



# International Covenant on Civil and Political Rights

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## Human Rights Committee 137th session

### Summary record of the 3970th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 8 March 2023, at 3 p.m.

*Chair:* Ms. Abdo Rocholl

## Contents

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

*Sixth periodic report of Sri Lanka (continued)*

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*The meeting was called to order at 3 p.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.
3. **Ms. Kran** said that she would appreciate an update on the investigations into emblematic cases of human rights violations, including the assassination of former Members of Parliament Nadaraja Raviraj and Joseph Pararajasingam and the 2012 Welikada prison massacre, in the light of reports of obstruction by the commission of inquiry that had been set up to investigate allegations of political victimization. She wondered what measures were in place to support the investigations and keep them free from political interference from the executive branch. She would also welcome an update on the cases regarding the abduction of 11 Tamil youths by Navy officials in 2008. She wished to know why the Government had not established an independent prosecutor's office as an accountability mechanism, what accountability mechanisms were investigating historical allegations of torture at a military camp in Jaffna and whether those mechanisms had been effective.
4. She would be interested to hear what steps the State party had taken to ensure that victims of rights violations who had fled the country were able to testify safely against the perpetrators, how it planned to ensure that bodies formed under Protection of Victims of Crime and Witnesses Act No. 4 of 2015 were independent and what measures it was taking to prevent reprisals against those who gave testimony. Given the apparent lack of accountability for serious human rights violations at the national level, she wondered whether the State party planned to work with international bodies and with the Sri Lanka accountability project of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to deliver justice and provide reparations to victims of unlawful killings and enforced disappearances.
5. **Ms. Bassim** said that she wished to know what steps were being taken to establish a truth-seeking commission and undertake institutional reforms in order to deliver justice and provide reparations for victims of serious human rights violations. She wondered whether the reports of the various commissions of inquiry – including the report of the presidential commission of inquiry that was looking into complaints of abductions and disappearances, along with the annexes to that report, in which perpetrators of such violations were named – would be released in order to build public confidence in the commissions. Information would be welcome on the status of legislation concerning the criminalization under national law of war crimes, crimes against humanity and genocide. She would also be interested to learn what steps the State party was taking to establish a special judicial accountability mechanism to investigate alleged violations of human rights and international humanitarian law and to ensure that it would afford victims access to effective remedies and full reparations.
6. In view of the appointment or promotion of several military officers despite their alleged involvement in gross violations of international human rights and humanitarian law, she would like to know what progress had been made in reforming the security sector as part of the transitional justice process and whether robust vetting procedures had been put in place to remove officials who had been involved in serious human rights violations from office. She wished to invite the delegation to respond to alarming reports that military personnel had been appointed to civilian government posts in the north of the country and that continued military control of land there prevented civilians from returning home.
7. **Mr. Soh** said that he wondered whether former combatants were eligible for reparations under the Reparations Policies and Guidelines and why a former military general had been appointed as a member of the Office for Reparations, given that his designation undermined victims' trust in the Office. As the Office was also mandated to provide reparations in the event of any future human rights violations, he wished to hear about

measures that had been taken or were planned to ensure that the Office had adequate financing and staffing to discharge its mandate. He would also be interested to learn how the Government planned to enhance the Office's working methods and to organize the compilation of disaggregated data to better identify the specific needs of women, children and persons with disabilities.

8. He would welcome information about cases in which the Office for Reparations had granted compensation or other forms of reparation on the recommendation of the Office on Missing Persons. He wished to know how the Office on Missing Persons would proceed once it had completed its preliminary inquiries into the complaints that it had received and how many in-depth investigations it expected to carry out. It appeared that the Office had already lost the confidence of victims' families by appointing leaders who had been criticized for attempting to interfere in the prosecution of State actors accused of enforced disappearance offences; in the light of that situation, he would be interested to hear what specific measures were in place or would be taken to ensure transparency and fairness in the Office's handling of complaints.

9. He would appreciate updated information on the excavation of mass graves in Matale and Mannar and the efforts made to investigate other such graves. He wondered what measures had been implemented to further strengthen the forensic capacities of the Office on Missing Persons and what action had been taken to investigate cases in which people had allegedly been forcibly disappeared for short periods of time in order to extract bribes from them. What steps had been taken to prosecute those responsible?

10. **Mr. Yigezu** said that he wished to know whether the State party intended to maintain the de facto moratorium on the death penalty, and he would be very interested to learn whether there had been any progress regarding the status of a bill to abolish the death penalty altogether that had been proposed by a Member of Parliament in August 2019. Along those lines, it would also be useful to learn whether the State party was considering ratifying or acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, in view of the fact that Sri Lanka had accepted a recommendation to that effect during the universal periodic review in 2013. If that was not the case, then he would like to know whether it planned to restrict the use of capital punishment to the most serious offences, such as intentional killing, and whether it planned to withdraw the mandatory death penalty for certain crimes for which convicted persons were not eligible for amnesties, pardons or commutation of their sentences.

11. With regard to the compulsory placement in psychiatric institutions of persons with psychosocial or intellectual disabilities, he wished to know whether such persons were able to challenge the legality of their deprivation of liberty before the judicial authorities. In view of reports that conditions at rehabilitation and treatment centres were akin to prisons and that detainees received no prior medical assessment, he wished to know whether the State party intended to take steps to ensure that drug-dependent persons, women with psychosocial disabilities and other persons in vulnerable situations who had been placed in such centres were guaranteed legal assistance and given the opportunity to file appeals in the courts against their confinement. Details on what amendments to the Mental Health Act had been recommended by the Directorate of Mental Health would be appreciated.

12. **Mr. Santos Pais**, referring to reports of abduction, unlawful detention, torture and sexual violence committed by members of the security forces, said that it would be of interest to know whether there was a central register of cases involving members of the police or armed forces who were suspected of having committed such offences; how many investigations, prosecutions, trials and convictions of members of security forces there had been since 2015; how many victims had received reparations and of what kind; and which body conducted investigations into offences allegedly committed by police officers and members of the armed forces. He wondered which courts were competent to hear cases involving military personnel and what role the public prosecution service played in them.

13. He was keen to learn how many complaints of torture against police officers the National Police Commission had received and investigated in accordance with the Rules of Procedure for Public Complaints Investigation; what the outcome of such investigations had been and, where torture was found to have occurred, what penalties had been imposed on the

perpetrators; how many cases of torture and death in custody had been reported since 2019; and what the outcome of those cases had been in terms of the number of prosecutions, the punishments imposed on offenders and the reparation provided to victims. Given that the Attorney General could decline to represent State officials accused of torture, it would be helpful to know whether that was also the case for prosecutors in the lower courts. He wondered whether the delegation might comment on reports that the security forces, including the Criminal Investigation Department and the Terrorism Investigation Division, routinely tortured persons being held on suspicion of crimes against national security under the Prevention of Terrorism Act, often in order to extract confessions. Were confessions obtained under duress admissible in court?

14. He noted that there had been positive developments regarding the amendment of Prevention of Terrorism Act No. 48 of 1979, but the Committee was concerned about the vagueness of the definition of terrorism in that law and the fact that, under the Act, suspects could be held in pretrial detention without charge for up to one year. He invited the delegation to comment on the stance adopted by the Human Rights Commission of Sri Lanka, which had stated that the Act should be repealed or, failing that, construed narrowly and used only in very specific circumstances and that any restriction of rights should adhere to the principles of necessity and proportionality and be subject to judicial review. In addition, he would welcome a response from the delegation to reports that several leaders and other members of the anti-government protest movement and trade unions had been arrested, some in an irregular manner by plainclothes officers in unmarked vehicles, and that families of disappeared persons continued to face harassment, intimidation and violence. Was it true that, without the consent of the Attorney General's Department, courts had no power to grant bail for those detained under the Act?

15. He would like to hear the delegation's comments on reports that Tamils and Muslims were disproportionately subjected to arbitrary arrest and detention, that Muslim women were sometimes arrested simply for wearing a niqab, that persons arrested by the police were not systematically informed of their right to legal assistance and did not have access to counsel from the outset of the deprivation of their liberty, and that a judicial review of the legality of detention was often lacking. He would also appreciate a response to allegations that bail provisions were applied in an inconsistent and discriminatory manner, with bail being granted in some instances to individuals charged with serious crimes but not to persons facing minor drug possession charges; that little use was made of alternatives to pretrial detention, which was sometimes imposed for prolonged periods of up to as much as 10 years; and that time spent in pretrial detention was not properly taken into account when determining final sentences.

*The meeting was suspended at 3.40 p.m. and resumed at 3.55 p.m.*

16. **A representative of Sri Lanka**, speaking via video link, said that the Ministry of Land Reforms had proposed repealing gender-discriminatory provisions of Land Development Ordinance No. 19 of 1935. Pursuant to the draft amendments, which had been approved by the Cabinet of Ministers, adopted children could be included in entitlement schedules, and succession in cases where an heir was not nominated would be based on occupancy or possession. In accordance with Land Development (Amendment) Act No. 11 of 2022, children enjoyed equal succession, inheritance and joint ownership rights irrespective of their gender.

17. The Sri Lankan legal system was a unique blend of customary and personal laws enriched by the population's history, culture and beliefs. Sri Lankan Muslims had their own laws, which were consistent with their religion. A 10-member Muslim law reform advisory committee appointed by the Ministry of Justice in December 2020 to consider amendments to Muslim Marriage and Divorce Act No. 13 of 1951 had submitted a report to the Ministry and the Cabinet of Ministers and had subsequently been requested to make further observations. Given the sensitivity of the Act's subject matter, it was important for any revisions to be agreed upon in close consultation with the community concerned. The objective of any amendments would be to bring Muslim personal laws into conformity with relevant domestic and international standards.

18. Complaints could be lodged with the Commission to Investigate Allegations of Bribery or Corruption through hotline 1954 or an online complaint system available in all three of the country's official languages. The Government had identified sexual bribery as a matter of urgent concern. There were plans to include specific sections on sexual harassment and bribery in the Penal Code, and an anti-corruption bill that was awaiting Cabinet approval recognized sexual bribery as an offence that fell within the definition of corruption. Section 16 (b) of Bribery Act No. 2 of 1965 criminalized the solicitation or acceptance of bribes by police officers, peace officers and other public servants.

19. The questions of the expansion of the definition of torture under Convention against Torture Act No. 22 of 1994 and the criminalization of marital rape had been referred to a criminal law reform committee appointed by the Ministry of Justice, which had also submitted a Cabinet memorandum seeking approval to amend section 363A of the Penal Code on marital rape. A special committee appointed by the Minister of Justice was looking into the harmonization of domestic criminal law provisions in that area with international standards and best practices.

20. In response to recommendations from international organizations and other stakeholders, the Ministry of Justice had appointed an expert committee to review Protection of Victims of Crime and Witnesses Act No. 4 of 2015. The committee had drafted a bill to strengthen the rights of victims and witnesses, provide legal aid to victims, introduce a victim information register and afford special protection to vulnerable victims and witnesses. The bill had been submitted to the Cabinet of Ministers for its approval. In 2017, the Act had been amended to allow evidence to be given from a remote location. The National Authority for the Protection of Victims of Crime and Witnesses administered a protection fund pursuant to section 29 of the Act. The Authority's main duties included ensuring the protection of the rights and entitlements of victims and witnesses, raising awareness of those rights and entitlements among the general public and government officials, conducting inquiries into alleged violations, recommending remedial measures and making policy recommendations. In 2022, the Authority had provided information to 960 public officials on its services and on the Act.

21. The Methsevana State House of Detention in Gangodawila had been established in 1961 to rehabilitate women who had been charged with an offence but had been spared judicial sanctions. The centre had a capacity of approximately 200 persons and currently housed 144. Detainees were served meals approved by certified nutritionists and had access to certified psychological counsellors and legal representation. The rehabilitation programme included vocational training and recreational activities.

22. **A representative of Sri Lanka**, speaking via video link, said that the National Action Plan on Sexual and Gender-based Violence 2016–2020 had been reviewed in 2021, and a new plan was being formulated for 2023–2027. The Plan's implementation rates in the areas of policy advocacy and intervention in situations of sexual and gender-based violence had been calculated at 65 and 48 per cent, respectively.

23. Shelters had been opened in 10 districts of the country to provide women victims of sexual and domestic violence with safe temporary accommodation, mental health-care services, counselling and legal assistance. There was a shelter for victims of trafficking in Gampaha, and there were two shelters for women with disabilities in Anuradhapura and Balangoda.

24. Following public consultations, a committee appointed to review Prevention of Domestic Violence Act No. 34 of 2005 had drafted amendments to the Act that would be submitted to the Cabinet of Ministers later in the year. The proposed amendments concerned, among other matters, the communication of interim orders by courts to police officers, the referral of victims to shelters, counselling and health-care services, an expansion of the scope of interim or protection orders and their enforcement, the removal of children from the custody of respondents, the referral of respondents to substance abuse treatment and the definition of various offences, including the offences of economic abuse, harassment and stalking.

25. **A representative of Sri Lanka** said that the Government had withdrawn its co-sponsorship of Human Rights Council resolution 30/1 and its successor resolutions and had

categorically rejected them because of the serious constitutional, substantive and procedural issues that they raised. The decision to co-sponsor the resolution had not been endorsed by Parliament, as it contravened the Constitution and impinged on the sovereignty of the nation. Nevertheless, Sri Lanka continued to engage with the Human Rights Council in a spirit of cooperation and dialogue.

26. Thanks to national reconciliation processes, successive Governments had largely resolved several critical post-conflict issues, including the restoration of security and normal civilian and economic life in former conflict areas, the rehabilitation and reintegration of child soldiers and former combatants, and the resettlement of internally displaced persons. In addition, many of the rights and freedoms suppressed by the Liberation Tigers of Tamil Eelam, such as the right to vote, freedom of opinion and expression, and freedom of movement, had been restored. The Office on Missing Persons and the Office for Reparations worked in tandem with the Office for National Unity and Reconciliation to provide relief and avenues for reconciliation to aggrieved persons. An independent domestic truth-seeking mechanism had been identified as a meaningful way to promote and achieve peace. Accordingly, an advisory committee had been appointed to discuss and facilitate the drafting of a truth and reconciliation law and was making good progress.

27. **A representative of Sri Lanka** said that, in the light of a review conducted by a Cabinet subcommittee and a committee including representatives of the foreign affairs, justice and defence ministries, substantial amendments had been made to Prevention of Terrorism Act No. 48 of 1979; under the amended law, an advisory board had been established and a legal and administrative process had been initiated for the release of persons held in judicial custody for extended periods on charges under the Act. To gain the political support needed to achieve reconciliation and tangible progress on important national issues, the President had convened an all-party conference and had met with members of Tamil and Muslim parties.

28. An office had been created to handle the affairs of the estimated 3 million Sri Lankans living abroad. It had been in operation since January 2023 and was developing a digital platform for all members of the diaspora, which included persons of Sri Lankan origin and Sri Lankan citizens by birth who had subsequently obtained citizenship in another country. It was hoped that the office's activities would help to foster connectivity, promote tourism, attract investment and open up new markets for Sri Lankan products.

29. **A representative of Sri Lanka**, speaking via video link, said that the delay in formulating a policy and guidelines on reparations was due to restrictions imposed in response to the coronavirus disease pandemic, which had hampered the fulfilment of the required stakeholder consultations. Notwithstanding the delay, relief programmes had been launched under a mandate derived from Office for Reparations Act No. 34 of 2018. Monetary relief alone was by no means considered adequate compensation. The families of persons certified as missing received the same amount as those of persons declared dead. Former combatants were eligible for reparations and could benefit from loan schemes and education and self-employment programmes.

30. Funding for the Office for Reparations had been increased between 2020 and 2022. At least 87 per cent of its regular budget was allocated to the payment of monetary relief. However, such relief was only one of many forms of reparation granted by the Office, which also implemented psychosocial support and economic empowerment programmes using a victim-centred, needs-based approach. The Office used an information management system to collect the records it used as a basis for its decisions and took into account the views of victims and their families when designing its programmes. Office for Reparations Act No. 34 of 2018 provided for the Office's members to be appointed by the President, but only on the recommendation of the Parliamentary Council. The membership was diverse and brought a wide array of expertise to the task.

31. **A representative of Sri Lanka**, speaking via video link, said that, according to a provisional list published in 2021, the Office on Missing Persons had received 14,988 reports of missing persons in connection with the civil war. The deadline for submissions had since passed. The reports had been divided into three categories based on their priority level. The Office, with the support of donor agencies, had developed a road map for its activities that

focused on eight areas, including the protection of families, the performance of forensic examinations and the establishment of truth-seeking mechanisms. It had conducted 2,647 preliminary inquiries and was helping families to obtain redress. Although some victims had organized protests, 85 per cent of the invitees had participated in the inquiries, which would help families to find lasting solutions. The Office tracked complaints of threats against affected families or attempts to bribe them.

32. **Ms. Arunatilaka** (Sri Lanka) said that replies to any outstanding questions in the areas covered thus far would be submitted in writing.

33. **Mr. Yigezu** said that it would be useful to have some specific examples of judicial reviews of the cases of persons with psychosocial disabilities being held in detention centres. He would like to hear about any such cases that were being heard by the courts. He would also like to hear the delegation's response to his earlier questions relating to the death penalty.

34. **Ms. Kran** said that she was grateful for the information already provided by the State party about the legislative framework governing states of emergency, but she would also be interested to learn more about the actual application of state of emergency laws and measures for ensuring that those laws were applied in a manner consistent with the Covenant.

35. In connection with the Protection of Victims of Crime and Witnesses Act, more specific information about the measures in place or planned for guarding against political interference in its application and protecting witnesses from reprisals would be appreciated.

36. The amendments made to the Prevention of Terrorism Act had not changed the vague definition of terrorism, which was what allowed it to be misused to target minorities and dissenters. The existing provisions also still allowed suspects to be detained without charge or trial for up to 12 months, contravening article 19 of the Covenant. She would therefore like to know what further amendments the State party intended to make in order to rectify those issues.

37. The fact that confessions were admissible as evidence appeared to be a contributing factor to the routine torture of detainees held under the Prevention of Terrorism Act. There was also no mechanism in place to prevent torture, and no obligation for magistrates to move a detainee who reported torture or ill-treatment to a safe location. It would therefore be interesting to know to what extent the amendments to the counter-terrorism bill that were being drafted aligned with the recommendations of the Special Rapporteur on torture and the Working Group on Arbitrary Detention.

38. **Mr. Santos Pais** said that the underreporting of cases of gender-based violence was a concern, and he would therefore like to know more about how the corresponding legal framework functioned in actual practice. The Committee was aware of several complaints filed with State bodies and the National Human Rights Commission about such violence. He would welcome information about the outcome of those cases in terms of the punishment of the perpetrators and the reparation actually awarded to the victims. Regarding the problem of trafficking in persons, he wondered whether any efforts were being made by the State party to repatriate victims who were located abroad.

39. The State party had an official zero-tolerance policy on any act of torture committed by members of the police force, yet it seemed that relatively few cases reached the courts and resulted in convictions. Reports indicated that, in some cases, the Attorney General actually lodged appeals on behalf of perpetrators in an effort to reduce their sentences, which was quite surprising. The lack of information provided about the matters in question might seem to lead to the conclusion that members of the police force enjoyed a climate of impunity, which was no doubt not what the State party intended. Any details that could be provided would therefore be welcomed.

40. He would appreciate further information about cases of torture and deaths in custody, since the State party was responsible for the safety of persons held in custody and for conducting an investigation in the event that a detainee died or was injured in any way.

41. He would like to know whether any detainees were still being held in Vavuniya's Joseph Army Camp, Trincomalee Naval Base and Giritale Army Base and, if so, whether the Human Rights Commission or a magistrate had visited those camps during the previous year.

Lastly, he wondered whether police curfews were provided for by law, whether persons could be detained during such curfews and, if so, whether or not their detention was subject to judicial review within 48 hours.

42. **Mr. Soh** said that he would like to know when the bill amending the Muslim Marriage and Divorce Act of 1951 would be presented to Parliament and whether the Election Commission had taken any measures to combat the types of gender-based harassment and verbal attacks that had taken place in the run-up to previous parliamentary elections.

43. **Mr. Carazo** said that he was glad, particularly on the occasion of International Women's Day, to see that women were well represented in the State party's delegation. It was important to remain mindful of the fact that inequalities and difficult economic conditions created hardships for vulnerable groups, including women, in particular. Such conditions could increase the likelihood of human rights violations being committed within the context, for example, of what could be characterized as forced migration owing to economic circumstances, which exposed migrants, especially women migrants, to violations of their freedom of movement, to forced labour and to sexual exploitation.

44. **Mr. Yigezu** said that he was awaiting detailed responses to the numerous questions he had asked earlier regarding the death penalty in Sri Lanka.

45. **Ms. Bassim** said that she had a number of follow-up questions to ask but would have to wait to pose them until she had received responses to the points she had already raised.

46. **A representative of Sri Lanka** said that the Attorney General did not represent police officers charged with torture. Under the Establishments Code, which governed public offices, the Attorney General was prohibited from defending officials accused of torture, in line with the zero-tolerance policy on torture. The State did not defend such persons in the lower courts either and, in certain murder cases, persons found guilty of murder were subsequently also tried under the Convention against Torture Act, a fact that reflected the Government's firm commitment to combating torture.

47. Confessions made by individuals detained under the Prevention of Terrorism Act were admissible only subject to a High Court inquiry. With regard to one of the questions posed by Ms. Kran, he would like to note that section 9 (b) (3) (v) of the amendment to the Act empowered magistrates to order the transfer of a person to a different place of detention.

48. The Attorney General's Department had a special unit for processing torture cases, and that unit promptly dealt with all records and files relating to torture investigations that it received. The police force also had internal investigative and disciplinary procedures to deal with suspected cases of torture. The National Police Commission and the Human Rights Commission were further mechanisms that could be called upon to investigate allegations of torture perpetrated by members of the police force.

49. The material that would be provided to the Committee in writing would include copies of Criminal Procedure Code Amendment Act No. 14 of 2021 and Prevention of Terrorism (Amendment) Act No. 12 of 2022, which both provided for safeguards against torture, along with the amendment to the Convention against Torture Act that had increased the punishment for acts of torture. Sri Lanka had acceded to the Optional Protocol to the Convention against Torture in 2017, and the National Human Rights Commission had been designated as the national preventive mechanism.

50. A de facto moratorium on the death penalty had been maintained since 1976. In addition, the President had recently advised the Supreme Court that he would refuse to sign the execution warrant of any offender sentenced to death in the country. According to a recent amendment to the Penal Code, the death sentence could not be pronounced on any person who had been under the age of 18 years at the time the offence had been committed.

51. **Ms. Arunatilaka** (Sri Lanka) said that additional responses would be provided in writing.

52. **The Chair** said that the Committee looked forward to receiving further responses to its concerns from the delegation.

*The meeting rose at 5 p.m.*