



Transitional Justice

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

Approx. 120 words noting recommendations made to Sri Lanka on the relevant theme in the first and second cycle .

During its first UPR in 2008, Sri Lanka received a host of recommendations related to transitional justice. Issues pertained to reintegration of internally displaced persons, protection of witness and victims, ratification of the Rome Statute, strengthening of rule of law and the need for an independent complaint mechanism in prisons. Specific focus was granted to prevent and to hold all perpetrators accountable for cases of enforced disappearances, kidnappings and extra-judicial killings.

During its second UPR in 2012, internally displaced persons attracted 10 recommendations, enveloping elements on housing, livelihoods and economic empowerment. 48 recommendations were directly linked to justice. The need to implement LLRC recommendations and to strengthen judicial independence featured prominently. 18 recommendations targeted enforced disappearances; 8 referred to cooperation with the Working Group on Enforced or Involuntary Disappearances and 6 to sign or ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Despite that recommendations requesting ratification were noted, the treaty was ratified in May 2016. Similarly, in contrast to noted recommendations on an invitation to the Working Group, a visit was implemented in July 2016.

NATIONAL FRAMEWORK

Approx. 200 words outlining relevant national legislation, statistics, policies and initiative.

Soon after the end of civil war, Ban Ki Moon the then Secretary General of the United Nations visited Sri Lanka in May 2009. The President of Sri Lanka and UN Secretary General signed a joint statement. The Secretary-General emphasized the importance of an accountability process for addressing violations of international humanitarian and human rights law. The Government undertook to take measures to address those grievances.

The Lessons Learnt and Reconciliation Commission (LLRC) was formed with a mandate inter alia to promote national unity and reconciliation among all communities. The Commission submitted its

final report to the President on 15th November 2011.

Human Rights Council Resolution HRC/RES/30/1 on Sri Lanka, Promoting reconciliation, accountability, and human rights in Sri Lanka was adopted 1 October 2015. The GOSL co-sponsored this Resolution.

The commitments made therein includes setting up 4 major institutions, and take measures to address long standing grievances of war affected communities. These proposed institutions are (i) Office of Missing Persons (ii) a Commission for Truth (iii) a Judicial mechanism (iv) an Office for Reparations. The Office On Missing Persons Act, No. 14 Of 2016 was the only mechanism established so far.



CHALLENGES

IMPACT

No effective implementation of LLRC recommendations

It was proposed to remove certain High Security Zones which still remains. No investigations were made into alleged war crimes and disappearances.

Religious and chauvinistic influences against transitional justice process.

disappearance of a journalist, a group of Buddhist monks entered the court house and threatened the magistrate. After this, extremists often use nationalist and racist rectories against steps for accountability and transitional justice.

The process to pass International Convention for the Protection of All Persons from Enforced Disappearance Bill has stopped due to objections from religious and nationalist extremists. As a result there is no legislation to criminalize disappearances

Failure to set up major reconciliation institutions

In accordance with Human Rights Council Resolution HRC/RES/30/1 on Sri Lanka, four major institutions were to be established. To date, only the OMP has been established. OMP cannot function efficiently, without having proper allocation of funds for its operations and activities. A Commission for Truth, a Judicial mechanism and an Office for Reparations are yet to be established. Without these institutions, no progress could be achieved in the subject areas.

RECOMMENDATIONS

1. Legislate to establish a Commission for Truth, a Judicial mechanism and an Office for Reparations as per UN HRC Resolution 31/1.
2. Fully implement all recommendations of the Consultation Task Force (CTF) on reconciliation mechanisms.
3. Establish an independent mechanism to investigate into alleged war crimes and other grave human rights violations during the civil war.
4. Remove all high security zones in the former war zone and release the land for previous occupants.
5. Release all lands acquired by the military to the former occupants.
6. Ensure that a reasonable compensation is arranged for the families of the deceased and disappeared during the civil war, for restoration of their livelihood.
7. Allocate sufficient funds for the Office of Missing Persons (OMP).