

As a candidate for the Human Rights Council, Sri Lanka has pledged to¹:

1. Take appropriate implementational measures in respect of relevant recommendations made by the Human Rights Treaty Bodies after considering the Periodic Reports submitted by Sri Lanka in the past, through the Permanent Standing Committee on Human Rights Issues, Co-Chaired by the Ministers of Foreign Affairs and Human Rights.

We welcome this pledge by the Government of Sri Lanka and look forward to the speedy and effective implementation of the outstanding recommendations by the treaty bodies. This includes the following:

- Committee Against Torture (CAT/C/LKA/CO/2, November 2005)
- Human Rights Committee (CCPR/CO/79/LKA, December 2003)
- Committee on the Rights of the Child (CRC/C/15/Add.207, July 2003)
- Committee on the Elimination of Discrimination Against Women (A/57/38, paras.256-302, February 2002)
- Committee on the Elimination of Racial Discrimination (A/56/18, paras.321-342, August 2001)
- Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.24, June 1998)

We would like to highlight some key recommendations by the human rights Treaty Bodies, calling upon the Government to:

- Take effective measures to ensure that fundamental legal safeguards of persons detailed by the police are respected (CAT/C/LKA/CO/2, para 8)
- Adopt domestic legislation to implement the principle of non-refoulement contained in Article 3 of the Convention against Torture (CAT/C/LKA/CO/2, para 9)
- Implement fully the right to life and physical integrity of all persons, and give effect to the relevant recommendations by the UN Commission's Human Rights' Working Group on Enforced or Involuntary Disappearances and the Presidential Commissions for Investigation into Enforced Disappearances (CCPR/CO/79/LKA, para 10)
- The provisions of the Prevention of Terrorism Act designed to fight terrorism should not be incorporated into the draft Prevention or Organized Crime Bill to the extent that they are incompatible with the [International Covenant on Civil and Political Rights] (CCPR/CO/79/LKA, para 13)
- Criminalize marital rape in all circumstances. The State party is also urged to initiate awareness-raising campaigns about violence against women

We also call on the government to implement the decisions of Hum Rights Committee on individual communications submitted under the First Optional Protocol to ICCPR. These include:

- Anthony Michael Emmanuel Fernando, May 2005
- Victor Ivan Majuwana Kankanamge, August 2004
- Nallaratnam Singarasa, August 2004
- Wannakuwatte Perera, September 2003
- Jayalath Jayawardena, July 2002

We also urge the Government to publicise follow-up actions taken on these decisions by the Human Rights Committee.

2. Build capacity of the Ministry of Human Rights, Human Rights Commission of Sri Lanka and other independent statutory bodies established as part of the national human rights protection system

With regards to the Human Rights Commission (HRC) of Sri Lanka, we urge the Government to:

- Take immediate action to resolve the ongoing crisis in the formation of the Constitutional Council, so that the **Council can appoint the Chairpersons to the Commissions**, such as the National Police Commission, Public Service Commission, Judicial Service Commission, the Election Commission and the Human Rights Commission. The work of the HRC is hampered by the fact that the **Commission has formally ceased to exist**, with the expiry of the terms of the Commissioners in March 2006 with no new appointments.
- Prohibit the **unconstitutional appointment of Commissioners** in other independent statutory bodies, which weakens their effectiveness and independence. The National Police Commission is a prime example of this.
- Ensure that once the Chairperson is appointed to the HRC, he/she is employed on a full-time basis.

¹ Reference No. POL/G/279, paragraph 9, submitted on 10 April 2006

- Ensure that the HRC employs a full-time Deputy Chairperson to cope with the workload that the HRC is mandated to do.
- Ensure that the perpetrators responsible for the attacks and acts of intimidation against the HRC are brought to justice.

We would like to recall the recommendations made by the Committee Against Torture to the Government of Sri Lanka in December 2005 (CAT/C/LKA/CO/2):

- The State Party should strengthen the Human Rights Commission of Sri Lanka so as to allow it to function effectively and ensure that its recommendations are fully implemented.
- The Commission should be provided with adequate resources, notification of arrests, and full cooperation in implementing its 24-hour torture hotline and improving the system of inspection visits
- The Government should ensure that new commissioners are appointed promptly when the three-year term of office of the present high commissioners end in March 2006.
- The Government should allow independent human rights monitors, including the Human Rights Commission of Sri Lanka, full access to places of detention, including police barracks, without prior notice, and set up a national system to review and react to findings of the systematic review.

3. Introduce a Human Rights Charter in line with the policy statement made by the President of Sri Lanka soon after assuming office

We look forward to the formulation of the Human Rights Charter and the involvement of non-governmental organisations (NGOs) in this process. We would greatly welcome further dialogue on the drafting of the Human Rights Charter.

4. Invite the Special Rapporteur on the freedom of expression and opinion and also the Special Rapporteur on the question of torture to undertake missions in Sri Lanka

While we welcome the invitation to these two Special Rapporteurs, we note that there is still a **pending request by the Special Rapporteur on independence of judges and lawyers**. We urge the Government to accept and facilitate his country visit as soon as possible.

In addition, rather than issuing ad hoc invitations to the Special Procedures, we strongly recommend the Government to **issue a standing invitation** to ALL of the Special Procedure mandates.

The Government must also respond quickly and in full to their communications, and act upon their recommendations in good faith.

We also urge the Government to submit a public report on how it has implemented the past recommendations by the Special Procedures after the conclusion of their visits. These include:

In the future, we request the Government to commit itself to formally respond to the reports by the Special Rapporteurs following their country visits, including a section on how the recommendations have been implemented **within one year** after the conclusion of the visits. Such responses should be made publicly available.

5. Cooperate with Human Rights Treaty Monitoring Bodies by submitting future periodic reports on time

We welcome this commitment made by the Government of Sri Lanka. We urge the Government to **submit as soon as possible the following 8 reports that are overdue**.

Treaty	Type of report	Number of years overdue
ICESCR	3 rd periodic report	6 years (due June 2000)
ICERD	10 th + 11 th periodic reports	3 years (due March 2003)
	11 th + 12 th periodic reports	1 year (due March 2005)
CAT	3 rd periodic report	3 years (due February 2003)
CEDAW	5 th periodic report	6 years (due November 1998)
	6 th periodic report	4 years (due November 2002)
Optional Protocol to CRC on the involvement of children in Armed Conflict	Initial	2 years (due February 2004)
CMW	Initial	2 years (due June 2004)

6. Become a Party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

We appreciate the pledge by the Government of Sri Lanka to ratify this additional treaty.

However, we note that the Government has yet to ratify the following core international human rights treaties, and urge the Government to ratify them:

- Second Optional Protocol to the ICCPR (abolishing the death penalty)
- Declaration under Article 14 of CERD (**individual communications**)
- Optional Protocol to CAT (**regular visits to places of detention**)
- Declaration under Article 22 of CAT (**individual communications**)
- Article 77 of the Migrant Workers Convention (**individual communications**)
- 1951 Convention on the Status of Refugees and its 1967 Protocol
- Rome Statute of the International Criminal Court

We also urge the Government to ratify the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (1997 Mine Ban Treaty).

We are concerned that Sri Lanka remains one of the few countries in the world that has not ratified the treaty to date.

To demonstrate the country's commitment to address high incidents of torture in Sri Lanka (as affirmed by the Committee Against Torture's concluding observations of November 2005 and the report of the Special Rapporteur on torture), we also strongly urge the Government to **make a declaration under Article 22 of CAT and to ratify the Optional Protocol to CAT.**

7. Make a financial contribution towards the Voluntary Fund for Technical Cooperation in the Field of Human Rights

8. Work with the Office of the High Commissioner for Human Rights to formulate proposals for treaty body reform with a view to strengthening and making the UN treaty body system more effective

We look forward to further dialogue with the Government of Sri Lanka on its proposals for treaty body reform, and how it envisions strengthening the treaty body system to make it more effective.

We note with concern that Sri Lanka did NOT make any commitments to:

- 1. Work closely with civil society and non-governmental organisations (NGOs) at the national, regional and international levels.**

We are very disappointed to note that there is no reference in the pledge to acknowledge the positive role of NGOs or to enhance future cooperation with NGOs.

We would like to recall the acknowledgement by all States Parties who voted in favour of the General Assembly Resolution A/60/251 that **“NGOs play an important role at the national, regional and international levels, in the promotion and protection of human rights”**.

- 2. Implement the Guiding Principles on Internal Displacement through the adoption of national legislation.**

- 3. Establish a fully functional regional human rights mechanism, as Asia is the only region in the world without such a mechanism.**

As a member of the South Asian Association for Regional Cooperation (SAARC), Sri Lanka should take this opportunity to demonstrate its support to the promotion and protection of human rights not only through the mechanisms of the United Nations, but also at this immediate sub-regional level as well.

More specifically, Sri Lanka should commit through its national plan of action to operationalise and implement the SAARC members' affirmation in the SAARC Social Charter to “promote universal respect for and observance and protection of human rights and fundamental freedoms for all...and strengthen civil society” (para xii).

- 4. Proactively support the adoption of UN Draft International Convention for the Protection of All Persons from Enforced Disappearance and the Draft Declaration on the Rights of Indigenous Peoples.**

- 5. Address human rights violations related to the ethnic conflict with the Liberation Tigers of Tamil Eelam (LTTE) and adopt a human rights approach to the peace process.**

As a State Party to international human rights instruments such as the ICCPR, the Sri Lankan Government has the responsibility to hold the perpetrators of human rights violations accountable, whether or not they are State agencies or non-state actors.

In particular, the Government should clarify what has been done so far to hold the state security forces accountable. These security forces have been complicit in the recent ethnic rioting in the East of Sri Lanka, which has taken the lives of many innocent civilians.

We also urge the Government to play a proactive role to ensure a wide-ranging human rights agreement to complement the existing Ceasefire Agreement between the Government of Sri Lanka and the LTTE. This should include an international human rights monitoring mechanism.

We would be grateful if the Government could clarify:

1. How does it plan to play its “traditional role as a consensus-builder and participate actively and constructively in all deliberations of the Council for the promotion and protection of human rights in all parts of the world” (pledge 10)?
2. What are the Government's proposals for the universal periodic review?
3. How does it plan to “assist the Office of the High Commissioner for Human Rights to formulate proposals for treaty body reform” (pledge 10)?

4. How will it play an “advocacy role to broad base the adherence to all seven major human rights instruments”? When will Sri Lanka itself ratify the remaining human rights instruments?

We look forward positively to the establishment of the Human Rights Council and more positively to Asian representation in the Council. But these representations must be credible and responsible in order to be respected by the international community.

We particularly remind all Asian candidates that the first test of whether the Council is a better alternative to the Commission on Human Rights will depend on the members of the Council. We urge you to demonstrate that Sri Lanka is suited to sit on the Council by implementing the pledges that have been made and to take action on our recommendations.