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### Human Rights Council

#### Fifty-first session

12 September–7 October 2022

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**

### **Letter dated 7 September 2022 from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva addressed to the President of the Human Rights Council**

I write further to my letter to my previous letters addressed to you, on according equal visibility for States' responses to reports to be presented at the Human Rights Council (HRC) and other mechanisms of the Council.

As you are aware, the Actg. High Commissioner for Human Rights will present a comprehensive report on Sri Lanka on **Monday, 12 September 2022**, during the upcoming 51<sup>st</sup> session of the HRC, which will be followed by an interactive dialogue. On 02 September 2022, upon a request made by the OHCHR, the Government of Sri Lanka (GoSL) shared its comments on the advance version of the High Commissioner's report, requesting, *inter alia*, that the GoSL comments be published as an addendum to the above report, alongside and on the same list of documents as the report of the High Commissioner.

The above request was made with a view to upholding the integrity between the report and the comments by the State concerned, and in the interest of ensuring that the comments of the State concerned receive the same visibility as the High Commissioner's written update.

However, we have been informed by the HRC Secretariat yesterday that the only available option in this regard is to publish Sri Lanka's response as government communication ("G" letter) and have a footnote on the HRC webpage with a hyperlink to the letter.

As communicated to your Excellency on previous occasions, the principles of equity and fairness require that when any United Nations entity including the OHCHR publishes a report about a member state, the same visibility should be accorded to the observations made by the state concerned, so that other member states can read both sides of the story and form an informed opinion about the contents of the report concerned. Publishing the response of the State concerned on an entirely different webpage, among various other Government Communications, does in no way serve this objective.

A large number of States, including Sri Lanka, have consistently echoed the importance of and the urgent need to address this matter, at HRC related meetings as well as their interactions with the HRC President and the High Commissioner. In fact, both the former President of HRC and the former High Commissioner for Human Rights agreed that it is only fair that this matter be addressed and equal visibility be given to States' responses/views.

Clear guidance in this regard can be drawn from rules governing mechanisms of the HRC such as the Manual of Operations of the Special Procedures, which requires that

“Comments by the Government concerned on the substance of the report should be annexed to the report in accordance with applicable United Nations documentation rules” (Section 74).

The Permanent Mission of Sri Lanka notes the Bureau decision dated 14 December 2021 and would appreciate if more broad-based discussions with members, observers and coordinators of regional and other groupings at the HRC could be undertaken with a view to addressing this matter in an equitable manner.

Pending such consultations, and exclusively as an interim measure, it would be appreciated if:

- i. The attached GoSL comments\* are published as a Government Communication, with a clear indication and hyperlink thereto in the HRC 51 list of documents, next to the place where the OHCHR report on Sri Lanka is published. It would be appreciated if this action is taken immediately as the Interactive Dialogue on the OHCHR report on Sri Lanka is scheduled to take place on 12 September 2022; and
- ii. A hyperlink to the attached GoSL comments is published in the Order of the Day for 12 September 2022 next to the hyperlink to the OHCHR report; and
- iii. The present letter could be circulated as a document of the 51<sup>st</sup> session of the HRC.

We look forward to your kind cooperation on this matter, in keeping with the principles of fairness that are required to form the basis of your multilateral system including the UN Human Rights Council.

(Signed) C.A. Chandraprema  
Ambassador/ Permanent Representative of Sri Lanka to the UN in Geneva

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\* Reproduced as received, in the language of submission only.

## **Annex to the letter dated 7 September 2022 from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva addressed to the President of the Human Rights Council**

### **Response of the Government of Sri Lanka (GoSL) to the comprehensive report of the UN High Commissioner for Human Rights pursuant to HRC Resolution 46/1**

#### **I. Introduction**

1. As this Report by the High Commissioner for Human Rights (HCHR) is prepared pursuant to HRC Resolution 46/1, the GoSL wishes at the very outset to state its position in relation to this resolution as follows:

1.1. HRC Resolution 46/1 adopted in March 2021 was presented to the HRC without the consent of Sri Lanka as the country concerned and adopted following a divided vote in the Council. This resolution politicized and divided the Council by flouting its founding principles of impartiality, objectivity and non-selectivity as enshrined in the UNGA resolution 60/251 and the IB package HRC Resolutions 5/1 and 5/2. Several Member States of the Council voted against the Resolution 46/1, while some voted in favour and others abstained.

1.2. Sri Lanka rejects both the resolution and the external evidence gathering mechanism introduced by HRC Resolution 46/1, adopted without the consent of Sri Lanka as the country concerned, and of other members of the Council who either voted against or abstained on the resolution. Both the resolution and the evidence gathering project set up by the Office of the High Commissioner for Human Rights (OHCHR) only serve to polarize and divide, and is an unhelpful drain on the resources of the Council and its membership.

1.3. Notwithstanding Sri Lanka's position as stated above, the GoSL will continue its ongoing engagement with the Council and the OHCHR on multiple fronts in a spirit of cooperation and constructive dialogue as well as in line with its human rights obligations voluntarily undertaken. The OHCHR had requested to visit Sri Lanka to conduct consultations with the GoSL and others in preparation of its Report. The GoSL consented to the said visit, also in the above spirit.

#### **II. Context**

##### **Current situation (para 4-7):**

2. Sri Lanka is facing unprecedented economic challenges resulting from a number of factors, including the aftermath of the COVID-19 pandemic and current global crises. The Government of Sri Lanka (GoSL) is sensitive to the economic hardships faced by the people and is in dialogue with all stakeholders including domestic and international partners with regard to stabilising the situation and ensuring the welfare of the people through the provision of essential supplies. In moving forward in an inclusive manner, the GoSL considers it crucial to heed the aspirations of all segments of the population.

3. Sri Lanka has a longstanding democratic and constitutional tradition as one of Asia's oldest democracies, having exercised universal franchise since 1931. The protests carried out by a cross-section of the population since earlier this year culminated in the resignation of the former President, the former Prime Minister and the Cabinet of Ministers, and the subsequent peaceful transition of power in accordance with the Constitution of Sri Lanka. The incumbent President Ranil Wickremesinghe was elected on 20 July 2022 by Parliament in accordance with the Constitution, and was sworn in as the 8th Executive President of Sri Lanka before the Chief Justice on 21 July 2022. The Prime Minister and the Cabinet of Ministers also took oaths before the President on 22 July 2022. Following the formation of

the new Government, the President extended an invitation to all political parties in Parliament to form an all-party Government in order to take forward the Government's mandate of restoring stability, and creating a consensus-based environment to deliver on urgent socio-economic necessities, including the provision of essential supplies to the people.

4. The Government is focused on addressing the underlying economic issues on a priority basis, including through discussions with the International Monetary Fund (IMF), and debt restructuring which are now in progress. It is envisaged that the significant progress made by Sri Lanka in meeting the goals of the 2030 Agenda on Sustainable Development would come under severe strain due to the prevailing economic situation. In order to minimize such negative impact on the most vulnerable segments of the population and to ensure provision of an adequate social safety net, targeted preventive measures are being undertaken by the Government, inter alia, through the interim budget presented to Parliament.

#### **Government's response to the current political and social challenges (para 5 – 7)**

5. The Government's response to the current political and social challenges has been firmly within a democratic, constitutional framework, respecting the civil and political rights of the people, including their right to peaceful assembly and protest.

6. The relevant authorities in Government, including law and order and defence, were consulted prior to the introduction of the Emergency Regulations which were brought into effect on 18 July 2022, in accordance with the Public Security Ordinance, in the interest of public security, and the preservation of public order and the maintenance of supplies and services essential to the life of the community. Notwithstanding the promulgation of the Emergency Regulations, all steps taken by the authorities in the interest of public security and the preservation of public order were within the ambit of and in accordance with the normal laws of the country, and under judicial supervision. Those arrested were produced in courts within 24 hours, and a majority were granted bail. No provisions of the Emergency Regulations were used. The President on 16 August 2022 announced that Emergency Regulations will not be extended. In addition to the above, safeguards are built into the Constitution which allow the public to challenge Emergency Regulations through the legal framework, which have been availed of in the fundamental rights petitions filed in the Supreme Court.

7. The Constitution of Sri Lanka guarantees the freedom of assembly and of expression, and the Courts have consistently upheld these rights. Article 14 of the Constitution of Sri Lanka ensures the freedom of speech and assembly. As per Article 15 of the Constitution such rights are restricted in the interest of national security and public order. Obstructing the main entrance of the Presidential Secretariat amounted to unlawful assembly under the third limb of Section 138 of the Penal Code. Therefore, the dispersal of the protestors illegally occupying the Presidential Secretariat and obstructing its entrance, was carried out in accordance with the Criminal Procedure Code. The Government has reiterated the necessity for protests to be carried out within the framework of the law, so that they do not morph into acts which are tantamount to criminal obstruction and/or unlawful occupation. The burning of houses of Members of Parliament, and the brutal slaying of one Member of Parliament did not create an environment conducive to the effective functioning of Government. It was necessary in this backdrop, to ensure the effective and efficient functioning of Government including the rule of law as a matter of priority.

### **III. Human Rights impact of the economic Crisis**

#### **Response to the COVID- 19 pandemic:**

8. In addressing the socio-economic impact caused by the COVID-19 pandemic, the Government's approach has been inclusive, non-discriminatory and holistic, giving foremost importance to safeguarding the health and safety of not only the Sri Lankan people, but also foreign nationals living within Sri Lankan territory. These public health measures were accompanied by a series of policies aimed at advancing the economic and social rights of particularly the vulnerable segments of society, such as provision of support for low-income families, older persons, the differently abled, day income earners, farmers and persons

engaged in small industries and in the informal sector, with a view to building their resilience to the effects of the pandemic. The Government granted financial relief and dry rations to over six million families and vulnerable groups, established a COVID – 19 Healthcare and Social Security Fund and continues to provide financial facilities to local businesses.

9. Sri Lanka's nationwide strategy in the containment of COVID-19 has been largely successful and has been acknowledged as such by the World Health Organization (WHO). Sri Lanka has performed exceptionally well with regard to the COVID-19 vaccination drive, exceeding WHO targets, and achieving a coverage of 97% for the first dose, 82% for the second and 55% for the third dose, respectively, of the targeted population above the age of 12 years. Given the country's well-functioning free healthcare system which includes a well-established preventive structure located throughout the country, Sri Lanka was able to successfully contain the pandemic using the public health processes and a multi-sectoral approach.

#### **Measures taken in the current economic crisis to safeguard vulnerable segments of populations (paras 10-14)**

10. In the immediate term, the crisis has disrupted economic activities and households' capacity to afford basic necessities, including adequate nutrition, placing an increased burden on people, disproportionately impacting the most vulnerable.

11. The Government has launched programmes in order to safeguard the most vulnerable segments of society, mitigate the rollback of the advancements made in achieving the SDGs and ensure the protection of the economic and social rights of all citizens during this period. Some of these initiatives in brief are as follows:

#### **Support to Education:**

- Resource mobilisation across sectors, such as education, by re-programming the funded projects to facilitate online learning by harnessing the support of donors to provide uninterrupted nationwide education to all school going children. The programme of providing food for school children is currently being implemented in 7,925 schools across the country covering 1.1 million of students representing all provinces.
- The morning meal programme in Early Childhood Development Centers/Preschools is being implemented since 2017 with the technical guidance of the Ministry of Health. The current programme benefits 90,203 children in 3,808 schools in 236 divisional secretariat divisions utilizing Rs. 30 per child per day. Considering the current economic situation, the amount per child of the above programme has been increased up to Rs. 60 per day. The programme is being implemented through the Divisional Secretariats with the support of the World Bank.

#### **Health sector:**

- The government has allocated USD 410 mn to fulfill the requirements of pharmaceuticals, medical and surgical supplies, and has proceeded USD 23 mn to fulfill the urgent medicine requirement of the Ministry of Health (MOH).
- The GoSL remains engaged with international institutions and agencies to obtain support for the importation of essential drugs and medical equipment.

#### **Provision of essential items:**

- Initiated Contingent Emergency Response Components (CERCs) with the assistance of the World Bank of USD 300 mn to finance the Cash Transfers to the Vulnerable Groups and other activities, particularly for the provision of Cooking gas, Fertilizer and Medicine from May to July 2022.
- Several grant support has been received directly through donor agencies and bilateral partners. The Ministry of Finance has established a Donor Coordination Cell at the Department of National Planning of the Ministry to coordinate emergency support from various partners with a computer-based system.

- Commencing August to October 2022, the World Food Programme (WFP) will support the provision of cash allowance of Rs. 15,000 to around 114,200 most vulnerable households, and Rs. 4.3 bn will be allocated for the proposed programme.
  - In addition to above, Rs. 15,000 worth of in-kind assistance (dry ration/food pack) will be provided to 164,400 households and Rs. 7.4 bn will be allocated to vulnerable groups. 25,000 MT of mixed food (Rice, Dhal & Oil) will be distributed to vulnerable groups, including to the School Meal Programme (to 1.1 mn School Children).
  - From September to November 2022, the Asian Development Bank (ADB) will support the "Food Security and Livelihood Recovery Emergency Assistance" programme.
12. In addition to the regular welfare programmes, the Government is in the process of providing additional relief for the most vulnerable groups of society.
- The Government has increased the cash transfer allowance to around 3.1 mn for the existing and waitlisted recipients of Samurdhi, the elderly, and victims of chronic kidney disease and disability benefits expenditure. The cost of cash transfers in August 2022 will be borne by the Government.
  - Under this programme, the Government has provided an additional allowance up to Rs 7,500 for Samurdhi existing beneficiaries based on their current benefit allowance. The Samurdhi waitlisted beneficiaries are also eligible to receive Rs. 5,000. A total number of 3,089,080 beneficiaries of existing and waitlisted of Samurdhi, elderly, chronic kidney disease, and disability programmes were benefited under this programme during the period of May to July, 2022. The programme will be continued from September onward with the support of the ADB until November, 2022.
  - From August to October 2022, the WFP will support with the provision of a cash allowance of Rs. 15,000 to around 114,200 to the most vulnerable households, and Rs. 4.3 bn will be allocated for the proposed programme. In addition to above, Rs. 15,000 worth of in-kind assistance (dry ration/food pack) will be provided to 164,400 households and Rs. 7.4 bn will be allocated.
  - Nutritional allowance to pregnant mothers: The Government has since March 2017 been implementing a programme of providing a nutritional allowance to pregnant mothers at a cost of approximately Rs. 5,300 mn per annum. The programme is implemented in order to eliminate low weight births and minimise malnutrition among expectant mothers. Around 300,000 to 350,000 pregnant and lactating mothers benefit annually from this programme. From September 2022, the programme will be further supported by the ADB.

#### **IV. Reconciliation, accountability and human rights**

##### **22nd Amendment (Para 16)**

13. As part of the process of political reform, the GoSL intends to pass the 22nd Amendment to the Constitution, which includes all the effective elements of the 19th Amendment. The Bill of the 22nd Amendment to the Constitution has now been presented to Parliament following approval by the Cabinet of Ministers on 1 August 2022. The Bill was placed on the order paper of the Parliament on the 10th August 2022. Several petitions have been filed in the Supreme Court challenging the passage of the said Bill. Accordingly, subject to the views of the Supreme Court that would determine the constitutionality of the Bill, the 22nd Amendment to the Constitution introduces several salient changes to the present Constitution, which would strengthen democratic governance and independent oversight of key institutions, as well as public scrutiny of and participation in governance, which will include the composition of the Constitutional Council, allocation of Cabinet portfolios, and the continuation of governmental functions and the reintroduction of the National Procurement Commission and the Audit Commission and affords Constitutional recognition to the United Nations Convention Against Corruption –(UNCAC).

### **Human Rights Commission of Sri Lanka (para 17)**

14. The Human Rights Commission of Sri Lanka (HRCSL) has been reconstituted in accordance with the procedure mandated by the Constitution, and financial provisions have been allocated to implement its mandate. The HRCSL has undertaken several measures in accordance with its mandate to promote human rights and monitor implementation of fundamental rights, some of which include the following:

- Following inquiries into the incidences of violence in May 2022, the HRCSL is formulating Guidelines for the police and armed forces on crowd control.
- The Commission has also launched inquiries on alleged attacks against protesters at Galle Face on 22 July 2022.
- The Commission is conducting fact finding missions on several areas, such as (i) Women Affected by the Micro-credit companies in the Kandale Divisional Secretariat Division; (ii) Rights of Indigenous People in the Muttur Divisional Secretariat Division.
- In relation to detainees, the Commission conducted a study on prisons in Sri Lanka in 2018 and issued recommendations in 2020. Recommendations of the report have been discussed with stakeholder agencies, as well as the UNDP and academia. To commence implementation, priority was given to capacity building of prison officials. Accordingly, existing training manuals are being amended and developed further by the HRCSL. Based on these recommendations, the Department of Prisons has developed a five-year plan on 09 areas. In terms of prison overcrowding, action and decisions taken by the relevant authorities including the Attorney General's Department, the Department of Police and the Department of Prisons, it has been possible to reduce the prison population from around 32,000 in October 2020 to around 19,000 in 2021.

15. It is emphasized in terms of Article 14 (1) (h) and (i) of the Constitution, a citizen is entitled to the freedom of movement, choosing his residence within Sri Lanka, his freedom to return to Sri Lanka is a fundamental right, recognized and guaranteed in terms of the Constitution.

### **Prevention of Terrorism Act (paras 18-20)**

16. Recognizing the importance of balancing national security with our obligations to promote and protect human rights and fundamental freedoms domestically and internationally undertaken, Sri Lanka initiated the process of reviewing the PTA. In this context, following extensive deliberations with all relevant stakeholders including civil society, amendments to the PTA were adopted by Parliament in March 2022. It is noteworthy that this is the first time that the PTA has been substantively amended in 43 years. The cumulative effect of these Amendments will make a substantial improvement to and have a profound impact upon the existing law, and will further the cause of human rights and human freedoms in Sri Lanka. The process of deliberation on amendments to the PTA have taken into consideration the many constructive comments and concerns expressed by domestic and international stakeholders. The amendments already adopted are an interim measure towards the promulgation of a more comprehensive counter-terrorism legislation.

17. This is also a progressive step in an ongoing process of advancing, securing and protecting the rights of persons subject to investigation, detention and trial. As a result of the amendments, persons subject to the provisions of the PTA will have better recourse to the fundamental rights guaranteed under the Constitution. As parallel supportive measures, the release of long-term detainees under the PTA was expedited in accordance with relevant procedures.

18. It is reiterated that the law enforcement authorities have been instructed to follow due process in the conduct of investigations under the PTA and to use this legislation only in instances of extreme necessity.

19. To build on the progress made, the Cabinet paper to initiate further work to develop comprehensive counter terrorism legislation that balances national security concerns with international human rights obligations, is to be tabled.

**Delisting individuals and entities under Regulation 4(7) of the United Nations Regulation No. 1 of 2012 (Para 19)**

20. The List of Designated individuals, groups and entities under the Regulation 4(7) of the United Nations Regulation No. 1 of 2012 has been reviewed by Gazette Extraordinary dated 01 August 2022. Through this review 316 individuals and 06 entities have been removed from the List. The 06 entities removed from the List are, - Global Tamil Forum (GTF) - Australian Tamil Congress (ATC) - World Tamil Coordinating Committee (WTCC) - Tamil Eelam Peoples Association (TEPA) - British Tamil Forum (BTF) - Canadian Tamil Congress (CTC). The said List has been reviewed periodically throughout the years since the first List was published in 2014; with amendments published in 2016, 2018, 2019 and 2021. The process for the latest review was initiated in May 2022 on the instructions of the former President in his capacity as the Minister of Defence and concluded by 30 June 2022. The latest update repeals all previous consolidated Designated Lists and replaces with the present List. This is a continuing exercise in the implementation of Sri Lanka's obligations towards global peace and security through the implementation of the UN Security Council Resolution 1373.

**Online safety Bill – (Para 20)**

21. Virtual platforms with the digital technology create serious threats on online falsehoods which are being used to divide society, spread hate and weaken democratic institutions in a greater scale. An Online Safety Bill is drafted to combat online falsehood and manipulation in line with international standards with a view to protecting the rights of the citizens in accordance with the Constitution.

**Allegation of “militarization of civilian government functions” (para 21)**

22. The GoSL rejects the allegation of militarization of civilian Government functions. The appointment of key government officials is entirely a domestic matter for a sovereign country, as per the Constitution. All these appointments have been made in conformity with the governing provisions of the Constitution and other applicable laws. With regard to the appointment of retired military personnel, the GoSL maintains that denying an eligible person his/her opportunity to hold a position in the public service merely on the grounds of their past military service, runs contrary to the principles of fairness.

23. Deployment of military personnel in support of civilian authorities to counter and mitigate catastrophic effects on natural or manmade disasters is one of the secondary tasks of the Sri Lankan Armed Forces which play a vital part of the national security. The Sri Lankan Armed forces playing a complementary role in association with relevant institutions of Government have been successfully engaged in managing natural disasters such as the Indian Ocean Tsunami (2004), flood relief and landslides as well as in the resettlement of displaced persons in the aftermath of the conflict. The Armed Forces played a significant role in support of the efforts made by the health sector to manage the COVID-19 spread across the country.

**Re. budgetary allocations for Ministry of Defence (para 22)**

24. The GoSL firmly rejects the references made to the budgetary allocations for Government line Ministries, which is entirely an internal matter of the State. The national budget is prepared by the local authorities through a consultative process, taking into consideration the needs for a given year and in accordance with the relevant policies. It is presented to the Parliament and debated before being approved, if required through a vote. This is essentially a domestic matter and a matter of sovereignty of the State and beyond the mandate of the OHCHR.



### **Re. allegations of human rights violations against military officials (para 23)**

25. While rejecting any unsubstantiated allegations levelled against specific officers named in the report, it may be noted that it is factually incorrect to state that Maj. Gen. Jagath Alwis holds the position of Secretary to the Ministry of Public Security.

26. In view of the foregoing, Sri Lanka considers that the continued arbitrary accusations made against Sri Lankan military officials in OHCHR Reports and other statements made in the Human Rights Council and unilateral actions by certain countries, are unacceptable and a violation of the principles of natural justice. It is also stressed that there are no proven allegations against individuals on war crimes or crimes against humanity in the OISL report or in any subsequent official document. It is an injustice to deprive any serving or retired officer of the Sri Lankan security forces or the police of their due rights.

27. With regard to reference made to Emergency Regulations, please refer to paragraph 6 of this report.

### **Protection of freedom of expression and civil society space (paras 30-32)**

28. The Government is committed to protecting and promoting freedom of expression and civil society space. Civil society and NGOs have over the years made a significant contribution towards the development and community enrichment of Sri Lanka. The Government is maintaining continuous engagement with civil society to obtain their insights and to harness their expertise, experience and support in achieving reconciliation and development. All parties alleged to have experienced harassment submit their complaints to the different national mechanisms that have the competence and jurisdiction to receive and investigate such claims. These include the law enforcement authorities as well as independent institutions such as the Human Rights Commission of Sri Lanka or the National Police Commission, so that action can be taken to investigate the alleged incidents.

29. There are no restrictions on civil society space in any part of Sri Lanka. Over the decades, a large number of community and national level civil society partners have assisted the Government in its development and other activities at grassroots level.

30. For decades, civil society has been an important partner for Sri Lanka's progress in matters related to social and human development as well as human rights issues. The government has maintained an active interaction with civil society at all times. At a recent meeting, civil society expertise was solicited to contribute to the process of reconciliation and implementation of the SDG 16 through engagement with the Office for National Reconciliation (ONUR) and the Steering Committee on SDG 16.

### **Freedom of expression, peaceful assemble and law enforcement (paras 33-39)**

31. The Constitution of Sri Lanka guarantees the freedom of assembly and of expression, and the Courts have consistently upheld these rights. Article 14 of the Constitution of Sri Lanka ensures the freedom of speech and assembly. As per Article 15 of the Constitution such rights are restricted in the interest of national security and public order. Obstructing the main entrance of the Presidential Secretariat amounted to unlawful assembly under the third limb of Section 138 of the Penal Code. Therefore, the dispersal of the protestors illegally occupying the Presidential Secretariat and obstructing its entrance, was carried out in accordance with Criminal Procedure Code.

32. In regard to the several observations raised regarding the freedom of expression and protest, the Government wishes to emphasize that it has always been restrained in its action vis-à-vis peaceful protests. Even when some protestors burned down the private residence of the President (the then Prime Minister) on 9th July 2022, no excessive force was used beyond the maintenance of public order and security. Similarly, no excessive nor disproportionate force was used when protestors tried to forcibly enter the Parliament on 13th July 2022 when the Party Leaders were meeting. Due to the violent nature of the protests that took place in the vicinity of Parliament, and in order to control the situation, the assistance of the Army was also sought, for the maintenance of public order. In dealing with the violent protests, twenty four soldiers were injured. As of 16th August 2022, the majority of protestors in the key Galle Face protest site have voluntarily withdrawn.

33. The Government has reiterated the necessity for protests to be carried out within the framework of the law, so that they do not morph into acts which are tantamount to criminal obstruction and/or unlawful occupation. The burning of houses of Members of Parliament, and the brutal slaying of one Member of Parliament did not create an environment conducive to the effective functioning of Government. It was necessary in this backdrop, to ensure the effective and efficient functioning of Government including the rule of law as a matter of priority.

34. At the outset it may be noted that the incidents referred to in the report that took place were investigated and all steps taken in this regard by the law enforcement authorities were in accordance with the procedure established by law.

#### **Incidents of 09 May (para 35)**

35. Investigations are being conducted, under the direction of the Attorney General and under judicial supervision, into the incidents of violence which took place on 09 May 2022 and in its aftermath, resulting in the deaths of several persons including a Member of Parliament, and extensive damage to property. These incidences have also formed fundamental rights petitions before the Supreme Court. 858 different types of criminal incidents were reported in the country on 09 May. Among the incidents reported were eight murders, and the property of 106 Members of Parliament being set on fire, destroyed and/or damaged. Additionally, 244 incidents of destruction of property belonging to members of political parties, including former Ministers, provincial and urban councilors were reported. 242 vehicles, 552 houses, 171 offices, and 88 commercial establishments were also damaged. The aforementioned criminal offences were investigated by the special investigation units and the Criminal Investigation Department of the Police. As of 10 August 2022, 3,310 suspects had been arrested in connection with these crimes, out of which 2,128 were released on bail. 1,182 persons were taken into remand custody. Investigations are being conducted under the direction of the Attorney General and under judicial supervision.

36. Law enforcement agencies have been mobilized to ensure expeditious investigation to assist with the court proceedings. All investigations are conducted under the supervision of the Province's Senior Deputy Inspector General (SDIG)/ DIG Range and the respective Officers In Charge (OIC).

37. The Human Rights Commission of Sri Lanka (HRCSL) has also invoked its suo moto jurisdiction and initiated independent investigations and inquiries into several incidents related to the protests. The HRCSL is also taking a policy approach to guarantee mitigation and nonrecurrence. Accordingly, on the request of the IGP, the HRCSL is formulating 'Guidelines for the Police and the Armed Forces on Crowd Control'. The expert panel appointed for this purpose consists of a former Attorney General, a former Inspector General of Police, a professor of Public International Law, a Deputy Solicitor General, two senior lawyers and two officers of the HRCSL. The Committee having conducted inquiries with the Sri Lanka Police and the Tri-forces to assess the existing procedures on crowd control, is currently in the process of formulating a comprehensive list of guidelines, drawing inspiration from international best practices.

#### **Incidents of 22 July (para 37)**

38. The Presidential Secretariat had been illegally occupied by protestors since 9 July 2022. Access to the main entrance of the Secretariat was obstructed by protestors since 4 April 2022. Action was taken by the Police to disperse those occupying the Presidential Secretariat premises illegally with a view to securing the Secretariat and its precincts and the area adjacent to such premises, to facilitate the resumption of work of the Secretariat and to ensure public security, law and order, as well as the effective functioning of Government.

### **V. Reconciliation and Accountability (paras 40-45)**

39. Notwithstanding the severe constraints and challenges faced by the country today, Sri Lanka remains committed to pursuing tangible progress in the protection of human rights and reconciliation through independent domestic mechanisms.

### **Presidential Commission of Inquiry (PCOI) (para 41)**

40. With a view to fostering greater accountability and meaningful reconciliation through domestic institutions, the PCOI<sup>1</sup> headed by a sitting judge of the Supreme Court is continuing its mandate by interviewing witnesses and examining previous Reports in order to address questions of reconciliation and accountability. The first Interim Report of the Commission was presented to the President of Sri Lanka in July 2021, and the operationalization of its recommendations has already yielded visible and tangible results.

41. The recommendations of the PCOI also served as an impetus for the substantive review of the PTA in over four decades. The Commission held public sittings in Colombo, Jaffna and Kilinochchi, following which the second Interim Report was submitted to the President on 18 February 2022. The Commission has reviewed documents related to previous Commissions of Inquiry<sup>2</sup> and heard testimonies from witnesses with regard to the conflict and provided recommendations on the way forward. The Report is being studied by relevant stakeholders, and avenues explored on how best to implement the recommendations. Consultations are already ongoing with relevant bilateral partners for sharing of best practices and lessons learnt. According to the Secretariat of the Commission, its planned sittings in Mullaitivu and the Eastern Province were postponed owing to transport difficulties as a result of the prevailing situation in the country. The final report of the Commission would be submitted to the President in due course.

### **Office on Missing Persons (OMP) (para 42)**

42. Recognizing the need for closure with regard to the fate of those alleged to be missing or disappeared in Sri Lanka, and with a view to protecting the rights and interests of the victims and their families, the GoSL established the Office on Missing Persons (OMP) as an independent statutory body in 2016. The Office continues to operate with financial provisions allocated for its functions by the National Budget. The Office also receives technical assistance from the academia, the ICRC and other Non-Governmental Organizations (NGOs). The strategic road map for the next three years drafted by the OMP, which has adopted a victim-centric approach in the OMP's public engagement and decision-making process has been well received by the people.

### **OMP's operations as an Independent Statutory body:**

43. The functional independence of the OMP and the exercise of its powers and functions are regulated by legislation governing its establishment. The exercise of powers functions and duties by the OMP in terms of the said law is subject to judicial oversight. This initial phase of work statutorily mandated and undertaken by the OMP will be followed by further investigative processes provided for in terms of the OMP Act.

44. Also the following functions and recent moves demonstrate the independence and effective functioning, and efforts taken by the OMP to fulfill its mandate.

- As per the provisions of the act, the board members have been appointed by the President of Sri Lanka, on the recommendation of the Parliamentary Council (previously referred as Constitutional Council), based on knowledge, expertise and experience of the individuals, on transitional justice, international human rights law, international humanitarian law and public administration. And also, their appointments are based on the Sec 5 of the OMP Act and their functions can only be

<sup>1</sup> The PCOI for 'Appraisal of the Findings of Previous Commissions and Committees on Human Rights and the Way Forward' is chaired by Supreme Court Judge A.H.M.D. Nawaz, and its other members are retired Inspector General of Police Chandra Fernando, Retired District Secretary Nimal Abeysiri and former Mayor of Jaffna Yogeswari Patkunarajah.

<sup>2</sup> These reports include, inter alia, the Commission of Inquiry appointed to investigate and inquire into (16 specific cases) of violations of human rights alleged to have occurred since 1 August 2005 (Udalagama Commission) (2006 – 2009); the Commission of Inquiry on lesson Learnt and Reconciliation (LLRC) (2010); the Presidential Commission of Inquiry to Investigate into Complaints regarding Missing Persons (Paranagama Commission) (2013); and Presidential Commission of Inquiry into Complaints of Abductions and Disappearances (2014) (II mandate of the Paranagama Commission).

limited in accordance to the sec 6 and 7 of the Act. All the appointments are bound by the legal provisions especially by the code of conduct, and composition of the OMP and its objectives.

- It should be noted that the OMP has developed rules, procedures and guidelines for its effective functioning as per the Section 11(b), 26 of the OMP Act (rules, procedures and guidelines related to the process of inquiries, selection of panel members for conducting inquiries, issuance of Interim Reports, process of data management and conduct of the Commission). The OMP has been adopted the said rules, procedures and guidelines and is continuously following them during the last two years.
- Furthermore, mechanisms which have been established to expedite the work of the OMP in order to assist the families, victims, witnesses and relatives of the missing persons are its own initiatives.

45. **Progress in tracing:** A three-member Tracing Unit has been established and become functional. The Tracing Unit has commenced inquiries and investigations based on the testimonials of the applicants and the witnesses of the families of the missing persons, in collaboration with the Protection and Legal Units.

46. **Progress in inquiries:** The OMP conducted panels of inquiries as part of its verification process. More than 89% of persons (1,207 of 1,350 applicants invited for inquiries) met with members of the panel and their testimonials were recorded. The high turnout at the inquiries conducted by the OMP signifies the level of confidence placed in the OMP process by the public. These inquiries are conducted by the OMP for the purpose of ascertaining the truth, inter alia, to confirm that the person is still missing.

47. The verification process is considered as a preliminary inquiry process, and as the beginning of an in-depth investigation process. Once the verification process is complete, the Panels of Inquiry will list out the recommendations such as granting relief, support for family of the disappeared, and or tracing / further investigations. This mechanism is well accepted in similar situations in the world.

48. In order to accelerate the investigation and tracing process, the OMP has established an excellent partnership with the Department of National Archives, Government Analyst Department, Department of Police, Attorney General's Department, Academia, Department of Registrar General (Birth and Deaths), Human Rights Commission of Sri Lanka, and District Registrars (death) Government Examiner of Questioned Documents, Judicial Services Commission, National Unity and Reconciliation (ONUR), Office on Reparations (OR), Department of Immigration and Emigration, Registrar of Fingerprints/Government Medical Officer for the realization of the mandate of the OMP.

49. **People's participation in the investigation process:** With a view to building trust, in February 2022, the OMP advocated for the participation of people in the investigation process. The OMP emphasized the importance of participation of families in inquiries into human remains, as the families are in a position to provide crucial information necessary for the conduct of such investigations. This also complies with international standards on the effective administration of justice in matters related to missing persons. The OMP's request for people's participation in the investigation process was accepted by the Provincial High Court of Vavuniya.

50. **Regular updates:** The OMP continues its regular engagement and pursues possible partnerships with international partners and donor agencies. The ICRC has been one such international partner that has supported the work of the OMP through the provision of legal and forensic expertise, as well as advice on data protection and data management. Additionally, the UN, donor agencies and several NGOs in Sri Lanka have expressed willingness to collaborate with the Office and provide technical expertise and training.

51. **Forensic investigations into human remains:** Upon application by the OMP to relevant Courts, the Office was permitted to act as an Observer in ongoing judicial proceedings investigating human remains found in fifteen (15) cases. The OMP continues to follow progress in the investigations and the Court proceedings, as well as support the families. The legal counsels have appeared for 13 Court cases, and continuously monitor progress with regard to investigations on human remains.

52. **Issuance of Certificates of Absence (CoA):** The OMP has introduced the Certificate of Absence (CoA) as an alternative to the Death Certificate issued by the GoSL in order to provide interim relief for the families of missing persons. As of August 2022, with the support of the Department of Registrar General (DRG), 1,341 families were assisted by the OMP in obtaining CoAs. A Gazette notification was issued on 26 October 2021 to extend the validity of the provisions of the Registration of Deaths (Temporary Provision) Act, No. 19 of 2010 by another two years, from 09 December 2021 to 09 December 2023. The OMP has requested the Central Bank of Sri Lanka to re-circulate guidelines to all financial institutions, emphasizing the importance of recognizing the CoA as a legal document. The OMP has established a formal partnership with Registrar General's Department (DRG), the Office of Reparations (OR), the Office for National Unity and Reconciliation (ONUR) and the Human Rights Commission of Sri Lanka (HRCSL) in order to provide further support to families of missing persons in household economics, livelihoods, education and legal matters. The OMP has requested the Central Bank of Sri Lanka to re-circulate guidelines to all the financial institutions, emphasizing the importance of recognizing the CoA as a legal document.

#### **Office for Reparations (OR) (para 43)**

53. The Office for Reparations (OR) seeks to improve on past similar schemes, enhance its scope of interventions and recognize that the ultimate objective of the grant of reparations is to achieve national unity and reconciliation and ensure non-recurrence of violence. The OR is established with the repeal of REPPIA and any outstanding matters that existed under REPPIA are now within the mandate of OR. Hence the distinction between the case load of the two bodies does not arise.

54. The tenure of the Members of the Office for Reparations was expired in March 2022 except one Member whose tenure has not come to an end. The Chairperson of the OR was reappointed from June 2022 and three new members were appointed during July/August. This constitutes the full quorum of the OR.

55. The National Reparation Policy and Guidelines formulated by the OR was approved by the Cabinet in August 2021 and tabled in Parliament on 09 February 2022 as required by the Office for Reparations Act No.34 of 2018. Accordingly, the relief and assistance provided through the Office is not limited to the payment of monetary compensation but include 8 key interventions: Provision of Livelihood Support, Compensation and Financial Support, Restitution of Land Rights, Provision of Housing, Development of Community Infrastructure, Administrative Relief, Psychosocial Support and Measures to advance unity, reconciliation and non-recurrence of violence. Currently, the OR is engaged in implementing programmes on identified interventions at field level.

56. **Payment of compensation:** Despite the current economic constraints facing the country, the OR is consistently allocated funds from the National Budget to enable the Office to provide monetary compensation to victims and their families. The Office processed 5,964 claims for payment by the end of 2021 and paid a sum of Rs. 399.8 million in settlement, out of the allocated sum of Rs. 800 million (88.9% of its total recurrent expenditure budget). The Office has set aside Rs. 759 million out of the total recurrent expenditure allocation of Rs.890 million to pay compensation during 2022. Upto end of August 2022, the OR has received Rs. 226 million to pay compensation and 2097 claims were settled utilizing Rs. 153 million. Rs. 63 million is being processed for payments. Constant power cut and the current fuel crisis affected the capability of the Office to complete processing of more files.

57. **In support of livelihood development,** the OR has conducted knowledge and technology transfer training programmes for different priority groups including women-headed households, families of missing persons and those from villages that were directly affected by the conflict in the districts of Jaffna, Kilinochchi and Mullaitivu. More than 300 beneficiaries participated in these programmes and the Office will provide further support to interested beneficiaries to initiate new start-ups. The Office has already provided equipment support to 5 female headed families to initiate new startup.

58. **The pilot psychosocial support programme** commenced in the latter part of 2021 and was completed in June 2022 using a case management approach with 26 trained case managers based on an internationally accepted training manual. 131 cases were coordinated

in the Northern, Eastern, Southern and North Western Provinces. Based on the needs assessment, referrals are made. An external evaluation was conducted by the Office to assess the success of the programme and to learn lessons to ensure the continuity. Based on the recommendations of the evaluation, the Office is in the process of establishing a dedicated Psychosocial Support Unit (PSU) to institutionalize the programme. A training manual and training of next batch of cases managers representing 25 districts have been completed and total number of case managers trained so far to continue the programme is 50 (24 Sinhala medium 26 Tamil medium).

59. A mobile service on “Access to Justice” conducted by the Office with the support of the Ministry of Justice during 2022, assisted with documentation related issues faced by over 950 families. The OR is currently working with a local Civil Society Organization to support the documentation needs of Refugee Returnees from India. The OR undertook a special visit to identify the **housing needs** of the displaced community in the Northern Province. Special focus was given in identifying the issues on relocating the families living in open welfare camps in the Jaffna district. Currently discussions are being held to develop a sustainable resettlement plan.

#### **Office for National Unity and Reconciliation (ONUR) (para 44)**

60. The Office for National Unity and Reconciliation (ONUR) continues to execute its mandate under 08 thematic areas with a view to building national unity and reconciliation. The work of ONUR has assumed even greater importance through the continuous conduct of activities related to social cohesion, conflict transformation, language training programmes for youth, community and religious leaders and government officials, as well as psychological support. The ONUR is established by a Gazette in terms of powers vested in the President in terms of the Constitution. Understanding the importance of this establishment as one of the main domestic mechanisms to promote reconciliation in the country, a Cabinet Paper was drafted and the work in this regard is progressing.

#### **Sustainable Development Goals (SDGs)**

61. **Overall progress:** Sri Lanka has made steady progress towards achieving the SDGs in spite of the setbacks caused by the COVID-19 pandemic and the prevailing economic situation. This is evident from the country’s improved score of 70.0 which is well above the regional average of 65.9, and global ranking of 76 out of 163 countries in the 2022 Sustainable Development Report. Ending Poverty (Goal 1), Quality Education (Goal 4), Responsible Consumption and Production (Goal 12) and Climate Action (Goal 13) are important areas where Sri Lanka has maintained good progress.

62. Sri Lanka’s Second Voluntary National Review (VNR) on the Implementation of the 2030 Agenda on Sustainable Development was presented to the High-Level Political Forum (HLPF) of ECOSOC in July 2022. Sri Lanka’s Second VNR was conducted with the participation of over 700 stakeholders (representing the government at the national and provincial level, private sector, civil society, academia and international development partners) and includes an analysis of the current status and trends, gaps and challenges and opportunities for achieving the SDGs in line with Sri Lanka’s commitment to the 2030 Agenda on Sustainable Development. The VNR Report highlighted that Sri Lanka has achieved a greater integration of SDGs in national policies and increased institutional capacities for SDG governance, coordination and monitoring since the first VNR in 2018.

63. In addition, Sri Lanka has also made considerable progress in strengthening the SDG data landscape so that the country has been placed at the 10th place out of 53 countries in the Asia-Pacific region for SDG data availability by the UN Economic and Social Commission for Asia and the Pacific (UNESCAP). This would enhance Sri Lanka’s capacity for evidence informed policy making for SDGs in future.

64. The United Nations Sustainable Development Cooperation Framework (UNSDCF) 2023-2027 was co-signed and launched by the GoSL and United Nations in Sri Lanka on 17 August 2022. The Cooperation Framework articulates the collective vision and contribution of the United Nations to support Sri Lanka to accelerate action in the achievement of the

2030 11 Sustainable Development Agenda, as well as rapid socio-economic recovery of selected sectors to achieve inclusive development for the Sri Lankan people.

#### **Progress in SDG 16 Implementation:**

65. In going forward, Sri Lanka envisions an “Inclusive Transformation towards a Sustainably Developed Nation for All” where strengthened law enforcement and rights protection is recognized as a critical enabler underpinning and accelerating this transformation. Important measures taken by the Ministry of Justice and the Sri Lanka Police towards legal reforms, improvement of infrastructure and capacity building of law enforcement agencies and the justice sector would contribute to improved public access, especially for women and children, to law enforcement and justice.

66. In order to accelerate progress on SDG 16 – ‘Peace, Justice and Strong Institutions’, an inter-agency Steering Committee was established under the leadership of the Ministry of Justice under four (04) core areas, i.e. strengthening public security and law enforcement, corruption control, access to justice and public service delivery. The Committee is in the process of formulating a combined Action Plans to achieve SDG 16 targets through holistic and integrated strategies. Although the impact of the current economic crisis has contributed to delays in consolidating the reform process, the aforesaid measures would contribute to the achievement of SDG 16 Targets relating to prevention and control of crimes (which have seen increasing trends in the recent past), as well as strengthening access to justice.

#### **Return of land (para 46)**

67. Private and state lands had been occupied by the security forces for necessities relating to the long-term conflict in Sri Lanka. Following the end of the conflict, the Government accorded utmost priority to the expeditious release of land held by the security forces during the conflict. From 2009 to 30 June 2022, 92.42% (26,017.96 acres) of the private lands occupied by the military at the end of the conflict in 2009 have been released to the legitimate civilian owners, through local government authorities.

68. Compensation for the lands that will be retained for security purposes is being processed. In this regard, the Sri Lanka Air Force, in coordination with the Government Agent, Jaffna has launched a website to facilitate application for ownership of land occupied by the Air Force at the Palaly Air Base and the High Security Zone, in order to identify potential owners of the land and pay compensation. More than 1,000 inquiries have been made through this website titled [www.jaffna.dist.gov.lk](http://www.jaffna.dist.gov.lk).

69. Matters with regard to the conservation and preservation of archaeological sites in Mullaitivu have been carried out under judicial supervision and directives.

70. It is reiterated that majority of the private land have been returned to claimants despite several challenges faced which, inter alia include the identification of the lawful claimants and identification of the extent of such lands through survey. Further, compensation is also paid where relevant, through due process.

#### **“Emblematic cases” (paras 48-50)**

71. The GoSL has continuously updated on the progress pertaining to investigations and cases referred to in the OHCHR reports as relevant. The GoSL would continue to do so in the future.

#### **2019 Easter Sunday Attacks (para 49)**

72. Extensive investigations have been carried out by the Government. Several suspects have been detained and interrogated for evidence. The direct perpetrators were all suicide cadres and thus the investigation has been complicated to identify the wider connections. Despite such challenges and in terms of the Sri Lankan law, investigations have to be carried out by law enforcing agencies such as different departments under the police. Information gathered through such investigations will be reviewed by the independent office of the Attorney General who has to subsequently take a decision, and whether the evidence is sufficient to charge any suspects, or whether anyone detained should be released for lack of

evidence. On 04 October 2021, Colombo High Court Trial-at-Bar served charges on 25 suspects accused over the Easter Sunday terror attacks. The Attorney General has preferred several indictments to several other High Courts and the Trials in this regard are proceeding.

**Combatting corruption (para 50)**

73. In order to strengthen the legislative framework on corruption, in July 2022 the Cabinet granted approval to appoint a Committee of Experts to review and finalize the ‘Anti-Corruption Bill’. This is intended to give effect to, inter alia, the United Nations Convention Against Corruption (UNCAC) and other internationally recognized norms, standards, and best practices. The Committee is due to finalise and submit the report within this month. In addition, the proposed 22nd Amendment to the Constitution contains provisions to enhance the independence and powers of the Commission to Investigate Allegations of Bribery and Corruption – the permanent body to investigate into matters of bribery and corruption established in 1994.

**Reference to HRC Resolution 46/1 (paras 51-64)**

74. With regard to paras 51- 64 of the Report, please see GoSL position at para 1.1. -1.3 regarding HRC Resolution 46/1 and Operative Paragraph 6.

**Conclusion:**

75. On 3rd August 2022, H.E. the President outlined his policy statement<sup>1</sup> in Parliament with regard to the way forward following the economic crisis, the social protests on multiple fronts and the political changes. He outlined the concrete steps he intends to take including in response to the voices of the youth articulated during the protests, to achieve a more just, fair, inclusive and sustainable society where all Sri Lankans can live longer, healthier and more dignified lives, including human rights and reconciliation.

76. In conclusion, Sri Lanka seeks the understanding of the international community and the United Nations system while it proceeds with caution on issues of relevance, while building consensus domestically. Sri Lanka appreciates the solidarity, support and good will extended by the international community during this time of unprecedented challenges, and looks forward to the continued support at this crucial period.

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<sup>1</sup> H.E. the President’s Policy statement at the Parliament, 3 August 2022, [https://www.parliament.lk/files/documents\\_news/2022/gov-policy-statement-en.pdf](https://www.parliament.lk/files/documents_news/2022/gov-policy-statement-en.pdf).