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Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General****Situation of human rights in Sri Lanka****Report of the United Nations High Commissioner for Human Rights****Summary*

The present report provides an update on the human rights situation in Sri Lanka pursuant to Human Rights Council resolution 51/1. The United Nations High Commissioner for Human Rights identifies challenges and opportunities to address the effects of the deep economic crisis of 2022, and long term political and social issues. The crisis continues to have a severe impact on the rights of many Sri Lankans, with sharply increasing poverty levels. Victims of human rights violations continue to wait for truth, justice, reparations and measures to guarantee non-repetition. There are opportunities ahead to address these challenges through governance reforms and reconciliation initiatives, but these need to be accompanied by meaningful and independent accountability measures. The report calls for deeper institutional reforms and tangible progress on accountability, reconciliation and human rights. This would be particularly timely in a year that marks both the 75th anniversary of Sri Lanka's independence and the 75th anniversary of the Universal Declaration of Human Rights. Member States can help Sri Lankans at this economic juncture while pressing for justice, reconciliation, and human rights.

* The present report was submitted after the deadline so as to include the most recent information.

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 51/1 of October 2022,¹ in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to submit a written update on the human rights situation in Sri Lanka at its 54th session. This report covers developments since October 2022.

2. OHCHR welcomes the Government's engagement in preparation of the present report, while noting its consistent rejection of resolution 46/1 in particular OP6 and resolution 51/1 in particular OP8. The Office sent questions to the Government and the Human Rights Commission of Sri Lanka, for which it received responses, and shared the draft report with the Government for factual comments. The High Commissioner is also grateful to all other stakeholders who have cooperated with the Office and contributed to the report.

3. Sri Lanka has been participating actively and constructively in the regular United Nations human rights mechanisms. Sri Lanka's periodic report was considered by the Human Rights Committee in March 2023.² In February 2023, Sri Lanka underwent its fourth cycle of Universal Period Review. The Government made 12 voluntary pledges, supported 173 recommendations and took note of 121, while six that referenced previous Council resolutions were rejected.³ As of August 2023, the Government had seven pending requests for visits by special procedure mandate holders.

II. Context

4. The severe economic crisis that hit Sri Lanka in 2022, against the backdrop of global economic stresses, significantly impacted the enjoyment of rights of large segments of the population. While the severe shortages in fuel, electricity, food, medicines and other essential items were partially alleviated and the economy stabilised during 2023, many in Sri Lanka have seen their living standards sharply decline and the country still faces a heavy debt burden and economic restructuring.

5. Ranil Wickremesinghe, who was elected by Parliament as President of Sri Lanka on 20 July 2022, launched several reforms, including on economic policies, and announced initiatives to advance reconciliation. Delays in holding local government elections initially scheduled for 9 March 2023, ostensibly due to financial constraints, brought the Electoral Commission and the Government close to an institutional crisis. The Electoral Commission rescheduled the election date to 25 April, but the Government failed to make necessary financial allocations for conducting the polls and the elections were postponed indefinitely. The delays were criticized by sections of society and the political establishment that perceived political calculations in the postponement. Four provincial governors (three men and one woman) were appointed in May and June 2023 (including in the Northern and Eastern provinces), but Provincial Councils – an important element of devolution under the 13th constitutional amendment – remain suspended since 2017.⁴ Meanwhile, Presidential and/or Parliamentary elections are projected for 2024. Women's political representation remains low: the 22-member Cabinet of Ministers includes only one woman, and women comprise 5.8 per cent in Parliament and 1.9 per cent of local authorities.⁵ In March 2023, the Government launched a National Policy on Gender Equality and Women's Empowerment and is preparing related legislation to establish a National Women's Commission.⁶

6. On 20 March 2023, the International Monetary Fund (IMF) approved a 48-month Extended Fund Facility for the reimbursement of about 3 billion U.S. dollars,⁷ in support of

¹ A/HRC/RES/51/1.

² CCPR/C/LKA/CO/6.

³ A/HRC/53/16/Add.1.

⁴ In a speech to Parliament on 9 August 2023, the President emphasized the necessity of implementing the 13th Amendment but that consensus within the Parliament was required.

⁵ https://elections.gov.lk/en/all_inclusive_election/all_inclusive_women_representation_E.html.

⁶ Observations of the Government to the advanced unedited version of the written update.

⁷ 2.286 billion Special Drawing Rights.

Sri Lanka's economic policies and reforms.⁸ Under the IMF program, the Government has committed to sustainably expand the country's tax base, through introducing a more progressive personal income tax system, increasing the corporate income tax rate to 30 per cent, and reducing tax incentives.

7. The effects of the economic crisis, tensions around economic policies and structural reforms, and the delay of local elections have given rise to a number of protests that, while not reaching the intensity of those in 2022, still reflect social unrest. More than a year after mass protests demanding better governance and an inclusive vision for Sri Lanka, the potential for a historic transformation that would address long-standing challenges has not yet been realized and there is a high risk that electoral calculations and political expediency might jeopardise the chance for genuine reforms.

III. Human rights impact of the economic crisis

8. The economic crisis and wider strains on the global economy continued to affect the capacity of its citizens to maintain their standards of living, with a devastating impact on the large and starkly increasing number of poor people. Pricing and access to essential imports stabilized in the second half of 2022, despite the economy contracting 7.8 per cent for the year. Projections from the IMF suggest the economy will continue to contract by 3.0 per cent in 2023.⁹ Inflation has eased from its peak of 69.8 per cent in September 2022, with growth in the Colombo Consumer Price Index slowing to 6.3 per cent over the year to July.¹⁰ Notwithstanding, household welfare is deeply affected by diminishing national income and higher price levels, with projections from the IMF indicating that GDP per capita will fall to its lowest level in a decade in 2023.

9. The crisis has resulted in a dramatic increase of the poverty rate, which the World Bank¹¹ estimates to have doubled from 13 to 25 per cent between 2021 and 2022: an additional 2.5 million poor people. The poverty rate is forecast to rise to 27.4 per cent in 2023, and remain above 25 per cent for the next few years due to "multiple risks to households' livelihoods".¹² This level of material deprivation leads to growing inequalities and serious impact on the enjoyment of economic, social and cultural rights of Sri Lankans.

10. Food insecurity remained a major barrier for the enjoyment of human rights. Thirty-seven per cent of households were estimated to have faced acute food insecurity in November 2022¹³ and 86 per cent of Sri Lankan families are buying cheaper, less nutritious food, eating less and in some cases skipping meals altogether.¹⁴ Poverty in urban areas has tripled in recent years.¹⁵ In rural areas, while agriculture for self-consumption has provided a safety net for some, it has often come at a cost in terms of lost revenue from selling crops, and overuse of natural resources.

⁸ Transcript on IMF-supported Extended Fund Facility (EFF) program Press Briefing for Sri Lanka. The reform program prioritises five pillars: revenue-based fiscal consolidation; debt restructuring; a multi-pronged strategy to restore price stability, rebuild reserves and alleviate inflation; policies to safeguard financial sector stability and, structural reforms to address corruption vulnerabilities and enhance growth.

⁹ International Monetary Fund. 2023. Sri Lanka: Request for an Extended Arrangement Under the Extended Fund Facility. IMF Country Report No. 23/116.

¹⁰ Sri Lanka Department of Census and Statistics. 2023. Colombo Consumer Price Index: July Overview. 31 July 2023.

¹¹ <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099060523101512718/bosib0abb778e20650b1540d16634cb4fb1>.

¹² World Bank. 2023. *Sri Lanka Development Update: Time To Reset*. April 2023.

¹³ documents.worldbank.org/en/publication/documents-reports/documentdetail/099060523101512718/bosib0abb778e20650b1540d16634cb4fb1.

¹⁴ <https://www.wfp.org/countries/sri-lanka>.

¹⁵ According to the World Bank, the poverty rate in urban areas grew from 5 to 15 per cent between 2021 and 2022.

11. The right to health was also affected by food insecurity.¹⁶ The United Nations Children's Fund expects the number of malnourished children to rise further following the economic crisis,¹⁷ with more than 2.3 million children in need of humanitarian assistance. Furthermore, food insecurity – and the economic crisis more broadly – is having a negative impact on mental health as people face multiple stressors such as price raises, scarcity, shortages in essential goods, and loss of income.

12. Access to education has been a key factor in Sri Lanka's social progress but could be put at risk by rising school dropouts due to competing economic needs and higher transport and food costs. Children from socioeconomically disadvantaged backgrounds, and girls in general, are at higher risk of school dropout, perpetuating in turn cycles of poverty and gender inequality. Budgetary cuts have resulted in reduced school meals programs, which are important to reduce malnutrition and to prevent school dropouts.

13. Women have experienced the impact of the economic crisis in distinct ways, as they continue to be primarily engaged in informal sectors of the economy.¹⁸ As a result, they have limited access to social protection and are more vulnerable to job losses. The crisis has increased the burden on them, as obtaining basic livelihood products becomes increasingly challenging.

14. While the Government has expanded social protection programs and has shown commitment to sustaining its performance on the Sustainable Development Goals (SDGs), possible austerity measures to overcome the crisis, such as increasing taxes, reducing Government expenditure, and limiting investments in health, education, and care services, may result in unintended and adverse impacts on various human rights and SDG targets, and disproportionately affect people in situations of vulnerability.¹⁹ As the Government implements difficult economic reforms, it must be guided by Sri Lanka's international obligations, including under the International Covenant on Economic, Social and Cultural Rights. Austerity measures should be proportionate and non-discriminatory, and compatible with the core content of the rights recognized in the Covenant.²⁰

15. The 2022 economic crisis is a demonstration of the indivisibility of human rights and how impunity, corruption and the weakening of democratic and rule of law institutions ultimately impacted the economic situation. In order to achieve a path to recovery and sustainable development Sri Lanka will need to address the longer-term serious governance and accountability deficits, as well as the continuing legacy of the armed conflict.

IV. Human rights trends and developments

A. Legal and institutional changes

16. As previously reported, a powerful executive presidential system was reintroduced through the twentieth amendment to the Constitution in October 2020. That amendment impacted negatively on the independence of key institutions. Some of the most concerning features of the 20th constitutional amendment were rolled back in October 2022 through the 21st amendment, which aimed at restoring and strengthening the balance of powers between the executive, legislature, and judiciary. A Constitutional Council was re-established, and its members were appointed by January 2023 (eight men and two women), including three ex-officio members (the Speaker of Parliament, the Prime Minister, the leader of the opposition), other appointed members of Parliament and three independent individuals "of eminence and integrity". The Constitutional Council plays an important role in proposing appointments to independent institutions, including the Elections Commission and the Human Rights

¹⁶ <https://www.unicef.org/media/122356/file/2022-HAC-Sri-Lanka.pdf>.

¹⁷ <https://www.unicef.org/media/122356/file/2022-HAC-Sri-Lanka.pdf>.

¹⁸ <https://asiapacific.unwomen.org/en/countries/sri-lanka/wee>.

¹⁹ <https://asiapacific.unfpa.org/en/news/press-release-appeal-usd-107-million-meet-urgent-needs-women-and-girls-sri-lanka>.

²⁰ Open letter dated 16 May 2012 addressed to States parties to the International Covenant on Economic, Social and Cultural Rights.

Commission, as well as approving appointments to key posts in the judiciary and other bodies.

17. In June 2023, upon recommendations of the Constitutional Council, the President appointed new chairpersons and members to the Human Rights Commission (four men and one woman) and the Electoral Commission (three men). The Human Rights Commission had lost its A-status accreditation in 2022 following a special review²¹ by the Global Alliance of National Human Rights Institutions, notably because the method of appointment established by the 20th constitutional amendment did not satisfy international standards of independence.²² The appointment of new commissioners under the revised constitutional process therefore offers an opportunity for the Human Rights Commission to revitalise its role and seek to regain A-status accreditation.

18. On 26 May, the Government unveiled plans to regulate broadcasting media. A draft Bill proposes the establishment of a broadcasting regulatory commission with the power to issue, renew or cancel yearly licences to all broadcasting channels, including media institutions already operating under existing laws. The proposed Broadcasting Regulatory Commission would comprise five Government-appointed officials,²³ raising serious questions about its independence. The draft Bill states as its aim “to ensure that broadcasting services shall provide people true and accurate information”, a vague and ambiguous standard that could lead to arbitrary application.²⁴ It also contains a prohibition on broadcasting “anything that may create a threat to the national security or economy or possibility to have conflict among race and religion”. Similar formulations are used in problematic national legislation such as the International Covenant on Civil and Political Rights Act and the Prevention of Terrorism Act, which have been frequently applied in an arbitrary manner. Thus, the draft Bill raises concerns about its potential to further unduly restrict²⁵ freedom of expression and appears incompatible with article 19(3) of the International Covenant on Civil and Political Rights.

19. A new Anti-Corruption Act was elaborated including to strengthen the Commission to Investigate Allegations of Bribery and Corruption. While it contained several important improvements over previous laws, such as an increase in penalties, a publicly accessible assets declaration system and the recognition of sexual bribery as a form of corruption, concerns were raised about incompatibilities with the Right to Information law (by imposing an oath of secrecy on Anti-Corruption Officials) and the risk that some provisions could discourage whistle-blowers. In a determination, the Supreme Court ruled that 34 amendments were necessary to align the bill with constitutional provisions.²⁶ The bill with proposed amendments was passed by Parliament on 19 July and certified on 8 August.²⁷

20. Legislation on drug rehabilitation passed in Parliament in January 2023 also raised human rights concerns.²⁸ The Bureau of Rehabilitation Bill was subject to Supreme Court revision, but even after amendments proposed by the Supreme Court, it is still in contradiction with Sri Lanka’s international human rights obligations as it envisages a model of military-run, non-voluntary rehabilitation of drug users.²⁹

²¹ See https://www.ohchr.org/sites/default/files/2021-12/SCA-Report-October-2021_E.pdf.

²² Principles relating to the Status of National Institutions (Paris Principles). See Human Rights Committee, general comment No. 25 (1996), para. 20; see also OHCHR, Human Rights & Elections: A Handbook on International Human Rights Standards on Elections (2021), para. 114.

²³ Section 3(1).

²⁴ See Human Rights Committee, General Comment No. 34 on freedom of opinion and expression, CCPR/C/GC/34, para. 25.

²⁵ See Human Rights Committee COBS (CCPR/C/LKA/CO/6) para. 41.

²⁶ Supreme Court SD 16/2023.

²⁷ Anti-Corruption Act 9/2023.

²⁸ Bureau of Rehabilitation Act 2/2023.

²⁹ The 2021 study on arbitrary detention related to drug policies by the UN Working Group on Arbitrary Detention (A/HRC/47/40) points out that drug treatment should always be voluntary, based on informed consent, and left exclusively to health professionals. There should be no court supervision or monitoring of the process, which should rest exclusively with trained medical professionals.

21. The Human Rights Committee had recommended that Sri Lanka take additional measures to protect individuals from violence on the basis of their sexual orientation and gender identity, to combat negative stereotypes and prejudice, and to address discrimination.³⁰ In a positive legal development in May 2023, the Supreme Court determined that a bill³¹ seeking amendment of the Penal Code to decriminalize same sex relations was consistent with the Constitution and may now proceed before Parliament.

Anti-Terrorism Bill and Prevention of Terrorism Act

22. On 22 March 2023, the Government gazetted an Anti-Terrorism Bill designed to replace the Prevention of Terrorism Act No. 48 of 1979. The Bar Association, trade unions, human rights organizations, civil society and political parties raised concerns about the Bill due to its potential infringement on the rights to freedom of assembly and association and freedom of expression. The Bill was subsequently withdrawn for further consultations.³²

23. OHCHR provided preliminary analysis on the draft law on 3 May 2023³³ noting that the bill contained some positive reforms such as improving access to bail, removing the admissibility of confessions made to a police officer while in custody, and introducing torture prevention measures such as regular and unannounced visits to places of detention by the Judiciary. However, the bill raised numerous concerns including (a) an overly broad definition of 'terrorism' which could lead to arbitrary interpretations and to criminalization of behaviour protected under the rights to freedom of peaceful assembly and association; (b) introduction of other terrorism-related offences, such as encouragement of terrorism and disseminating terrorist publications, which do not appear to meet the requirements of legality, necessity, proportionality and non-discrimination; and (c) expansion of military and police powers to arrest and issue detention orders. Ten United Nations Special Rapporteurs issued a communication³⁴ regarding the proposed Anti-Terrorism Bill, recommending the use of a definition of terrorism guided by international standards,³⁵ and that would ensure precision and legal certainty of criminal offences.

24. Meanwhile, the Prevention of Terrorism Act remains in effect and continues to apply to all ongoing cases pursuant to the Act. According to Government data as of August 2023, 21 detainees are on remand under this Act, and 25 convicted serving prison terms.³⁶ Despite announcements in June 2022 that the Government had been applying a *de facto* moratorium on the use of the Prevention of Terrorism Act, it has brought new cases under the law. For example, three student leaders were arrested under the Act on 18 August 2022. They were all subsequently released and cleared of all charges after having spent five, three and one-and-a-half months respectively in detention.

25. Authorities have also continued to review long term cases under the Act and facilitated some releases. The Government informed that Presidential approval have been granted for the release of 11 long term prisoners.³⁷ On 18 July, two members of the Liberation Tigers of Tamil Eelam (LTTE), serving a life sentence and a 200-years sentence respectively, were granted a presidential pardon and released. On 3 April 2023, three detainees who had been held in pre-trial detention under the Act for 14 years were acquitted and released by the Vavuniya High Court after it ruled that their confessions had been coerced. Long periods of pre-trial detention³⁸ and use of coerced confessions in court proceedings³⁹ are prohibited under international human rights law. Securing convictions in terrorism-related proceedings

³⁰ CCPR/C/LKA/CO/6, para 19.

³¹ Supreme Court determination **SC SD 13/2023**.

³² Deliberations conducted on 27 July and 2 August 2023. Government submission TPN 695/2023 ref HR/4R.

³³ <https://www.ohchr.org/en/documents/tools-and-resources/ohchr-preliminary-comments-sri-lanka-draft-anti-terrorism-bill>.

³⁴ OL LKA 4/2023.

³⁵ Security Council resolution 1566 (2004) and the model definition of terrorism recommended by the United Nations Special Rapporteur on Counter Terrorism and Human Rights (A/HRC/16/51).

³⁶ Government responses to OHCHR questions received on 11 August 2023, NV 695/2023, ref HR/4R.

³⁷ TPN 695/2023 HR/4R.

³⁸ Human Rights Committee, General Comment No. 34, para. 37.

³⁹ Human Rights Committee, General Comment No. 32, para. 6.

based solely on confessions raises concerns about respect for the right to a fair trial and right to not testify against oneself.⁴⁰ The Prevention of Terrorism Act does not provide for an effective remedy for long periods of pre-trial detention (often longer than the actual sentences for serious crimes) in case of a subsequent acquittal.

26. Bail has also been granted in some cases related to the 2019 Easter Sunday attacks. For instance, Abdul Cader Fathima Saadiah, wife of the suspected main organiser of the attack, the deceased cleric Zahran Hashim, was released on bail by the Kalmunai High Court in March 2023 after four years of detention on charges under the Prevention of Terrorism Act.

27. In other instances, the courts have taken a tougher approach to sentencing. The Court of Appeals on 24 January 2023 turned a suspended two-year imprisonment sentence into the death penalty in the case of a convicted woman who was an accomplice in a suicide bombing by an LTTE member in Kollupitiya Police station in 2004. On 29 March 2023, the Colombo High Court found a 67-year-old man guilty of an attempt to detonate a bomb inside a passenger bus in Colombo in 2008. He was sentenced to life imprisonment, despite requests made by defence counsel that the court take into consideration 15 years of pre-trial detention, and the fact that the device was discovered before it detonated, causing no casualties or damage.

B. Security sector reform

28. On 13 January 2023, the Defense Ministry stated that the Sri Lankan Army will reduce its size from the approximate current figure of 200,800 to around 135,000 by 2024, and 100,000 by 2030. OHCHR encourages the Government to undertake further downsizing of the military, and adapt the military budget so that it reflects the fundamental changes the country has undergone in recent years. These measures should be accompanied by deeper security sector reform, including a comprehensive and transparent vetting process that removes individuals and disbands units that have been implicated in serious human rights or international humanitarian law violations. It should also comprise the phasing out of military presence from former conflict areas, where current deployments seem disproportionate to current security requirements.

29. Concerns remain regarding use of military personnel for civilian functions, such as crowd control during protests, law enforcement, intelligence gathering in civilian settings, drug control and rehabilitation, manning check points, or appearing alongside police in roadblocks.

C. Inclusion and reconciliation

30. In previous reports,⁴¹ the High Commissioner expressed concern about the trend towards hardline nationalist rhetoric that undermined reconciliation between ethnic and religious communities. The President has set a different tone in several speeches, promising to settle these national questions and initiating dialogue with Tamil political parties. A Cabinet sub-committee on reconciliation has been established, chaired by the President and supported by a special unit in the President's Office to expedite initiatives. The Office of National Unity and Reconciliation has also continued its programs, a National Action Plan on Women, Peace and Security was adopted and an Office for Overseas Sri Lankans has been established for outreach in the diaspora. Some officials that had represented hardline centralist positions have been removed or have resigned in the past year and the President promised to stop land acquisition for archaeological, forestry or security purposes, which has been an increasing source of local conflicts and tension.

31. However, land disputes between the State and citizens from local communities continue to be reported, with 26 such disputes recorded between October 2022 and June 2023, mostly in the Northern and Eastern provinces. Over the reporting period, the main state actors

⁴⁰ International Covenant on Civil and Political Rights, Art. 14(3)(g).

⁴¹ A/HRC/51/5.

involved were the Army (10 cases), the Department of Archaeology (six cases) and the Mahaweli Authority⁴² (five cases).

32. The Government reported that the release of land by the military and police was ongoing, with a further 87 out of 3,754 acres to be released in coming months, and seasonal cultivation to be allowed on a further 290 acres. A National Archaeology Policy is being prepared and steps taken to strengthen the Land Reform Commission.

D. Surveillance, intimidation of and threats to civil society and victims

33. OHCHR continues to receive reports of surveillance, intimidation and harassment of human rights defenders, activists and persons involved in memorialization initiatives by intelligence services, the military and the police or by unidentified individuals affiliated with former paramilitaries.

34. During the last quarter of 2022, police officers conducted several visits to local nongovernmental organizations based in the Northern and Eastern provinces. Staff were questioned about activities carried out by their organizations, funding sources, beneficiaries, and their personal information. On 28 December, unknown persons broke into a women's organisation in Killinochchi and stole assets and documents. Three members of another organization received calls from the Terrorist Investigation Division in Batticaloa and were questioned for eight hours, while being threatened with being forcibly disappeared.

35. Family members of the disappeared in the Eastern and Northern provinces continue to receive police visits with summons or restraining orders ahead of emblematic dates (for example, Independence Day) preventing them from organizing or participating in protests, rallies or memorialisation events. Reportedly, summons have been delivered during late evening hours or with excessive police presence, adding an element of harassment and dissuasion.

36. The High Commissioner reiterates his calls⁴³ for the immediate end of all forms of surveillance and harassment, noting with concern that such acts not only have a chilling effect on civil society activity, but also derail the delivery of essential services that some organisations provide. The High Commissioner also notes that a change of paradigm with regards to security forces relations with civil society are urgently required.

E. Freedom of expression and peaceful assembly

37. While the Government has committed to permit peaceful protests during its Universal Periodic Review⁴⁴ and the number of protests has decreased since the previous reporting period, there have still been cases of crowd control in contravention of international standards by law enforcement actors where water cannons and tear gas have been used to disperse peaceful assemblies.⁴⁵ For example, on 26 February 2023, the use of tear gas and water cannons in a confined area during a demonstration held in Colombo protesting postponement of local elections prevented the crowd from dispersing, and resulted in the death of one protester and in injuries and suffocation of several others. In June 2023, peaceful demonstrations of students demanding the release of people arrested in connection with previous protests were also met by disproportionate use of water cannons and tear gas.

38. Despite its stated objective, the International Covenant on Civil and Political Rights Act No. 56 of 2007 has continued to be misused to stifle freedom of expression,⁴⁶ as demonstrated by recent arrests. For instance, on 28 May 2023, stand-up comedian Nathasha Edirisooriya was arrested over her remarks about Buddhism. She was released on bail on 5

⁴² A river management and irrigation scheme which has been perceived to promote settlement of Sinhalese farmers in villages in the Northern and Eastern provinces to distort the ethnic composition in those regions for electoral gains.

⁴³ For instance, A/HRC/49/9 (j).

⁴⁴ <https://undocs.org/en/A/HRC/53/16>, para. 65.145.

⁴⁵ CCPR/C/GC/37, para. 76.

⁴⁶ CCPR/C/LKA/CO/6.

July. On 31 May 2023, a YouTube creator was arrested for broadcasting Edirisooriya's show. A Christian preacher, Pastor Jerome, avoided arrest over remarks about other religions made during a sermon, only because he was outside the country when a travel ban on him was announced. On 28 May 2023, Buddhist monk Rajangane Saddharathana Thera was arrested following a complaint from another monk over remarks reportedly offending Buddhism. He was granted bail on 12 July 2023.

F. Other human rights developments

39. During the reporting period, there have been new cases of deaths in custody or during encounters with law enforcement officers as reported in previous updates. For instance, on 12 May, a 41-year-old woman died in Welikada after allegedly being beaten up while in police custody following her arrest on a theft complaint from her employer. Several police officers were suspended or transferred during the investigation. On 20 July, a 29-year-old murder suspect died during a shootout with the police's Special Task Force in Minuwangoda. As of July, the Human Rights Commission of Sri Lanka reported receiving at least seven cases of extrajudicial killings in 2023, and eight cases of deaths in custody.⁴⁷

40. On 27 April 2023 a magistrate ordered the prison officers who were involved in the shooting of 11 inmates during the Matara jail riots in November 2020 to be arrested and produced before court.

V. Reconciliation and accountability

A. Transitional justice mechanisms and confidence-building measures

41. The President has committed to advance reconciliation, including plans for the establishment of a truth-seeking mechanism. The Government has appointed an advisory committee to hold discussions with stakeholders and facilitate drafting of required legislation. According to the Government, as of July it has consulted a number of stakeholders including government bodies, civil society, trade unions and Tamil politicians.⁴⁸ On 29 May, the Cabinet approved establishment of an Interim Secretariat for a Truth and Reconciliation Mechanism, and issued vacancies in July.⁴⁹

42. However, consultations so far have not been extensive, and victims, their associations, human rights defenders and many notable transitional justice experts have not been included. Some civil society organizations and victims' groups issued statements expressing deep concerns about the Government's proposal and urged the international community to assess the proposed truth and reconciliation commission in the best interests of victims.⁵⁰

43. To achieve its objectives, a truth-seeking process should be trusted by victims and affected communities, which starts with genuine consultations. To be effective, it would require significant buy-in from all stakeholders, including political will to implement recommendations. It would need to take place in an environment where victims are not only free to engage without fear of reprisals, but in circumstances enabling their meaningful participation. A truth-seeking process must also be conducted independently and impartially by bodies and/or individuals with full integrity and adequate expertise, supported by competent staff and sufficient financial resources. Most importantly, in the case of Sri Lanka, any such commission would need to show the potential to go further than previous similar commissions that have failed to pave the way for accountability or providing a adequate redress

⁴⁷ Response to OHCHR questions received on 7 August 2023.

⁴⁸ <https://www.presidentsoffice.gov.lk/index.php/2023/07/27/trade-unions-and-civil-organizations-updated-about-truth-commission/>.

⁴⁹ https://www.presidentsoffice.gov.lk/Documents/New_AD_English.pdf.

⁵⁰ See for example observations of the United Nations Special Rapporteur on transitional justice underlined following his visit to Sri Lanka in 2015, <https://www.ohchr.org/en/statements/2015/04/observations-special-rapporteur-promotion-truth-justice-reparation-and>.

to victims. The High Commissioner appeals to the Government to take time to lay the proper foundation for any truth commission through broad based consultations and confidence building measures, building on the valuable work of the 2016 Consultation Task Force on Reconciliation Mechanisms.⁵¹

44. In previous reports, OHCHR highlighted the lack of progress in addressing the issue of enforced disappearances and how, 14 years after the end of the armed conflict, families of those disappeared are still demanding answers regarding the fate and whereabouts of their relatives. Any strategy for transitional justice and reconciliation needs to take into account this issue that remains unresolved despite establishment of the Office on Missing Persons (OMP) the Office for Reparations (ORP). The OMP has held preliminary inquiries in 4,088 out of a total 14,988 complaints, while the ORP disbursed LKR 405.3 million for 2,402 conflict-related cases in 2022. OHCHR believes the OMP requires proactive, independent leadership and more robust investigative and tracing capacities, including to investigate suspected mass grave sites and identification of remains.

45. While the Government affirms its commitment to reconciliation, it continues to obstruct memorization initiatives, further eroding victims' trust. For instance, on 23 July, the police violently dispersed a civil society memorial in honour of the 1983 Black July riots victims. Allowing victims safe spaces to remember and mourn is an important gesture towards reconciliation and a form of recognition by the State.

B. Emblematic cases

46. During the reporting period, there have not been many developments in the investigation or adjudication of past emblematic human rights cases, most of which remain unresolved or pending before the courts.

47. The case concerning the attacks that took place on Easter Sunday 2019 in multiple places across Sri Lanka moved forward as the Colombo High Court Trial-at-Bar on 31 March 2023 started reading out the 23,270 charges of aiding, abetting and conspiring for terrorism, collecting explosives and weapons, murder, and attempt to murder to the 25 accused under the Prevention of Terrorism Act. On 12 January 2023, the Supreme Court directed senior government officials, including former President Mahitripala Sirisena to compensate the victims and their families from their personal funds. The court considered that the officials were responsible for failing to prevent the terrorist attacks despite receiving intelligence ahead of it.⁵²

48. On 14 March 2023, the Human Rights Committee adopted its Views⁵³ on the case *V.M. vs Sri Lanka*, concerning the torture, rape and ill-treatment in 2009 of a man who had been a member of the LTTE between 1990 and 2000, and the subsequent lack of an effective remedy and investigation. The Committee found that Sri Lanka had violated its international obligations under the International Covenant on Civil and Political Rights and is under an obligation to provide adequate compensation to the complainant.

C. OHCHR activities pursuant to Human Rights Council resolution 46/1

49. Resolution 46/1 requested OHCHR to strengthen its capacity in relation to advancing accountability for the gross violations of human rights and serious violations of humanitarian law and related crimes committed by all parties in Sri Lanka. To this end, OHCHR established a specialized project team, the OHCHR Sri Lanka accountability project. In October 2022, the Council decided to extend and reinforce this capacity through resolution 51/1. The Government of Sri Lanka has consistently rejected resolution 46/1 in particular OP6 and resolution 51/1 in particular OP8 and has declined the offer by the project team to provide briefings and engage in an exchange of information with officials. Terms of

⁵¹ <http://www.omp.gov.lk/storage/app/uploads/public/5fa938/65a/5fa93865aa0a0196003109.pdf>.

⁵² SC/FR/163/2019. See also: <https://www.ohchr.org/en/statements/2023/01/comment-un-human-rights-office-spokesperson-jeremy-laurence-sri-lanka-supreme>.

⁵³ CCPR/C/137/D/2406/2014.

Reference for the project were published in three languages (English, Tamil and Sinhalese) in March 2023.

1. Collecting, consolidating, analysing and preserving information and evidence

Repository

50. The team continues to prioritize the establishment and development of a repository of information and evidence, to maximize OHCHR's long-term contribution to supporting accountability initiatives. The repository was originally populated with data from the earlier OHCHR Investigation on Sri Lanka, together with other material collected over the years by OHCHR. It has since been supplemented by material drawn from the archives of nine key nongovernmental organizations and academic sources. The project team is engaging with other stakeholders to seek to bolster the repository's holdings, subject to appropriate terms of access. A particular focus for the next period will be working with partners for the digitalization, preservation and safe transfer of information and evidence.

51. During this period, there has been significant investment in refining the electronic data management system for the repository, so as to increase capacity to provide useful and timely responses to requests, in particular those being received from State authorities. The project will continue to assess additional digital tools and data management applications with a view to further refining the cataloguing, identifying and analysis of relevant material, to maximize the possibility of their use and admissibility in accountability processes.

Investigations

52. An initial analysis of available material by the project team highlighted that further investigations would be necessary to address outstanding gaps in the factual basis of some violations, as well in material linking violations and related crimes to specific individuals, whether those directly involved or bearing command responsibility. Given the scale of violations and crimes alleged in Sri Lanka, the project prioritizes cases according to objective criteria, including gravity of the violations and related crimes; their representativeness (taking into account for instance, the parties involved, geographical factors whilst factoring in under-represented cases, including those involving sexual and gender based violence), the strength of existing information base concerning the patterns of violations/crimes and potential perpetrators, appropriate access to further information, and likely accountability opportunities. As a result of these deliberations, four priority areas were selected: unlawful killings, sexual and gender-based violence and torture in detention settings, enforced disappearances and violations against and affecting children, including the recruitment and use of children in hostilities. In undertaking its work, the team will retain flexibility to respond to future requests for assistance.

2. Advocating for Victims and Survivors

53. OHCHR places the highest priority on victim-centric approaches in its work. It is acutely aware of the real threats facing those speaking out about the violations of the past and continues to develop methodologies to ensure compliance with the overriding imperative to "do no harm". In all its operations, the project undertakes participatory assessments of the level of threat and risk of harm to victims, witnesses and other persons engaging with the project before, during and after establishing contact with them. Tailored protection strategies are developed accordingly. The project has sought to map existing local protection networks and support mechanisms, including psycho-social support, and make referrals as appropriate to such services.

54. During this reporting period, the project has undertaken an intense process of engagement with civil society organizations, including victim representatives. This has involved consultations with over 120 civil society organizations, including 30 women's rights organizations, the majority of which are based in Sri Lanka. There has been specific effort to engage with organisations from across the different geographical areas of Sri Lanka, and from different religious and political affiliations, as well as with organisations that focus on gender issues. In conjunction with partners, it also sought to strengthen the ongoing capacity of civil society organizations, with a series of workshops around the topic of

security, including digital security and protection strategies. Moving forward, the project anticipates expanding its communication and outreach programme to allow for a wider flow of information. In recognition of the importance of enforced disappearances, OHCHR will convene focused victim consultations on accountability for enforced disappearances.

55. Some victims have expressed disillusionment and frustration that previous national and international investigations that they have contributed to have not led to concrete accountability actions. The High Commissioner is grateful to those who have been willing to re-engage with the United Nations and entrust their personal accounts and supporting documentation with the project. While any future results will ultimately depend upon the willingness of authorities, both in Sri Lanka and other Member States, OHCHR will continue to amplify the demands of victims for justice and support initiatives designed to achieve that.

3. Supporting relevant judicial and other proceedings, including in Member States, with competent jurisdiction

56. The project has provided increased support to jurisdictions that are investigating and prosecuting international crimes committed in Sri Lanka. It is receiving a steady increase in the number of requests being made by State investigative, prosecutorial or judicial authorities for information and evidence. To date, requests have been received from authorities in relation to 10 named individuals. OHCHR will only share information if it has the relevant form of consent, that it is not contraindicated by a risk assessment, and that the information would not be used in a manner which is inconsistent with international human rights law. Once relevant information and evidence is identified, it is reviewed in light of these and other applicable criteria for purpose of sharing the information and evidence with the requesting authority in appropriate form.

57. During this period, the project has also sought to increase its engagement with State prosecutorial authorities. In April 2023, the project briefed representatives from 29 States drawn from national prosecutorial authorities and/or law enforcement agencies on the mandate and work of the project, and to explore potential collaboration.

4. Developing possible strategies for future accountability processes

58. OHCHR continues to undertake work on developing future accountability strategies, which will be addressed in more detail in the comprehensive report to the 57th session of the Human Rights Council. Despite the steps now being taken to establish a truth-seeking mechanism, the Government appears reluctant to support independent criminal investigations and prosecutions for those responsible for the egregious violations that have taken place or to make progress in relation to the establishment of a special judicial mechanism for that purpose, as committed to by a previous Government.

59. It remains vital for the international community to remain engaged on the issue of accountability and contribute alongside national processes. There have been some encouraging developments in this arena, such as a number of States pursuing criminal investigations against persons implicated in violations and abuses and related crimes in Sri Lanka, and taking other accountability steps. It is to be hoped that the international community, through the United Nations and other multilateral fora, as well as individual States on a bilateral basis with Sri Lanka, will continue to work together to advance accountability.

VI. Conclusions

60. **Sri Lanka is still facing a difficult economic, social and political situation. The economic crisis continues to have a severe impact on the rights and well-being of many Sri Lankans. Financial support from international financial institutions and structural reforms are important steps to bring the economic crisis under control, but it is essential that the burden of reforms does not fall unequally upon some segments of society. Robust safety nets and social protection are required to shelter the most vulnerable from the negative spillovers of economic restructuring. It is vital to address the underlying factors in the crisis, including corruption, centralization of power, lack of**

transparency and institutional checks and balances, and the unresolved legacy of conflict, including accountability. The High Commissioner urges the international community to keep supporting Sri Lanka in its recovery, in line with obligations around international cooperation and assistance, while pressing for genuine progress in governance, transparency and accountability. Solutions will only be long-lasting if supported by society as a whole. Both the necessary economic reforms and the historical institutional challenges affecting Sri Lanka require tremendous political capital, broad consensus and the trust of society.

61. Lack of accountability at all levels remains the fundamental main human rights problem. Whether it refers to war crime atrocities, post-war emblematic cases, torture and deaths in police custody, excesses in crowd control, corruption and the abuse of power, Sri Lanka suffers from an extraordinary accountability deficit that unless addressed will drag the country further behind. The High Commissioner urges the Government and Sri Lankan political parties to strive for and deliver on long-over-due democratic renewal, deeper institutional reforms and tangible progress on accountability, reconciliation and human rights. This would be particularly appropriate in a year that marks both the 75th anniversary of Sri Lanka's independence and the 75th anniversary of the Universal Declaration of Human Rights.

62. Last July marked also the 40th anniversary of "Black July", the anti-Tamil pogroms in Colombo in 1983 that killed many hundreds and left thousands homeless, exponentially magnifying the ethnic divide and setting the scenario of armed conflict that defined Sri Lanka for the following three decades. OHCHR welcomes the intention of the President to dialogue with Tamil political parties and diaspora groups and advance reconciliation options through truth-seeking and other political solutions for devolution as presented in the 13th Amendment. However, accountability remains a crucial element of any genuine reconciliation agenda and any new transitional justice measures, including a truth commission, must meet international standards and the expectations of victims and their relatives to deliver lasting gains.

63. While it remains the responsibility of the Sri Lankan authorities to acknowledge past violations and undertake credible investigations and prosecutions, the international community can play an important complementary role, including through supporting relevant criminal justice investigations and prosecutions, the use of universal jurisdiction, and consideration of appropriate targeted sanctions against persons credibly implicated in serious human rights violations.

VII. Recommendations

64. The High Commissioner reiterates the recommendations made in previous reports⁵⁴ and those made by United Nations human rights mechanisms. OHCHR remains ready to provide technical assistance for the implementation of those recommendations, as required, including through the strengthening of its country presence to support the Government and people of Sri Lanka at this critical time.

65. OHCHR recommends that the Government of Sri Lanka:

(a) Take all necessary measures, within its available resources, to guarantee people's economic and social rights during the economic crisis, on the basis of non-discrimination and protection of human rights, and strengthen social protection by increasing financing and extending it to cover emerging needs;

(b) Decisively tackle corruption, increase investments in health, social security and education, including through international cooperation and assess any potential human rights impact of international financial assistance programmes and take preventive measures to reduce it to the minimum;

(c) Create as a matter of priority an enabling environment for a successful and sustainable transitional justice process, including by ensuring the full, free and safe

⁵⁴ A/HRC/46/20, para. 60; and A/HRC/49/9, paras. 67–69, A/HRC/51/5, para 70–72.

participation of victims, witnesses and civil society, ending all forms of harassment and unlawful and arbitrary surveillance against them, and supporting initiatives to acknowledge and memorialize the experience of victims;

(d) Develop and implement, in full consultation with victims and civil society, a coherent time-bound plan that connects the elements of truth, accountability, redress, and non-recurrence, drawing also on the work of the Consultation Task Force on Reconciliation Mechanisms, and ensure that any truth-seeking process is developed through broad based consultations, complies with international norms, standards and best practice, and is complemented by an independent ad hoc special court;

(e) Pursue other transitional justice measures, including strengthening the Office on Missing Persons and the Office for Reparations to their full potential, and adopt institutional and other measures preventing violations in the future;

(f) Undertake comprehensive security sector reform, including considerably reducing military spending, vetting, and reducing military presence in areas affected by armed conflict;

(g) Take all necessary measures to increase women's participation in political life, including in decision-making regarding the economic crisis, at the national, provincial and local levels, including by ensuring respect of the 25 per cent quota for women's representation in local government, combating harmful stereotypes, and protecting politically active women from harassment and violence;

(h) Make public relevant documentation concerning violations of the past, including reports of Commissions of Inquiry, and documentation concerning those taken into custody of the State;

(i) Engage and cooperate with OHCHR in relation to advancing work on accountability, including through sharing relevant information and evidence and permitting OHCHR to visit Sri Lanka in pursuance of the mandate under Resolution 51/1;

(j) Review practices in departments dealing with archaeology, forestry, irrigation, and other services regularly implicated in land disputes. Impartially and transparently adjudicate land disputes, particularly those with an intercommunity/interreligious aspect;

(k) Ensure that new legislation replacing the Prevention of Terrorism Act and regulating broadcasting media fully comply with Sri Lanka's international law obligations; observe a strict moratorium on use of the Prevention of Terrorism Act, and continue expediting the release of those detained and imprisoned for a long period under the Act;

(l) Accelerate investigations and prosecutions in emblematic cases of human rights violations, as well as the Easter Sunday bombings, in compliance with international human rights standards, with international assistance, and ensure the full participation of victims and their representatives;

(m) Ensure the right to political participation and the free expression of voters through free and fair elections at all levels of government;

(n) Review and amend in accordance with international human rights requirements of legality, necessity, proportionality and non-discrimination laws which unduly restrict freedom of expression, freedom of peaceful assembly, and freedom of association;

(o) Invite OHCHR to strengthen its country presence and provide technical assistance to authorities and civil society in Sri Lanka.

66. The High Commissioner reiterates the recommendations made in reports to the Human Rights Council and Member States in 2021⁵⁵ and 2022⁵⁶ and further recommends that they:

- (a) Prioritize activities that help create an enabling environment and lay the foundation for effective and meaningful transitional justice processes, taking into account the views of all stakeholders, particularly victims;
- (b) Support transitional justice measures insofar as they are in compliance with international norms and standards and take into account the needs, priorities and expectations of victims and affected communities;
- (c) Cooperate in investigating and prosecuting alleged perpetrators of international crimes committed by all parties in Sri Lanka through judicial proceedings in national jurisdictions, including under accepted principles of extraterritorial or universal jurisdiction, through relevant international networks and in cooperation with victims and their representatives;
- (d) Explore further targeted sanctions such as asset freezes and travel bans against those credibly alleged to have perpetrated gross international human rights violations or serious humanitarian law violations;
- (e) Support Sri Lanka in the investigation of economic crimes that have an impact on human rights and in the tracing, recovery and return of stolen assets, and in ensuring that returned assets are allocated in an accountable, transparent and participatory manner that contributes to the realization of human rights.

67. The High Commissioner recommends to all United Nations agencies, funds and programs operating in Sri Lanka and to international financial institutions that they:

- (a) Take into account Sri Lanka's international human rights obligations with regards economic, social and cultural rights and pay special attention to issues of accountability, governance and diversity when negotiating or implementing support programs;
- (b) Support the design and implementation of transitional justice and reconciliation measures in compliance with international standards and the resolutions of the Human Rights Council;
- (c) Ensure broad cooperation and engagement with OHCHR's work on accountability in Sri Lanka, including that OHCHR is given full access to materials held within the United Nations system concerning violations and related crimes that have occurred in Sri Lanka.

68. The High Commissioner recommends that the Human Rights Council continue to monitor developments closely.

⁵⁵ A/HRC/46/20, para. 61.

⁵⁶ A/HRC/51/5 para 72.