent by enabling the public and civil society to observe and monitor its decision-making process and whether there were plans to enlarge the Commission in order to increase its capacity to recruit and appoint judges free from the influence of the executive branch. She also wished to know whether the State party planned to reform and publicize the rules governing the transfer, promotion and discipline of judges and whether those rules were laid down in a specific law. She would welcome information on the structural safeguards in place to guard against the use of the threat of impeachment to exert pressure on judges and influence their decisions. In view of the controversial presidential pardon in 2020 of Sergeant Sunil Ratnayake, who had been convicted by the Supreme Court of killing at least eight Tamil villagers in 2000, she would be grateful for clarification on the safeguards in place to ensure

that the presidential power to grant pardons was exercised in accordance with the State party's obligations under the Covenant.

8. According to reports received by the Committee, the National Child Protection Authority had a huge case backlog, and cases of serious crimes against children took many years to reach trial. She therefore wished to know what mechanisms had been established by the State party to ensure that indictments naming persons suspected of committing offences against children were filed within a reasonable time frame and wondered whether the State party had plans to recruit more prosecutors and judges or to use technological solutions to reduce the backlog. In view of reliable reports that the Office of the Attorney General did not always act in the public interest, she would welcome additional information on any measures envisaged to ensure the impartiality of the Attorney General in future.

9. In the light of reports that Tamil was rarely used or provided in interpretation during court proceedings, she wished to know whether the State party planned to expand the capacity of the courts to function in Tamil by, for example, hiring additional translators and interpreters or Tamil-speaking court officers.

10. It would be useful to learn how the State party ensured that the arrest and prosecution of individuals suspected of committing an offence under the International Covenant on Civil and Political Rights Act, such as in the case of the writer Shakhika Sathkumara, met the requirements of legal certainty and proportionality established in the Covenant. She would also be grateful for clarification of the procedures in place to allow persons charged under the Act to be granted bail in a timely manner, to ensure that any restrictions on freedom of speech imposed under the Act adhered to the requirements of necessity and proportionality and to prevent the Act from being used to curtail the rights of freedom of expression and assembly.

11. In the light of numerous reports of the harassment, intimidation, surveillance and murder of journalists, human rights activists and other members of the media since 2019, she wondered what mechanisms had been established to allow journalists and human rights activists to seek redress when they were subjected to threats and harassment, what steps the Government had taken since 2019 to ensure the protection of journalists and human rights defenders and what programmes were currently offered to educate the authorities about the importance of respecting media freedom in line with the Covenant.

12. It would be useful to receive a full account of the current status of the investigations into the murder of the journalist Lasantha Wickrematunge in 2009; the disappearance of the journalist, cartoonist and human rights activist Prageeth Ekneligoda in 2010; and the massacre of 17 employees of the non-governmental organization Action against Hunger in 2006. Information on efforts to ensure that adequate resources, training and expertise were available to the investigators and on the mechanisms in place to protect witnesses and the families of the victims would also be helpful. In that regard, she wished to know how the State party ensured that victims' families had access to appropriate remedies.

13. She would appreciate an explanation of how the decision of the Telecommunications Regulatory Commission to block public access to social media platforms ahead of anti-government protests in 2022 was consistent with national legal and constitutional requirements and the State party's obligations under the Covenant. Moreover, she would be grateful for clarification of how a recently approved bill to combat false and misleading statements was consonant with the right to freedom of expression. Lastly, she would welcome information on the mechanisms in place to allow individuals to submit complaints or claims concerning violations of their right to freedom of expression and on the outcome of any legal proceedings resulting from such complaints.

14. **Mr. Soh** said that it was notable that, according to official figures, 92 per cent of the private land formerly occupied by the military had been released back to its civilian owners; nevertheless, in the light of reports of new land grabs by the military and the continued construction of security-related infrastructure and operation of military-owned businesses in the northern and eastern provinces of Sri Lanka, he would be grateful for clarification from the delegation as to why military zones and operations continued to expand in those parts of the country, despite the State party's stated commitment to reducing the military presence there. He wished to know what measures had been taken or would be taken by the State party

to end the influence of the military in civilian spheres and particularly in respect of the livelihoods of displaced persons and returnees.

15. He wished to know what measures had been taken to repair the harm done by the Government's annexation, for development purposes, of land that was of cultural, archaeological or environmental significance to the Tamil population and to ensure that the land and property rights of Tamils who had been prevented from returning to that land were fully recognized. In that connection, he would be grateful if the delegation could comment on reports of frequent land disputes in relation to the construction of Buddhist heritage and forestry conservation sites in the northern and eastern parts of the country.

16. In the light of reports of discrimination and hostility directed at refugees and asylum-seekers since the terrorist attacks of April 2019, he wondered whether the State party had considered ratifying the Convention relating to the Status of Refugees with a view to establishing an adequate legal and policy framework for the protection of those groups. He would also welcome detailed information on the number of investigations launched, prosecutions brought and convictions secured in respect of attacks against refugees and asylum-seekers over the previous five years.

17. According to information received by the Committee, while Sinhalese and Tamil were both official languages of Sri Lanka according to the Constitution, most official correspondence was in Sinhalese only. It would therefore be useful to learn about the concrete results achieved under the Official Language Policy of Sri Lanka and the Ten-Year National Plan for a Trilingual Sri Lanka and about any additional measures envisaged to establish institutional practices that accommodated ethnic, linguistic and religious diversity.

18. Lastly, in the light of allegations of vote buying and political bribery and attempts to deter members of minorities from voting by putting up unauthorized roadblocks, he wished to know what specific measures had been taken or were planned to prevent such interference in the forthcoming elections. He also wished to know what measures had been taken to protect the independence of the Election Commission and ensure that it was able to carry out its mandate in accordance with the law.

19. **Ms. Bassim** said that the Committee had been made aware of reports that violence, hate speech and other acts of persecution against Muslim, Hindus and Christians had continued and remained unaddressed, with no accountability for the perpetrators. She would therefore be grateful if the delegation could comment on the reported lack of effective legal protection for minority religious communities against incitement and hate crimes and on what was perceived as police bias in determining which complaints would be addressed.

20. She invited the delegation to comment on the compatibility with the Covenant of such practices as affording special status to Buddhism, restricting freedom of religion in the name of national security, setting unclear and restrictive requirements on the registration of religious organizations, restricting freedom of peaceful assembly in the interest of racial and religious harmony and interfering in the exercise of that right through intimidation, harassment and the disproportionate use of force.

21. **Mr. Yigezu** said that he would be grateful for an explanation of the rationale for placing restrictions on freedom of association in the interest of racial and religious harmony or the national economy, which ran contrary to the Covenant. In the light of reports that requirements for the registration of non-governmental organizations (NGOs) were unduly burdensome and that NGOs working on politically sensitive issues were often denied registration, he wished to know what steps the State party intended to take to lift restrictions on the exercise of freedom of association by civil society. He invited the delegation to comment on allegations that the police and intelligence services harassed and tracked members of civil society and to describe any complaints mechanisms available to victims of such acts, as well as any guidance or training provided to the police and intelligence services to prevent interference with freedom of association.

*The meeting was suspended at 10.40 a.m. and resumed at 10.55 a.m.*

22. **A representative of Sri Lanka**, speaking via video link, said that the Constitution established the independence of the judiciary, as well as penalties for judicial misconduct. Under the Constitution, judges of the Supreme Court and Court of Appeals could be removed

only by an order of the President endorsed by a majority of the Members of Parliament and based on a thorough investigation. To strengthen the justice sector, the Government had, with the assistance of bilateral and multilateral partners, established additional courthouses, initiated the digitization and automation of court systems, recruited additional judicial officers, enhanced training and promoted alternative dispute settlement procedures, among other actions. As part of the ongoing justice reform process, which was being supported by the European Union, subcommittees composed of sector specialists, private lawyers, academics and eminent legal professionals had been set up to consider amendments to criminal, civil and commercial laws. In response to the coronavirus disease pandemic, virtual hearings were being piloted at 23 courts and 12 prisons.

23. **A representative of Sri Lanka** said that a special unit had been established under the Presidential Secretariat to address the issue of internally displaced persons. There were more than 2,300 such persons in the Northern Province, including nearly 150 families still living at welfare centres for internally displaced persons. The State had allocated over 13 acres of land for resettlement purposes; the goal was to close the welfare centres as rapidly as possible. Ninety families were awaiting the end of demining operations before returning to their places of origin. The resettlement process was also being expedited in the Eastern Province. A committee had been appointed to look into the appropriation of forested and other lands, and the demarcation of land for conservation purposes would be reviewed with the aim of returning some of it to private owners. A proposal to provide financial compensation to owners of land used by the military had been put forward.

24. **A representative of Sri Lanka**, speaking via video link, said that an interfaith and intercultural dialogue was maintained at various levels, including within the framework of the various reconciliation committees, to ensure harmony, religious cohesion and understanding. Sri Lanka remained committed to a society where the rights and safety of all communities were secure. Everyone was treated equally, irrespective of religion, ethnicity or race. The Office for National Unity and Reconciliation was developing a national action plan for the prevention of violent extremism with the support of development partners and had been running youth programmes since 2017. In addition, it was introducing a new thematic area into the reconciliation process focusing on international obligations and human rights. Lastly, there were plans to establish an early warning and response system to prevent conflict and protect the rights of all communities.

25. **A representative of Sri Lanka**, speaking via video link, said that the Cabinet of Ministers had approved a proposal to draft a bill to replace the Voluntary Social Services (Registration and Supervision) Act. To ensure the transparency and inclusiveness of the drafting process, civil society had been requested to submit proposals for the bill and to nominate two representatives to the drafting committee. Since the incidents of 21 April 2019, the Government, in collaboration with the Office of the United Nations High Commissioner for Refugees, had worked to ensure the safety of asylum-seekers and refugees by, among other actions, moving some of them to more secure locations where they were provided with food, health care and other services. Some of those persons had recently returned to their original places of residence. The fact that there was no record or report of attacks or violence of any kind directed against asylum-seekers or refugees reflected the Government's commitment to ensuring the safety of those vulnerable persons. Steps were being taken to address logistical problems at the Mirihana Detention Centre, including those relating to the amount of available space and facilities.

26. **A representative of Sri Lanka** said that the President merely approved the appointment of members of the Judicial Service Commission; their vetting was carried out by the Constitutional Council. The Director-General of the Commission to Investigate Allegations of Bribery or Corruption issued indictments, which were subject to judicial review, only when there was a reasonable prospect of conviction. Efforts were under way to increase the Commission's staffing table. Presidential pardons were also subject to judicial review and, in one case, a pardon had been stayed by the Supreme Court. Several other cases of that sort were pending before the Supreme Court.

27. While freedom of expression and peaceful assembly were guaranteed by the Constitution, it also established permissible restrictions on those rights for reasons of security and public order. Any measures taken by the authorities in the context of peaceful protests

were guided by democratic principles aligned with civil and political rights. Ensuring the rule of law and preventing disruptions to the effective functioning of government services and transgressions of the rights and freedoms of others were the paramount considerations. Any arrests made during protests that had turned violent were carried out in the interest of national security and public order and were subject to judicial oversight. Judicial measures were taken when unlawful excesses on the part of law enforcement officials occurred.

28. Freedom of religion was protected in Sri Lanka under articles 10 and 14 (1) (e) of the Constitution.

29. **A representative of Sri Lanka**, responding to the Committee's questions regarding senior military officials, said that the Government rejected the unsubstantiated allegations mentioned by the Committee, including those levelled against General Shavendra Silva. No substantive evidence against senior military officials had been found by any of the national mechanisms established to investigate allegations relating to the conflict, including the Lessons Learnt and Reconciliation Commission and the Presidential Commission of Inquiry into Complaints of Abductions and Disappearances (known as the Paranagama Commission). The Government therefore considered that it was an unacceptable violation of the principles of natural justice to continue accusing senior military officials of human rights violations and crimes against humanity. In Sri Lanka, as in many countries, former military personnel had been appointed to public office on the strength of their expertise and academic and professional credentials.

30. For reasons of national security, the military had been deployed to protect the public in strategic locations in the north and east of the country. The military presence could not be scaled back until a thorough analysis of the threat level had first been conducted. The armed forces maintained a good relationship with civilians in the Northern Province. Any allegations of harassment were fully investigated by the armed forces and the police, and disciplinary and legal action was taken against the perpetrators. Since the end of the conflict, the armed forces had helped to build infrastructure for civilians, including housing for Tamils in the Northern Province, and had assisted civilians affected by natural disasters. The armed forces were no longer involved in civilian activities.

31. **Ms. Kran** said that the delegation had yet to provide full and direct answers to the Committee's questions regarding allegations of human rights violations at Joseph Camp. She wished to know what practical steps had been taken to ensure accountability for the violations that had allegedly occurred in the final stages of the conflict in 2006–2009. Despite evidence to the contrary, the Court of Inquiry had concluded that there had been no civilian casualties during that period. It would be particularly useful if Major General Kulatunga, a member of the State party delegation who had commanded Joseph Camp and had served as a member of the Court of Inquiry, could comment on those allegations.

32. **Mr. Santos Pais** said that some of the Committee's general comments were of particular relevance to the process of legal and institutional reform currently under way in the State party, including No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, No. 34 (2011) on the freedoms of opinion and expression, No. 35 (2014) on liberty and security of person, No. 36 (2018) on the right to life and No. 37 (2020) on the right of peaceful assembly. As part of the periodic reporting process, the Committee had received information from a wide range of sources, including the State party itself, and would seek to strike a balance among those sources when drafting its concluding observations. The fact that the courts had imposed penalties on so few perpetrators of human rights violations gave cause for concern, however. The lengthier legal proceedings were and the longer their commencement was delayed, the more remote the chances of securing justice for victims were. The Committee was not making any accusations of human rights violations; it was merely mentioning allegations in respect of which there existed sufficient information, which it considered credible, to justify an investigation.

33. Owing to the composition of the Constitutional Council, its role in appointing the members of various independent commissions amounted to clear executive and legislative interference in their work. A similar situation appeared to exist in the case of the Judicial Service Commission. Most judges and public prosecutors were appointed by the President

on the Commission's recommendation, but the Commission's members were themselves appointed by the President. It was important that the judiciary should be seen to be independent. Lastly, he would be grateful for further information on the oversight of the intelligence services. In particular, he wondered whether a dedicated oversight body had been established and, if it had, what its powers were and whether it was independent. Were the activities of the intelligence services subject to judicial review?

34. **Mr. Yigezu** said that it remained unclear how the restriction of freedom of association in the interests of racial and religious harmony or national economy was consistent with the Covenant. Examples of cases in which decisions relating to the placement of persons with psychosocial or intellectual disabilities had been referred for judicial review would be welcome. He had yet to receive information on the status of the constitutional reform process, including on any proposals made by the expert committee appointed by the President, and on the State party's plans to repeal the death penalty for offences that did not fall under the category of "the most serious crimes", in line with the Committee's jurisprudence.

35. **Mr. Soh** said that it was regrettable that the delegation had not replied to the Committee's questions more directly. In some cases, the delegation had simply repeated information that had already been provided in writing. Pending a review of the Muslim Marriage and Divorce Act of 1951, he wondered whether the State party would consider amending the Marriage Registration Ordinance to give Muslim women the choice of registering their marriage under the general law.

36. **A representative of Sri Lanka** said that, in accordance with article 111D of the Constitution, the Judicial Service Commission consisted of the Chief Justice and the two most senior judges of the Supreme Court appointed by the President; if none of the three had served as a judge of a court of first instance, the second-most senior judge of the Supreme Court was replaced with the next-most senior judge of that Court who had presided over such a court. The specificity of that provision left no more than a purely procedural role for the President in appointing the members.

37. The President had made a commitment to the Supreme Court that he would not sign any execution warrants. Defendants who had appealed a death sentence to the divisional bench of the Supreme Court had dropped their appeals on the strength of that commitment.

38. Under article 15 of the Constitution, the exercise of a number of fundamental rights was subject to such restrictions as might be prescribed by law. For certain fundamental rights, including the freedoms of speech and expression, peaceful assembly and association, the provisions applicable in that regard included regulations established under the Public Security Ordinance. The Supreme Court could strike down regulations that were deemed to impose disproportionate restrictions. When exercising fundamental rights, protestors were required to behave lawfully and to respect the rights and freedoms of others, and law enforcement action would be taken in response to any transgressions. In most cases, the imposition of such restrictions had been subject to judicial oversight.

39. **Ms. Arunatilaka** (Sri Lanka) said that, despite various socioeconomic challenges, Sri Lanka had participated in the periodic review process in a spirit of openness and constructive engagement. Since the submission of the report under consideration, several important developments had taken place. Progress had been made in advancing the reconciliation process, strengthening gender equality and women's empowerment, protecting the freedoms of assembly and expression, and combating corruption. For example, the passage of the twenty-first amendment to the Constitution had strengthened the independence and powers of the Commission to Investigate Allegations of Bribery and Corruption and would facilitate efforts to implement the United Nations Convention against Corruption. The country's democratic institutions had remained resilient throughout the period in question. The Government was committed to addressing the challenges that, like all countries, Sri Lanka continued to face in the area of civil and political rights. The delegation had taken note of the Committee's questions and recommendations and would endeavour to submit any outstanding replies within 48 hours.

*The meeting rose at 11.50 a.m.*