



15 February, 2018

To: Permanent Representatives of
Members and Observer States of the
UN Human Rights Council

Your Excellency,

Re: Key elements for HRC 37 statements on Sri Lanka

We write to seek your support in ensuring that the upcoming consideration of Sri Lanka's progress towards implementation of its commitments under UN Human Rights Council (HRC) resolution 30/1 accurately and substantively reflects the situation within the country, including both progress to date and the significant challenges remaining. At the end of this letter, we outline what we would consider the minimum key elements for credible engagement by delegations during the High Commissioner's update.

As you know, resolution 30/1, adopted by the Council in October 2015 through consensus, contains 25 key undertakings by the Sri Lankan government across a range of human rights issues. We acknowledge at the outset the positive steps taken by the government to date. However, the UN High Commissioner for human rights, Zeid Ra'ad al-Hussein, in his opening remarks to the Council on September 11, 2017, highlighted Sri Lanka's lack of progress, and called on the government to realize that its obligations are not a mere "box-ticking exercise to placate the Council but as an essential undertaking to address the rights of all its people."

Since then, although the Sri Lanka government renewed its pledges and committed to rights protections during its Universal Periodic Review, we remain concerned about the government's willingness to translate its commitment into action by fully implementing all aspects of resolution 30/1. A key element of the resolution consists of transitional justice promises: an office on missing and disappeared persons, a truth-seeking and reconciliation mechanism, a special court including international judges and prosecutors to try allegations of war crimes, and a reparations mechanism. The government has made only minimal progress towards fulfilling these commitments. While the government has committed to establishing an Office of Missing Persons, progress has stalled and the office has yet to be set up. There is little progress on the three other promised mechanisms. Nor has the government proceeded on its promise to repeal the abusive Prevention of Terrorism Act. The report of the UN Special Rapporteur on human rights and counter-terrorism, Ben Emmerson, will be presented during this session; after his visit in July he noted that, the "use of torture is deeply ingrained in the security sector."

Importantly, a report issued by the government appointed Consultation Task Force (CTF), which conducted extensive nationwide consultations on the transitional justice mechanisms, has not yet been given the attention it deserves. The CTF report contains specific detailed recommendations, drawn from all affected communities including the security services, and provides an important blueprint for the way forward.

While the government has made some important symbolic steps towards reconciliation between the minority and majority communities, including efforts to return some land occupied by the military,

a February 2017 report by the Special Rapporteur on minority issues, highlighted the ongoing marginalization and misrepresentation faced by minority communities, as well as a trust-deficit between these communities and the government, due in significant part to a culture of impunity.

The Human Rights Council has played a crucial role in identifying the many steps needed to reconcile with the past, ensure justice and accountability, and implement necessary reforms. HRC scrutiny has proved an important catalyst for the progress made to date.

It is imperative that the Council remain fully engaged with the process until the commitments Sri Lanka made to the HRC and its own people through its co-sponsorship of resolution 30/1 are met in full. It is of deep concern that Sri Lanka rejected numerous UPR recommendations to provide the Council with an implementation plan and timetable for fulfilment of its commitments to the HRC.

We anticipate that the High Commissioner will present a robust and substantive report at the upcoming HRC session on the progress towards implementation of the resolution, and the many challenges remaining. To maintain confidence in the process, states will need to engage meaningfully with the High Commissioner's report and the other reports and recommendations that will be before the Council. At a minimum, states in their interventions should:

- reaffirm resolution 30/1 and underline the importance of the commitments therein being met in full;
- welcome the High Commissioner's report (once available) and call on the government of Sri Lanka to implement its recommendations;
- welcome the government's commitments during its Universal Periodic Review, while expressing concern at its rejection of recommendations to provide the Council with an implementation plan and timetable for fulfilment of its commitments;
- positively acknowledge the government's cooperation with UN Special Procedures and treaty bodies, welcome their reports and encourage implementation of their recommendations;
- call for substantial progress in key areas (such as security sector reform, resolution of enforced disappearances, prosecution of war crimes suspects, and land returns);
- call on the government of Sri Lanka to develop and present to the Council a timetable for implementing the recommendations in the previous resolution and in the High Commissioner's report, taking into account the need for an integrated approach to reforms and transitional justice, rather than prioritising one part of the process over others;
- maintain OHCHR reporting, and pledge to support Sri Lanka through continued HRC engagement, across a suitable timeframe, with opportunities for interim reporting through oral updates and interactive dialogues, until its commitments to the Council are met in full.

Anything less would fall substantially short of the expectations of victims, and risk undermining faith in the process long before the promises of reconciliation, justice and reform have been translated into reality.

We urge your delegation to actively participate in the HRC debates to address the issues raised in this letter. Sri Lanka's long-term peace and stability hinges upon the international community's willingness to support the government in addressing the past so that it may look to the future.

Yours sincerely,



John Fisher
Geneva Director