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இலங்கைத் தூதரகம்  
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February 08, 2022

**Honorable James McGovern**

Democratic Co-Chair of the Tom Lantos Human Rights Commission  
370, Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman McGovern,

Further to my discussion with you on 11 January 2022 and your spontaneous offer to include a statement from the Government of Sri Lanka as part of the record of the Tom Lantos Human Rights Commission's hearing held on 08 December 2021, I am sending herewith the statement for your consideration and inclusion.

With best personal regards.

**Mahinda Samarasinghe**  
Ambassador

Copy: Congressman Christopher Smith, Republican Co-Chair of the Tom Lantos Human Rights Commission

## **Memorandum to the Tom Lantos Human Rights Commission**

The Embassy of Sri Lanka notes with interest the recent focus of the Tom Lantos Human Rights Commission (TLHRC) on Sri Lanka. Sri Lanka which has emerged from armed conflict against separatist terrorism in 2009, is making steady progress to move towards comprehensive reconciliation and socio-cultural harmony.

The attached statement includes the various steps Sri Lanka has been taking since the end of the conflict to move towards comprehensive reconciliation and socio-cultural harmony including an update on the various domestic mechanisms that has been put in to place and are functioning at present.

### **1. The ‘Presidential Commission of Inquiry for Appraisal of the Findings of Previous Commissions and Committees on Human Rights and the Way Forward’ (CoI).**

- The President in extraordinary gazettes issued in January 2021 appointed members to the Commission of Inquiry (CoI) to investigate, inquire and report or take necessary actions on findings of preceding commissions or committees appointed to investigate into human rights violations, serious violations of International Humanitarian Law (IHL) and other such offenses during the conflict in Sri Lanka.
- The Commission is empowered to examine the findings of previous Commissions to ascertain whether there have been violations of international human rights and international humanitarian law as founded by these Commissions. If there have been such findings, the Commission is further mandated to find out whether the recommendations of the previous Commissions on accountability have been implemented and what measures should be adopted in the future to further the objectives of accountability.
- The Commission which is Chaired by a sitting Judge of the Supreme Court, Judge A.H.M.D.Nawaz, (a member of a minority community) handed over its first Interim Report to H.E. the President on 21<sup>st</sup> July 2021 and the Commission is in the process of finalizing its Second Interim Report to be submitted to H.E. the President.
- Sri Lanka stands ready and willing to implement the recommendations of this domestic mechanism in the spirit of restorative justice in addition to merely retributive justice.

### **2. Constitutional Reform:**

- The President appointed a nine-member multi-ethnic panel of experts in November 2020 headed by senior President’s Counsel (Mr. Romesh De Silva) to prepare a preliminary draft proposal for a new constitution. Those proposals are formulated having taking into account public representations and then are to be discussed by way of parliamentary mechanisms and finally to be placed before the Parliament for its consideration. This process is to take place in early 2022. Within the overall structure of governance, the issues that will be of most interest are the electoral system, devolution of power and fundamental rights.

### **3. Office on Missing Persons (OMP):**

- The Office of Missing Persons (OMP) continues to operate with financial provisions allocated for its statutory functions. The Commissioners have been appointed based on their expertise and experience, who have taken measures to expedite the OMP's work. In order to meet the grievances of those affected and to meet the reconciliation efforts, the OMP takes a victim-centric approach in its public engagement and decision-making process.
- The OMP has published a newspaper notification requesting the general public to go through the details of the complaints on the OMP website. If the details of their complaints are not available on the website, the public is requested to provide information before 3<sup>rd</sup> February 2022. This is a part of an ongoing process of collating data relating to disappeared persons and enabling the OMP to develop a comprehensive official record of missing and disappeared persons in Sri Lanka, as per its mandate.
- In 2020, OMP published the details of 21,374 complaints received, which is called the 'provisional list'. Out of the above, there are 3,742 complaints have been received from the security forces. As compensation for armed forces personnel mission in action is handled by alternative means, these complaints have been removed from the 'provisional list'. Further, there are 2,644 complaints that do not fall within the purview of the Section 27 of the OMP Act and are duplicates. When such cases are reduced from the OMP list, the total number of cases received by the OMP to be processed stands at 14,988.
- The OMP has categorized its data of 14,988 cases into three major phases in order to give priority to the incidents that have occurred more recently. The first phase or the first priority consists of cases between 2000-2021. The second phase contains cases between 1981-1999. The third phase includes cases that occurred before 1980.
- Conducting inquiries commenced on 23<sup>rd</sup> November 2021. Four panels of inquiry have been nominated by the Board for the purpose of conducting/concluding investigations to enable the OMP to issue a report to the relatives of the missing persons in order to enable the Registrar General to issue Certificates of Absence or Certificate of Death in accordance with the OMP Act.
- The OMP has received the cases of disappearances referred to the GoSL by the UN Working Group on Enforced or Involuntary Disappearances (WGEID) in 2021. So far 3,125 files were verified, and out of these, 419 files were found as OMP files.

#### **4. Office for Reparations:**

- The Office for Reparations (OR) has processed 5,601 claims as of 22 December 2021. During 2021, the OR received a total sum of LKR 399.8 million for the payment of compensation, and claims amounting to LKR 370.8 Million have already been processed for payment as of 22 December 2021.
- The Policies and Guidelines for the grant of reparation under the Office for Reparations Act No. 34 of 2018 were approved by the Cabinet of Ministers on 17 August 2021. This completes the statutory process and provides the basis for the programme of work of the Office for Reparations, based on the core principles in the OR Act.
- As set out in the Reparations Policy, the OR has identified several initiatives under eight support areas which are – Provision of Livelihood Support, Compensation and Financial Support, Restitution of Land Rights, Provision of Housing, Development of Community Infrastructure, Administrative Relief, Psychosocial Support, and Measures to advance the unity, reconciliation, and non-recurrence of violence. Currently, the OR is engaged in developing required programmes for field-level implementation.

#### **5. Office for National Unity and Reconciliation (ONUR):**

- The Office for National Unity and Reconciliation (ONUR) continuous to execute its mandate under 8 thematic areas with a view to building national unity and reconciliation. It is engaged in a dialogue with civil society to identify possible areas of collaboration under the 8 areas as follows: Development of a reconciliation Road Map; Strengthening of the existing Reconciliation Mechanisms and establishing an Early Warning System; Jointly conducting awareness programmes and identifying training needs; Collating documentation of the symposium and develop activities for implementation; Facilitate a mechanism on consultation with Political Parties; Establishing Harmony Centers; Supporting the University Reconciliation Units; and Conducting donor coordination.
- The ONUR organized its first international research conference under the theme “Resolving difference through understanding sustainable peace, security, and reconciliation in the modern society” on 30-31 October 2021. The objective of the conference is to bring together leading academics, researchers and research scholars, professionals, and university students to exchange and share their experiences, ideas, information, and research results related to issues of Peace Building, Sustainable Peace, Rights, and Responsibilities of Citizens, Reconciliation, and Security in modern multi-cultural society.
- The ONUR is in the process of developing the long-term Strategic Roadmap for National Healing, Peace-building, and Reconciliation to provide a coherent strategy and coordination framework, to organize the multiple government and civil society initiatives on peace-building and reconciliation. It is designed to foster coherence of institutions, structures, systems,

mechanisms, and human resources mobilized to foster national healing and reconciliation and build sustainable peace.

- The Long -Term Roadmap defines reconciliation in Sri Lanka as a multidimensional process of overcoming social, political, and religious issues; mending and transforming relationships; healing the physical and psychological wounds from the conflict as well as confronting and addressing historical wrongs including the structural root causes of conflicts in the country. It outlines responsibilities for key government actors, working closely with the civil society, to deliver on a programmatic framework for its implementation around three themes: Accounting for the past; Managing the present; and Planning for the future.

#### **6. The Human Rights Commission of Sri Lanka (HRCSL):**

- The Human Rights Commission of Sri Lanka (HRCSL) is an independent Commission established in 1997 pursuant to the enactment of the Human Rights Commission Act No. 21 of 1996. It has been reconstituted in accordance with the procedure mandated by the Constitution, and financial provision has been allocated to implement its statutory mandate.
- The functions of the Commission are to promote and monitor the protection of fundamental rights guaranteed by the Constitution and ensure compliance by the Sri Lankan State of international human rights standards. The Commission has a broad mandate as well as powers, *inter alia*, to investigate any complaints of fundamental rights violations or imminent fundamental rights violations and grant suitable redress, including compensation, and of unfettered access to inspect and monitor any place where a person is detained.
- The Commission also has the authority to scrutinize national laws, administrative directives, and practices to ensure they are in accordance with international human rights norms through the issuance of recommendations to the government. Further, the Commission is empowered to raise public awareness and engage in educational activities on human rights.

#### **7. Revisiting the Prevention of Terrorism Act (PTA):**

- The Government has commenced the process of revisiting provisions of the PTA in order to identify the provisions of the PTA that are of concern, domestically and internationally, and make recommendations ensuring that Sri Lanka's national security concerns are balanced with Sri Lanka's human rights undertakings as well as with international best practices.
- Cabinet Approval was granted on 10<sup>th</sup> January 2022 to propose amendments to key provisions of the PTA, bringing it in line with international norms and standards. The Bill was published on January 27, 2022 containing the proposed revisions prior to final approval by the Parliament. This process is expected to be completed expeditiously.

- Clause 2 : This clause amends section 9 of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (hereinafter referred to as the “principal enactment”) in order to reduce the aggregate period of detention of a person under a detention order from eighteen months to twelve months.
- Clause 3: This clause inserts new sections 9A and 9B in the principal enactment to enable the Magistrate to visit the place of detention to ensure that the suspect is protected to the extent provided for in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994.
- Clause 4: This clause amends section 10 of the principal enactment and the legal effect of the section as amended is to enable a detainee to apply for a remedy guaranteed under Article 126 or 140 of the Constitution.
- Clause 5 : This clause inserts new section 10A in the principal enactment to enable an Attorney-at-Law to have access to a person in remand or in detention, and also to enable the person so remanded or detained to communicate with his relatives.
- Clause 6: This clause amends section 11 of the principal enactment and the legal effect of the section as amended is to enable the suspect to be produced before a judicial medical officer to ensure that such person has not been subjected to torture before serving an Order under section 11 of that enactment.
- Clause 7 : This clause repeals section 14 of the principal enactment. (Prohibition of Publication)
- Clause 8: This clause amends section 15 of the principal enactment in order to provide for holding trials on a day-to-day basis to ensure the expeditious disposal of cases.
- Clause 9 : This clause amends section 15A of the principal enactment and is consequential to the amendment made by clause 11.
- Clause 10 : This clause inserts new section 15B in the principal enactment to make provision for granting of bail to persons in remand or in detention.
- Clause 11 : This clause amends section 19 of the principal enactment and is consequential to the amendment made by Clause 7.
- Clause 12 : This clause amends section 26 of the principal enactment and the legal effect of the section as amended is to make provision to question an Order made or direction given under the principal enactment despite the protection afforded to officers for any act or thing done or purported to be done in good faith.
- Clause 13 : This clause amends section 31 of the principal enactment in order to remove the definitions of “newspaper” and “printing press” and to include a new definition for the term “torture”.
- The above amendments were recommended by a Cabinet Sub-Committee chaired by the Foreign Minister, and an Officials’ Committee comprising of representatives from the Ministries of Foreign Affairs, Justice, Public Security, Defence, the Attorney General’s Department and the Legal Draftsman’s Department.

- The Government carried out an inclusive consultative process by including stakeholders such as civil society and professional associations like the Bar Association of Sri Lanka. Under the Chairmanship of the Foreign Minister, the Cabinet Sub-Committee met representatives of civil society on 27<sup>th</sup> November 2021 regarding the proposed amendments.
- The Committee during its deliberations took into cognizance, the recommendations made by the Presidential Commission of Inquiry headed by Justice Nawaz, a sitting judge of the Supreme Court, regarding amendments to the PTA. The Commission also recommended the establishment of an 3-member Advisory Board chaired by a retired Chief Justice, under Section 13 of the PTA to advise the Minister of Defence on long-term detainees. The Board has commenced its work. Any person who has been issued a Detention Order or a Restriction Order under the PTA, or any person representing the detainee can make representations to the Board. The Board provides an opportunity for those detained or restricted under the PTA to request a review of the order.
- Presidential pardons were granted to 16 LTTE cadres serving sentences under the PTA in June 2021, and 13 more persons were discharged as of 13<sup>th</sup> January 2022. Mr. Hejaaz Hizbullah, an Attorney-at-law, who was detained by the Sri Lankan authorities relevant to the Easter Sunday attack, was also released by the Court of Appeal on bail on 7<sup>th</sup> February 2022.
- Accordingly, from June 2021 to February 2022, Seventy two ( 72) people, including former LTTE cadres/ members who were initially arrested under the Prevention of Terrorism Act, PTA, have been subsequently released from prison/detention based on Presidential Pardon/under the provisions of the PTA/by order of Magistrate/ High Court/ on the advice of Attorney General.
- Further action is being initiated to give bail/indict/conduct non-summary inquiry/send for rehabilitation another group of PTA detainees. Action is also being taken by the Attorney General's Department to consider remaining cases expeditiously.
- Furthermore, instructions have been issued to all Police Officers with regard to conducting of investigations in terms of the PTA, including treatment of suspects in detention.

## 8. Land release, resettlement of IDPs and rehabilitation of ex-LTTE cadre:

- A process is already in place, led by the Ministry of Defence, in order to expedite releasing of remaining private lands occupied by the security forces, in accordance with a proper land release process, without compromising the vital national security concerns of the country.
- As of present, a majority (more than 92%) of the private lands, occupied by the military at the end of the conflict in 2009, has been released to legitimate civilian owners by the military forces through local government authorities.
- The total number of private lands released by the Armed Forces from the year 2009 to 31 October 2021 is 26,017.96 acres, which is 92.42%. The total number of private lands proposed to be released is 53 acres which is 0.19%. Once the final decision has been taken with regard to the exact number of private lands which could not be released due to national security concerns and requirements, a necessary compensation mechanism will be initiated, in accordance with the procedures established by law.
- A process has been initiated to finalize the total remaining Internally Displaced Persons (IDPs) to be resettled and to consider an appropriate form of compensation for those whose lands have been acquired for State land.
- Rehabilitation of ex-combatants: Number of persons taken in for rehabilitation from 2006 – 2009 and post 2009: **12,378. This included 594 child soldiers** (persons under 18 years of age). The number of persons rehabilitated and released up to the end of 2021 was **12, 194.**

## 9. Sustainable Development Goals:

- According to the Sustainable Development Report 2021, Sri Lanka is showing steady progress in achieving the SDGs. Sri Lanka's global rank on SDG achievements has increased by 7 positions and is placed at 87th place out of 165 countries in 2021. In order to accelerate progress on SDG 16, an inter-agency Steering Committee was established under the leadership of the Ministry of Justice, under 4 core areas including strengthening public security and law enforcement, corruption control, access to justice, and public service delivery. The Steering Committee and its four sub-committees are expected to operationalize time-bound action plans to achieve SDG 16 targets through holistic and integrated strategies and actions.
- Sri Lanka's national policies, planning, and budgeting processes are well aligned with SDGs laying a solid foundation for Sri Lanka to achieve the SDGs by the target year of 2030 and at the same time to meet its core international human rights obligations under several international covenants such as ICESCR, CEDAW, CRC, among others.



- The Sustainable Development Council, as the nodal government agency mandated to coordinate and facilitate Sri Lanka's SDG achievements, ensures that SDGs are mainstreamed into the strategic / action plans of government ministries, departments, and statutory bodies and that efforts are taken to respond to the needs of the marginalized groups by addressing gaps in policies, plans, and programmes in order to ensure that 'no one is left behind'.

## **10. Engagement with the Civil Society:**

- For decades, civil society has been an important partner for Sri Lanka's progress in matters related to social and human development. The Government has maintained an active interaction with civil society. H.E. the President has held a consultation with a broad range of civil society (Sri Lankan Collective for Consensus) in August 2021 and received their concerns. The Foreign Minister is engaged in a continuous process in this regard. As per the Provisions of the Extra-ordinary Gazette notification No.2254/30 dated 17 November 2021, the functions, powers, and the administration of the NGO Secretariat have been placed under the scope of the Foreign Ministry.
- At a recent meeting, civil society expertise was solicited to contribute to the process of reconciliation and implementation of SDG 16 through engagement with the Office for National Reconciliation (ONUR) and the Steering Committee on SDG 16.
- In the aftermath of the Easter Sunday attack in 2019, investigations revealed the transfer of funds for terrorism-related activities/ terrorist organizations. Therefore, monitoring suspicious transactions that may have a nexus to terrorism financing is a mandatory obligation casts in terms of the Conventions/ laws applicable in Sri Lanka in keeping with the international commitments.
- The proposed revision of the existing Voluntarily Social Services (Registration and Supervision) Act No.13 of 1980 is a routine process since the existing laws require revision and updating from time to time due to the emerging new socio-economic conditions. Civil society will be consulted in this regard prior to revision.
- Civil society will be an important stakeholder in the monitoring and review processes on SDG implementation by the Sustainable Development Council particularly in conducting the Second Voluntary National Review of SDG implementation to be presented to the UN High-Level Political Forum in 2022.

## **11. International Human Rights and other Treaty obligations and engagement with the UN Special Procedures Mandate Holders:**

- Sri Lanka will continue to fulfill its ongoing reporting obligations under 9 core UN Human Rights Treaties. Sri Lanka will soon be submitting its response to the List of Issues in relation to the review of Sri Lanka's 6<sup>th</sup> Periodic Report under the ICCPR (which is tentatively scheduled to be held in March 2022) and Sri Lanka's 9<sup>th</sup> Periodic Report under the CEDAW.
- Sri Lanka continues to engage with the UN special procedures mandate holders. Accordingly, in 2020 the GoSL expressed agreement to receive visits to Sri Lanka by two Special Procedures Mandate Holders, namely the Special Rapporteur on the right to education and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences. Accordingly, the Special Rapporteur on contemporary forms of slavery visited Sri Lanka at the invitation of the GoSL from 26 November to 3 December 2021.

## **12. Easter Sunday Attacks:**

- Extensive investigations have been carried out by the government on the terror attack that took place on 21<sup>st</sup> April 2021 causing death for 220 people and injuring 506 people. The direct perpetrators were all suicide bombers and thus the investigation has faced difficulties in identifying the wider connections. Despite such challenges and in terms of the Sri Lankan law, investigations are carried out by law enforcement authorities, and the information gathered through such investigations is reviewed by the office of the Attorney-General prior to formal charge/indictment.
- On 04 October 2021, Colombo High Court Trial-at-Bar served charges on 48 suspects accused over the Easter Sunday terror attacks. Several senior high-ranking officers including the then Defence Secretary and the Inspector General of Police have been indicted for negligence in preventing the attacks despite the availability of intelligence reports. In addition to the same, cases have been also filed in the High Courts of Colombo, Kegalle, and Puttalam. Further indictments are under consideration in respect of investigations thus far conducted.
- The government has so far provided Rs. 220,000,000.00 million as compensation to the relatives of the deceased and Rs. 81,061,500.00 for the injured.

## **13. Freedom of religion and belief:**

- The Government remains committed to preserving a society where the rights of all communities are secured and their safety and security are ensured.

- Article 9 of the Constitution states, “The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e).”
- Article 10 states: “Every person is entitled to the freedom of thought, of conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.”
- Under Article 14 (1) of the Constitution, “Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching.”
- Article 12 (1) of the Constitution of Sri Lanka guarantees to all person equality before the law and equal protection of the law. Meanwhile, Article 12(2) guarantees the fundamental right to non-discrimination on the grounds of “race, religion, language, caste, sex, political opinion, place of birth or any such grounds.”
- Human dignity is valued and equal treatment to every person irrespective of their religion, ethnicity, or race is an accepted norm of public life. Steps are continuously being taken to ensure that all communities have the space to express their identity, including the right to enjoy their own culture, profess and practice their own religion and use, nurture and promote their own language.
- The Government does not condone any act of religious hatred or intolerance, and maintains a zero-tolerance policy on any such acts, and has taken measures to combat the same. The laws are strictly enforced against those committing violence against religious groups and those practicing hate speech. Action has been taken to investigate and take legal action against perpetrators of alleged attacks on religious minorities, with parallel measures aimed at preventing tensions through awareness programmes.

#### **14. Memorialization:**

- The GoSL recognizes the right of everyone affected by violence/ conflict especially bereaved family members to commemorate and remember the lives of persons who have lost their lives. However, this does not include glorifying terrorism/separatism nor celebrating the deeds and leadership of a proscribed terrorist organization.

- Accordingly, there are no restrictions on the memorialization of the dead. However, the government invoked the applicable judicial procedures to prevent the glorification of terrorism with the use of the proscribed terrorist organization. The courts have made appropriate directions taking into consideration, among other factors, the nature of the planned event, possible threats to the public security, health and quarantine laws amid the ongoing pandemic.
- The amended policies and guidelines for the grant of reparation under the Office for Reparation Act No.34 of 2018 adopted by the Cabinet of Ministers on 17<sup>th</sup> August 2021, include the criteria for remembrance of the dead and memorials.

#### **15. Provincial Councils:**

- The elections to the Provincial Councils and their functioning are the subjects of two ongoing processes. Firstly, the Parliamentary Select Committee on Electoral Reform which is discussing reforms to the electoral system in general, and secondly, the constitutional reform process which is aimed at a new constitution for Sri Lanka which includes power-sharing between the centre and the periphery.
- The GoSL is committed to conducting the Provincial Elections subsequent to the completion of these processes.

#### **16. Interaction with the Minority Political Leadership and Sri Lanka Diaspora groups:**

- H.E. the President will commence meeting minority political leaders and have periodic interactions with them. Among the issues to be addressed are concerns relating to human rights, religious freedom, and a lasting political solution that would be acceptable to all communities.
- The GoSL also extends an invitation to Sri Lanka Diaspora Groups in various countries to engage with them with a view to harness their support for achieving long-lasting peace and reconciliation and obtain assistance for the development process.

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