

*High Level Political Forum on Sustainable Development (HLPF),  
July 2018 at the United Nations, New York*

# **MISSING ACCOUNTABILITY**

*for ATROCITY CRIMES  
in SRI LANKA VNR to HLPF 2018*



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The Government of Sri Lanka (GoSL) has submitted the Report of Sri Lanka Voluntary National Review (VNR) on 18 June 2018. The report will be presented at the HLPF on 17 July 2018. **The Report has blocked out the entire UNHRC process and information related to UNHRC resolution 30/1.**

The GoSL is going to present the report during the High Level Political Forum on Sustainable Development (HLPF), at UN Headquarters in New York on 17th July 2018. The VNR is a critical component of the review and implementation of the 2030 Agenda and SDGs.

Through the resolutions 30/1 and 34/1 - the Government of Sri Lanka accepted 25 key commitments comprising of four Transitional Justice mechanisms - an accountability mechanism, truth-seeking, reparation programmes and institutional reforms. We strongly believe that these transitional justice commitments are inalienable part of Sri Lanka's Sustainable Development Agenda 2030.

**Without transitional justice, sustainable development agenda could not be achieved in Sri Lanka.**

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# 1

## **MISSING ACCOUNTABILITY for ATROCITY CRIMES in SRI LANKA VNR to HLPF 2018**



**The Report of Sri Lanka Voluntary National Review 2018, submitted on 18 June, has blocked out the entire UNHRC process and information related to UNHRC resolution 30/1.**

The Government of Sri Lanka (GoSL) is going to present its VNR during the High Level Political Forum on Sustainable Development (HLPF), at UN Headquarters in New York on 17<sup>th</sup> July 2018. The VNR is a critical component of the review and implementation of the 2030 Agenda and SDGs.

**Sri Lanka's VNR to HLPF 2018 has totally ignored its earlier commitment to the international community regarding the implementation of transitional justice mechanisms.**

### **Background**

Sri Lanka has a long and complex history of ethnic tensions between the Sinhalese and Tamils that resulted in a prolonged armed conflict between the Liberation Tigers of Tamil Eelam (LTTE) and government forces. Although the fighting has ceased in 2009, more than 70,000 people have died and hundreds of thousands are left internally displaced.

The Sri Lankan military committed countless arbitrary detentions, extrajudicial killings, and enforced disappearances. Abuses in the last stages of the fighting were shockingly egregious. The army indiscriminately shelled civilians. Trophy videos emerged of summary executions of prisoners, and of soldiers jeering over the bodies of women combatants whom they had stripped, possibly raped, and murdered.

In September 2015 following a landmark international investigation, the United Nations released Report of the OHCHR Investigation on Sri Lanka (OISL Report), on serious human rights violations committed in Sri Lanka between 2002 and 2011. OISL Report was clear in its view that if established in a court of law, many of those violations would amount to war crimes and crimes against humanity and further made number of recommendations on how Sri Lanka might begin to address these and other abuses and thereby lays foundations towards sustainable peace.

Acting through the UN Human Rights Council, the Government of Sri Lanka (GoSL) made a series of promises to war survivors and international community and these promises were included in the Human Rights Council resolution 30/1, agreed in October 2015.

### **Missing Accountability**

However, the Sri Lanka's VNR to HLPF 2018 has blocked out the entire UNHRC process and information related to UNHRC resolution 30/1, through which GoSL had accepted 25 key commitments comprising of four Transitional Justice mechanisms - an accountability mechanism, truth-seeking, reparation programmes and institutional reforms.

Since the VNR process demands Institutional mechanisms, Structural issues, Goals and targets, Means of implementation - the Sri Lanka's VNR ought to have included the existing human rights reports and mechanisms, specifically an update on implementation of transitional justice mechanisms as mandated by the UNHRC resolution 30/1, with clear implementation timeline.

### **No Sustainable Development without Transitional Justice**

These transitional justice commitments must be immutable part of Sri Lanka's Sustainable Development Agenda 2030. Without transitional justice, sustainable development agenda could not be achieved in Sri Lanka.

We urge the concerned stakeholders to pressurize the GoSL to include its transitional justice commitments - an accountability mechanism, truth-seeking, reparation programmes and institutional reforms – in its VNR with clear implementation timeline.

We urge to issue strongest possible statements of concern:

- Requesting the GoSL to produce a clear timetable for implementation of its outstanding commitments, including establishment of the four pledged mechanisms (as mandated by UNHRC resolution 30/1).
- Requesting the GoSL to initiate urgent steps to deliver accountability which include establishment of a hybrid judicial mechanism, incremental measures such as the strengthening of witness protection mechanisms, retroactive incorporation of international crimes and modes of liability into domestic law, and establishment of a Special Prosecutor's office, as are mandated by UNHRC resolution 30/1.

## 2

# **PASUMAI THAAYAGAM Foundation intervention at HLPF 2018**

### **Major Groups and other Stakeholders (MGoS) collaborative statements**

PASUMAI THAAYAGAM Foundation submission to the HLPF 2018 on Sri Lanka's Voluntary National Review:

1. Why has the GoSL not included the commitments undertaken before the United Nations Human Rights Council, the Universal Periodic Review and existing human rights reports and mechanisms, in the Sri Lanka VNR report 2018? Whether the GoSL is considering to address this concern?
2. Why has the GoSL not produced a clear timeline for implementation of its outstanding commitments, including establishment of the four pledged transitional justice mechanisms as mandated by UNHRC resolution 30/1, in the Sri Lanka VNR report 2018? Whether the GoSL is considering fixing a timeline for implementation of the transitional justice mechanisms?
3. When is the GoSL going to initiate steps to deliver accountability as mandated by UNHRC resolution 30/1, which includes establishment of a hybrid judicial mechanism, incremental measures such as strengthening of witness protection mechanisms, retroactive incorporation of international crimes and modes of liability into domestic law, and establishment of a Special Prosecutor's office?

**Representatives of PASUMAI THAAYAGAM Foundation will be participating UN HLPF from 09 to 18 July 2018.**



### 3

## HLPF 2018

High Level Political Forum on Sustainable Development (HLPF) in 2018



The meeting of the High Level Political Forum on Sustainable Development (HLPF) in 2018 convened under the auspices of the United Nations Economic and Social Council will be held from 9 to 18 July 2018.

Sri Lanka is part of the 2018 Voluntary National Review (VNR) of the HLPF.

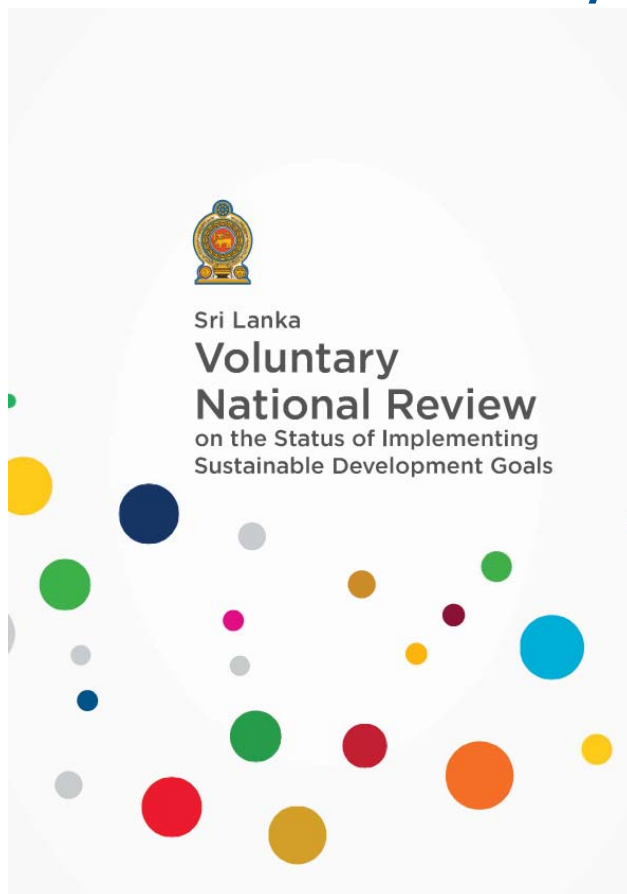
The Voluntary national reviews (VNRs) are part of the follow-up and review of the 2030 Agenda for Sustainable Development. The VNRs aim to facilitate the sharing of experiences, including successes, challenges and lessons learned, with a view to accelerating the implementation of the 2030 Agenda. The VNRs also seek to strengthen policies and institutions of governments and to mobilize multi-stakeholder support and partnerships for the implementation of the Sustainable Development Goals.

The VNR countries have to submit comprehensive written reports that are made available in the VNR database.

***Report of Sri Lanka Voluntary National Review:***

[https://sustainabledevelopment.un.org/content/documents/19418Sri\\_Lanka\\_Final\\_VNR\\_REPORT\\_Final\\_Report\\_Jun182018.pdf](https://sustainabledevelopment.un.org/content/documents/19418Sri_Lanka_Final_VNR_REPORT_Final_Report_Jun182018.pdf)

## **The Report of Sri Lanka Voluntary National Review 2018 has blocked out the entire UNHRC process and information related to UNHRC resolution 30/1**



**(Relevant parts from Report of Sri Lanka Voluntary National Review)**

### **SDG 16: Peace & Justice**

#### **Current Status and Trends**

The restoration of peace and the right to life since the ending of the conflict with the defeat of the Liberation Tigers of Tamil Eelam (LTTE) in 2009, is a notable success by the country. Sri Lanka also provides a classic example of the SDGs to sustain peace, justice and strong institutions. Since 2009, the State reforms and the peace-building policy of Sri Lanka has centred on 4Rs; Reconciliation, Reconstruction, Rehabilitation and Recovery. The 4R policy is to address the



causes of the protracted conflict, promoting a peaceful and inclusive society, setting up accountable institutions and ensuring a free and just society. Since 2009 the Government of Sri Lanka (GoSL) has executed the policy of ‘Peace through Development’. (Page Number: 76)

Whilst the Government promoted peace through development, the Lessons Learnt and Reconciliation Commission (LLRC) was appointed to build sustainable peace and security to gain fruits of democracy and citizenship for all Sri Lankans to enjoy equality. (Page Number: 77)

### **Gaps and Challenges**

Despite efforts of the Government to sustain durable peace, a few challenges remain. There have been occurrences of aggressive situations in the Northern and the Eastern Provinces due to factors including the high presence of the military, poverty, illiteracy, and corruption (Target 16.1). During the armed conflict the security forces have occupied lands belonging to the people in the North. As of March 2018, over 70% of private land which had been with the security forces during the conflict period has been released to be given to their original and rightful owners. A Committee chaired by the Secretary to the President was set up in January 2018, which will continue to meet frequently with all relevant local stakeholders to oversee and monitor the process of land release, the payment of compensation, and address connected issues (Page Number: 77)

### **Way Forward**

The concept of peace through development has been further advanced with the election of a new Government in 2015 to include democratisation with the development dimension. The process of democratisation focuses on the institutionalisation of justice and accountability for a society free from violence and fear (Target 16.1 and 16.2). In order to realise this objective, the current government has implemented several policies. The singing of the national Anthem in both Sinhala and Tamil languages was initiated. Sri Lanka has made some encouraging progress in textbooks which used to highlight heroic stereotypes of one ethnic group over another. The national policy for social integration was drafted to promote cultural pluralism and to mainstream a human rights approach in identifying right holders, duty bearers and accountable institutions to ensure social rights of citizens. The National Policy on Reconciliation and Coexistence in Sri Lanka was launched by the Office for National Unity and Reconciliation to emphasize the need of reconciliation.

The Government of Sri Lanka has passed two significant Acts in order to strengthen democracy in the country; the Right to Information (RTI) Act, No. 12 of 2016 and the Office on Missing Persons (OMP) Act, No. 9 of 2017....The Office on Missing Persons Act creates a mechanism to reach transitional justice and provides reparations to the victims of the nearly three decade long armed conflict in the county. The 2018 government budget has allocated LKR 1.3 billion to make the OMP operational. (Page Number: 78)

[https://sustainabledevelopment.un.org/content/documents/19418Sri\\_Lanka\\_Final\\_VNR\\_REPOR\\_T\\_Final\\_Report\\_Jun182018.pdf](https://sustainabledevelopment.un.org/content/documents/19418Sri_Lanka_Final_VNR_REPOR_T_Final_Report_Jun182018.pdf)

## 5

# Transitional Justice and Sustainable Development in Sri Lanka

UN Secretary-General's remarks at event in Sri Lanka on SDG16



The 2030 Agenda for Sustainable Development is explicitly grounded in human rights. Consequently, the SDGs reflect key international human rights and affirm that they “seek to realize the human rights of all”. Human Rights, particularly the Transitional Justice is a precondition for sustainable development in post-conflict countries. So that the Transitional Justice measures - 'right to justice, truth, reparations and guarantees of non-recurrence' - are included in Sri Lanka's sustainable development agenda.

The United Nations Secretary-General Ban Ki-moon clearly mentioned this in his speech on Sri Lanka in September 2016. He pointed out: "To recover from the cataclysms of the past, Sri Lankans will need all four elements of post-conflict resolution: truth-telling, accountability, reparations and institutional reform. There is no fast route to achieving this. It will take many years of political courage and determination... the 2030 Agenda marks a watershed in the way we have formally linked peace and security to sustainable development. It points the way towards reducing violence, promoting harmony and prosperity, and making the world safer for all. The entire 2030 Agenda is centred on respect for human rights. It aims to ensure that no one is left behind by reaching out to the most vulnerable and marginalized first."

*Secretary-General's remarks at event in Sri Lanka on SDG16: Sustaining Peace – Achieving the Sustainable Development Goals*

<https://www.un.org/sg/en/content/sg/statement/2016-09-02/secretary-general%E2%80%99s-remarks-event-sri-lanka-sdg16-sustaining-peace-%E2%80%93>

## 6

### **President of Sri Lanka at the 70th Session of the United Nations General Assembly**

**President H.E. Maithripala Sirisena addresses the 70th Session of the United Nations General Assembly New York, 30th September 2015**



“Our new vision for the country involves achieving the twin objectives of sustainable development and reconciliation. A fundamental requirement in this context is dealing with the past honestly and building a modern Sri Lankan Nation.

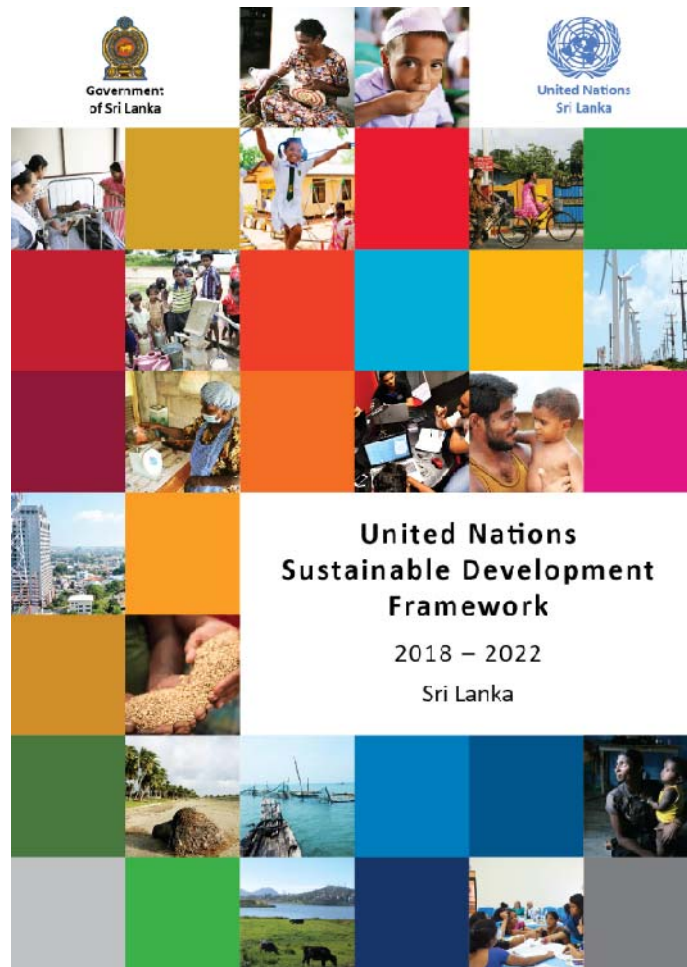
In dealing with the past, we will follow a process of truth seeking, justice, reparation and non-recurrence.”

- Maithripala Sirisena, President of Sri Lanka, at the 70th Session of the United Nations General Assembly, New York, 30th September 2015

[https://www.un.int/srilanka/statements\\_speeches/president-he-maithripala-sirisena-addresses-70th-session-united-nations-general](https://www.un.int/srilanka/statements_speeches/president-he-maithripala-sirisena-addresses-70th-session-united-nations-general)

# 7

## United Nations Sustainable Development Framework 2018 – 2022 (UNSDF) Sri Lanka



UNSDF Sri Lanka - an agreement between the United Nations and the Government of Sri Lanka, which pegs UN assistance to Sri Lanka's long term development priorities - also commits on Transitional Justice. It says:

Driver 2: Strengthened innovative public institutions and engagement towards a lasting peace.

Driver 2 seeks to support attainment of results against the UNSDF 2018-2022 through a focus on public institutions and continued engagement that supports working towards a lasting peace.



Under the 2015 UN HRC resolution co-sponsored by Sri Lanka, the Government has committed to addressing the legacy of the country's armed conflict, and together with the UN through its comprehensive Peace building Priority Plan, to operationalise aspects of transitional justice, governance reforms, reconciliation and durable solutions.

This agreement clearly warns: "The achievements of the Sri Lanka UNSDF strategic prioritisation results will, to a large degree, depend on the ability to advance the reform agenda, secure a political settlement, and avoid the outbreak of violence in Sri Lanka. In this context... "reconciliation holds a central role for Sri Lanka over the coming years."

## **Government and UN sign Sustainable Development Framework for 2018 – 2022**



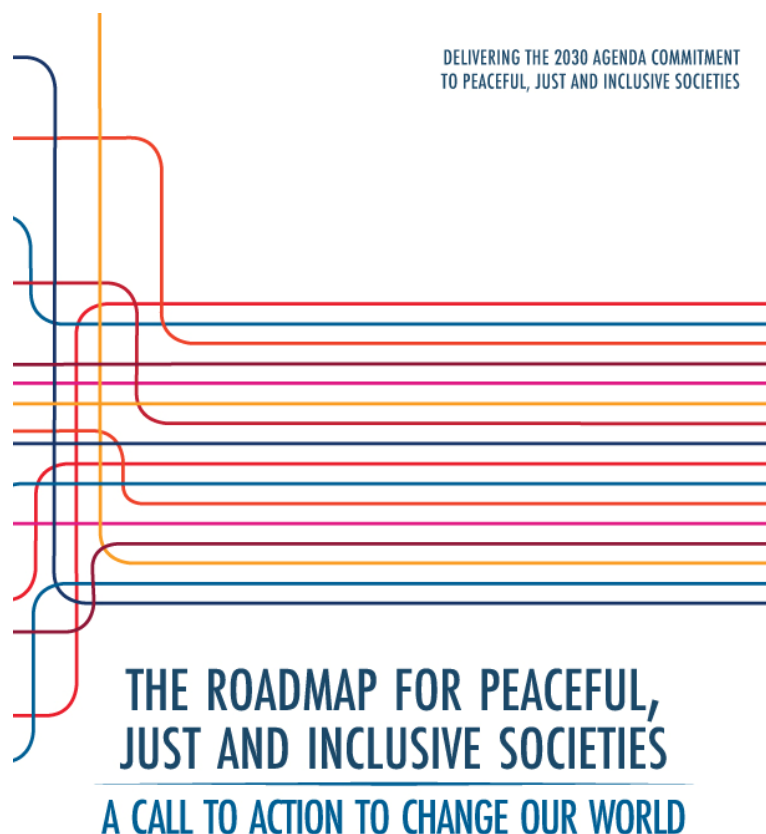
<http://lk.one.un.org/news/government-and-un-sign-sustainable-development-framework-for-2018-2022/>

**UNSDF 2018-2022**

[http://lk.one.un.org/wp-content/uploads/2017/08/Final\\_UNSDF\\_2018-2022.pdf](http://lk.one.un.org/wp-content/uploads/2017/08/Final_UNSDF_2018-2022.pdf)

## 8

# The Pathfinders for Peaceful, Just and Inclusive Societies



21 September 2017

**PATHFINDERS**  
FOR PEACEFUL, JUST AND INCLUSIVE SOCIETIES

Sri Lanka is a member state in "The Pathfinders for Peaceful, Just and Inclusive Societies" initiative. The Pathfinders group is convened by the governments of Brazil, Sierra Leone, and Switzerland, with support from the Center on International Cooperation.

According to the three governments:

“It is clear that there can be no sustainable development without peace, and no peace without sustainable development, and that more must be done to protect human rights and gender equality”.



But we have a growing understanding of what it will take to build more peaceful, just and inclusive societies, with examples of leadership and commitment in a growing number of countries.

We also know that significant improvements in peace, justice and inclusion will play a catalytic role in the achievement of the 2030 Agenda, with greatest benefits for those who are furthest behind. This roadmap builds on these examples to provide a first guide for those who are working on implementation.

At its heart are three transformative strategies – the prevention of all forms of violence, an institutional renewal to underpin sustainable development, and action to increase social, economic and political inclusion.

The Pathfinders for Peaceful, Just and Inclusive Societies

<https://cic.nyu.edu/programs/sdg16plus>

Current list of Pathfinders: Brazil, Sierra Leone, Switzerland (conveners)

Afghanistan, Argentina, Canada, Central African Republic, Colombia, Czech Republic, Georgia, Guatemala, Indonesia, Liberia, Liechtenstein, Mexico, The Netherlands, Qatar, Republic of Korea, Somalia, **Sri Lanka**, Sweden, Timor-Leste, Tunisia, United Kingdom.

## 9

### **Universal Periodic Review (UPR) on Sri Lanka (3rd cycle 2017):**



The Report of the Working Group on the Universal Periodic Review was adopted at the 37th session of HRC. In this report, 7 recommendations directly refer SDGs and 9 recommendations directly demand Transitional Justice. (Many other recommendations speaks for the components of the SDGs and Transitional Justice)

#### **Recommendations on Transitional Justice**

116.76 Fulfil all the commitments made on transitional justice, including through the creation of an accountability mechanism which is credible, victim-centric and supported by international practitioners and through full operationalization of independent and impartial work of the recently established Office of Missing Persons (Slovenia);

116.77 Establish a comprehensive transitional justice mechanism, including operationalizing of an Office of Missing Persons, a truth-seeking commission, an Office of Reparations and a judicial mechanism with a special counsel, as committed to (South Africa);

116.78 Ensure that the transitional justice system is finally created (France);

116.79 Expedite the process of reconciliation and transitional justice, including through the commencement of the operation of the Office of Missing Persons, the enactment of the new

counter-terrorism legislation, as well as the additional release of land to the people in the northern and eastern provinces of the country (Thailand);

116.80 Establish an encompassing framework of judicial and non-judicial measures to ensure transitional justice, including the creation of a national mechanism of truth, justice and reconciliation and an office for reparations (Belgium);

116.81 Accelerate the process to establish a transitional justice system that includes an equal participation of women, that relies on personnel trained to deal with cases of sexual violence and violence against women, and whose rulings are transparent and public (Mexico);

116.85 Pursue efforts to strengthen national reconciliation and ensure the achievement of transitional justice (Qatar);

117.38 Move with concrete steps — most evidently seen through committed financial resources in the national budget, and appointed experts with concrete mandates — on all four transitional justice mechanisms (the former Yugoslav Republic of Macedonia);

117.42 Act on its commitments in Human Rights Council resolution 30/1 including to establish transitional justice mechanisms, and to establish a clear timeline to this end (Austria);

### **Recommendations on sustainable development**

116.45 Make progress in the drafting and implementation of policies and measures aimed at attaining Sri Lanka's sustainable development and overcoming challenges of climate change for the protection and promotion of human rights of its population (Nicaragua);

116.48 Continue its efforts for the implementation of the Sustainable Development Goals at the grass-roots level (Pakistan);

116.49 Focus on economic, social and cultural rights as a first step towards achieving programmes within the framework of the United Nations 2030 Sustainable Development Agenda (United Arab Emirates);

116.50 Continue efforts to ensure the implementation of the Sustainable Development Goals for the entire population (Algeria);

116.114 Continue to promote economic and social sustainable development and poverty reduction, to lay a solid foundation for the enjoyment of all human rights by its people (China);

116.116 Continue the efforts to combat extreme poverty within the Sustainable Development Goals framework (Morocco);

### **Universal Periodic Review - Sri Lanka**

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/LKIndex.aspx>

## Report of the UN Special Rapporteur on transitional justice



Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on his global study on transitional justice (Human Rights Council, Thirty-sixth session, September 2017):

The Special Rapporteur recommends that international supporters of transitional justice: (b) Recognize the relevance of transitional justice to prevention of conflict, achieving sustainable peace, and Sustainable Development Goal 16, and integrate transitional justice into multilateral and bilateral frameworks touching on these issues.

The Special Rapporteur recommends that United Nations agencies: (c) In recognition of the relevance of transitional justice to prevention of conflict, achieving sustainable peace and Sustainable Development Goal 16, take the opportunity presented by initiatives relating to these issues to integrate transitional justice into the relevant policy frameworks.

## What we demand:

**The Sri Lanka's Voluntary National Review (VNR), which is already submitted on 18 June, to be presented at the HLPF 2018 on 17 July, must include the existing human rights reports and mechanisms, particularly an update on implementation of transitional justice mechanisms.**

Transitional justice refers to the ways countries emerging from periods of conflict and repression address large scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response. Transitional justice typically includes criminal prosecutions, truth-telling, reparations, and institutional reforms (in the post-conflict counters like Sri Lanka).

In resolution 30/1 (2015) on Sri Lanka, the Human Rights Council expressed support for the commitment by the Government of Sri Lanka to implement a comprehensive transitional justice agenda that would include the establishment of an accountability mechanism, truth-seeking, reparation programmes and institutional reforms. Through resolution 34/1 (2017), the Council granted the Government two additional years to demonstrate progress. Both resolutions were co-sponsored by the Government of Sri Lanka and unanimously adopted by the Council.

**Through these resolutions 30/1 and 34/1 - the Government of Sri Lanka accepted 25 key commitments comprising of four Transitional Justice mechanisms - an accountability mechanism, truth-seeking, reparation programmes and institutional reforms. We strongly believe that these transitional justice commitments are inalienable part of Sri Lanka's Sustainable Development Agenda 2030.**

**Without transitional justice, sustainable development agenda could not be achieved in Sri Lanka.**



# General Assembly

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## Human Rights Council

Thirtieth session

Agenda item 2

### Resolution adopted by the Human Rights Council on 1 October 2015

#### **30/1. Promoting reconciliation, accountability and human rights in Sri Lanka**

*The Human Rights Council,*

*Reaffirming* the purposes and principles of the Charter of the United Nations,

*Guided by* the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

*Recalling* Human Rights Council resolutions 19/2 of 22 March 2012, 22/1 of 21 March 2013 and 25/1 of 27 March 2014 on promoting reconciliation and accountability in Sri Lanka,

*Reaffirming* its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

*Reaffirming also* that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

*Welcoming* the historic free and fair democratic elections in January and August 2015 and the peaceful political transition in Sri Lanka,

*Noting with interest* the passage and operationalization of the nineteenth amendment to the Constitution of Sri Lanka and its contribution to the promotion of democratic governance and independent oversight of key institutions, including the provision on the promotion of national reconciliation and integration as among the constitutional duties of the President of Sri Lanka,

*Welcoming* the steps taken by the Government of Sri Lanka since January 2015 to advance respect for human rights and to strengthen good governance and democratic institutions,

*Welcoming also* the efforts of the Government of Sri Lanka to investigate allegations of bribery, corruption, fraud and abuse of power, and stressing the importance of such investigations and the prosecution of those responsible in ending impunity and promoting good governance,





*Welcoming further* the steps taken to strengthen civilian administration in the former conflict-affected provinces of the North and the East, acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining and resettling internally displaced persons, and calling upon the international community, including the United Nations, to assist the Government of Sri Lanka in furthering these efforts, especially in expediting the process of delivering durable solutions for all internally displaced persons,

*Recognizing* the improved environment for members of civil society and human rights defenders in Sri Lanka while expressing concern at reports of ongoing violations and abuses of human rights, and recognizing the expressed commitment of the Government of Sri Lanka to address issues, including those involving sexual and gender-based violence and torture, abductions, as well as intimidation of and threats against human rights defenders and members of civil society,

*Reaffirming* that all Sri Lankans are entitled to the full enjoyment of their human rights regardless of religion, belief or ethnicity, in a peaceful and unified land,

*Reaffirming also* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, as applicable,

*Welcoming* the Declaration of Peace of the Government of 4 February 2015 and its acknowledgement of the loss of life and victims of violence of all ethnicities and religions,

*Emphasizing* the importance of a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures, including, inter alia, individual prosecutions, reparations, truth-seeking, institutional reform, the vetting of public employees and officials, or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide victims with remedies, promote healing and reconciliation, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law with a view to preventing the recurrence of violations and abuses, and welcoming in this regard the expressed commitment of the Government to ensure dialogue and wide consultations with all stakeholders,

*Recognizing* that mechanisms to redress past abuses and violations work best when they are independent, impartial and transparent; are led by individuals known for displaying the highest degree of professionalism, integrity and impartiality; utilize consultative and participatory methods that include the views of all relevant stakeholders, including, but not limited to, victims, women, youth, representatives of various religions, ethnicities and geographic locations, as well as marginalized groups; and are designed and implemented on the basis of expert advice from those with relevant international and domestic experience,

*Recognizing also* that a credible accountability process for those most responsible for violations and abuses will safeguard the reputation of those, including within the military, who conducted themselves in an appropriate manner with honour and professionalism,

*Recalling* the responsibility of States to comply with their relevant obligations to prosecute those responsible for gross violations of human rights and serious violations of international humanitarian law constituting crimes under international law, with a view to ending impunity,

*Taking note* of the review of the high-security zones undertaken by the Government, and welcoming the initial steps taken to return land to its rightful civilian owners and to help local populations to resume livelihoods and to restore normality to civilian life,

*Welcoming* the commitments of the Government of Sri Lanka to the devolution of political authority,

*Requesting* the Government of Sri Lanka to implement effectively the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission,

*Welcoming* the visit from 30 March to 3 April 2015 by and the observations of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, and the planned visit of the Working Group on Enforced or Involuntary Disappearances in November 2015,

*Recognizing* that the investigation into alleged serious violations and abuses of human rights and related crimes in Sri Lanka requested by the Human Rights Council in its resolution 25/1 was necessitated by the absence of a credible national process of accountability,

1. *Takes note with appreciation* of the oral update presented by the United Nations High Commissioner to the Human Rights Council at its twenty-seventh session, the report of the Office of the High Commissioner on promoting reconciliation and accountability in Sri Lanka<sup>1</sup> and its investigation on Sri Lanka requested by the Human Rights Council in its resolution 25/1,<sup>2</sup> including its findings and conclusions, and encourages the Government of Sri Lanka to implement the recommendations contained therein when implementing measures for truth-seeking, justice, reparations and guarantees of non-recurrence;

2. *Welcomes* the positive engagement between the Government of Sri Lanka and the High Commissioner and the Office of the High Commissioner since January 2015, and encourages the continuation of that engagement in the promotion and protection of human rights and in exploring appropriate forms of international support for and participation in Sri Lankan processes for seeking truth and justice;

3. *Supports* the commitment of the Government of Sri Lanka to strengthen and safeguard the credibility of the processes of truth-seeking, justice, reparations and guarantees of non-recurrence by engaging in broad national consultations with the inclusion of victims and civil society, including non-governmental organizations, from all affected communities, which will inform the design and implementation of these processes, drawing on international expertise, assistance and best practices;

4. *Welcomes* the commitment of the Government of Sri Lanka to undertake a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures; also welcomes in this regard the proposal by the Government to establish a commission for truth, justice, reconciliation and non-recurrence, an office of missing persons and an office for reparations; further welcomes the willingness of the Government to give each mechanism the freedom to obtain financial, material and technical assistance from international partners, including the Office of the High Commissioner; and affirms that these commitments, if implemented fully and credibly, will help to advance accountability for serious crimes by all sides and to achieve reconciliation;

5. *Recognizes* the need for a process of accountability and reconciliation for the violations and abuses committed by the Liberation Tigers of Tamil Eelam, as highlighted in the report of the Office of the High Commissioner on its investigation on Sri Lanka;

<sup>1</sup> A/HRC/30/61.

<sup>2</sup> See A/HRC/30/CRP.2.

6. *Welcomes* the recognition by the Government of Sri Lanka that accountability is essential to uphold the rule of law and to build confidence in the people of all communities of Sri Lanka in the justice system, notes with appreciation the proposal of the Government of Sri Lanka to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, as applicable; affirms that a credible justice process should include independent judicial and prosecutorial institutions led by individuals known for their integrity and impartiality; and also affirms in this regard the importance of participation in a Sri Lankan judicial mechanism, including the special counsel's office, of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators;

7. *Encourages* the Government of Sri Lanka to reform its domestic law to ensure that it can implement effectively its own commitments, the recommendations made in the report of the Lessons Learnt and Reconciliation Commission, as well as the recommendations of the report of the Office of the High Commissioner,<sup>1</sup> including by allowing for, in a manner consistent with its international obligations, the trial and punishment of those most responsible for the full range of crimes under the general principles of law recognized by the community of nations relevant to violations and abuses of human rights and violations of international humanitarian law, including during the period covered by the Lessons Learnt and Reconciliation Commission;

8. *Also encourages* the Government of Sri Lanka to introduce effective security sector reforms as part of its transitional justice process, which will help to enhance the reputation and professionalism of the military and include ensuring that no scope exists for retention in or recruitment into the security forces of anyone credibly implicated through a fair administrative process in serious crimes involving human rights violations or abuses or violations of international humanitarian law, including members of the security and intelligence units; and also to increase training and incentives focused on the promotion and protection of human rights of all Sri Lankans;

9. *Welcomes* the recent passage by the Government of Sri Lanka of an updated witness and victim protection law and its commitment to review the law, and encourages the Government to strengthen these essential protections by making specific accommodations to protect effectively witnesses and victims, investigators, prosecutors and judges;

10. *Also welcomes* the initial steps taken to return land, and encourages the Government of Sri Lanka to accelerate the return of land to its rightful civilian owners, and to undertake further efforts to tackle the considerable work that lies ahead in the areas of land use and ownership, in particular the ending of military involvement in civilian activities, the resumption of livelihoods and the restoration of normality to civilian life, and stresses the importance of the full participation of local populations, including representatives of civil society and minorities, in these efforts;

11. *Encourages* the Government of Sri Lanka to investigate all alleged attacks by individuals and groups on journalists, human rights defenders, members of religious minority groups and other members of civil society, as well as places of worship, and to hold perpetrators of such attacks to account and to take steps to prevent such attacks in the future;

12. *Welcomes* the commitment of the Government of Sri Lanka to review the Public Security Ordinance Act and to review and repeal the Prevention of Terrorism Act, and to replace it with anti-terrorism legislation in accordance with contemporary international best practices;

13. *Also welcomes* the commitment of the Government of Sri Lanka to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance without delay, to criminalize enforced disappearances and to begin to issue certificates of absence to the families of missing persons as a temporary measure of relief;

14. *Further welcomes* the commitment of the Government of Sri Lanka to release publicly previous presidential commission reports;

15. *Encourages* the Government of Sri Lanka to develop a comprehensive plan and mechanism for preserving all existing records and documentation relating to human rights violations and abuses and violations of international humanitarian law, whether held by public or private institutions;

16. *Welcomes* the commitment of the Government of Sri Lanka to a political settlement by taking the necessary constitutional measures, encourages the Government's efforts to fulfil its commitments on the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population; and also encourages the Government to ensure that all Provincial Councils are able to operate effectively, in accordance with the thirteenth amendment to the Constitution of Sri Lanka;

17. *Also welcomes* the commitment of the Government of Sri Lanka to issue instructions clearly to all branches of the security forces that violations of international human rights law and international humanitarian law, including those involving torture, rape and sexual violence, are prohibited and that those responsible will be investigated and punished, and encourages the Government to address all reports of sexual and gender-based violence and torture;

18. *Requests* the Office of the High Commissioner to continue to assess progress on the implementation of its recommendations and other relevant processes related to reconciliation, accountability and human rights, and to present an oral update to the Human Rights Council at its thirty-second session, and a comprehensive report followed by discussion on the implementation of the present resolution at its thirty-fourth session;

19. *Encourages* the Government of Sri Lanka to continue to cooperate with special procedure mandate holders, including by responding formally to outstanding requests;

20. *Encourages* the Office of the High Commissioner and relevant special procedure mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the above-mentioned steps.

*40th meeting  
1 October 2015*

[Adopted without a vote.]

**MISSING ACCOUNTABILITY for ATROCITY CRIMES  
in SRI LANKA VNR to HLPF 2018**

**NO SUSTAINABLE DEVELOPMENT  
WITHOUT TRANSITIONAL JUSTICE**

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