

**Statement by Hon. Tilak Marapana, P.C. Minister of Foreign Affairs of Sri Lanka and Leader of the Sri Lanka Delegation to the 40<sup>th</sup> Session of the Human Rights Council on Agenda Item 2 - Interactive Dialogue with the High Commissioner for Human Rights on 'Promoting Reconciliation, Accountability and Human Rights in Sri Lanka: 20 March 2019 - Geneva**  
*(Reading version)*

Mr. President,  
Madam High Commissioner and Delegates,

I am pleased to be at this Council session to share with you, Sri Lanka's significant progress on the human rights front since 2017. I am joined by my parliamentary colleague Hon. (Dr) Sarath Amunugama, the Governor of the Northern Province Hon (Dr). Suren Raghavan, as well as senior government officials.

Madam High Commissioner,

At the outset we thank you for the acknowledgement throughout your report, of the open, constructive and cooperative approach adopted by the Government towards all stakeholders.

You would agree, that the post-conflict milieu of each country is unique. We can learn from other experiences, but our own path to reconciliation will be primarily driven by the domestic context in which we function underpinning the primacy of state obligations;

- In the area of Truth Seeking, the Office of Missing Persons (OMP) established by law is being fully operationalized with necessary allocation of resources while the Cabinet of Ministers is currently considering draft legislation to establish a Truth and Reconciliation Commission.
- In the area of Justice, review of cases under the PTA have taken place and trials under the PTA have been expedited, while consultations are ongoing in Parliament to replace the PTA with proposed legislation for counter terrorism ensuring its conformity with international standards and best practices.
- As for Reparations, an Office for Reparations has been established by law, three Commissioners have been recommended for appointment by the Constitutional Council and in the 2019 Budget, the Government has allocated Rs. 500 million to pay a monthly allowance to the families of disappeared persons, who have already received a certificate of absence.
- To ensure Non-recurrence of conflict, we are firmly resolved to fulfilling the agenda on reconciliation.

Madam High Commissioner,

As I pointed out in the Sri Lanka Parliament on 14<sup>th</sup> March 2019, I would like to emphasize that the data reflected in the High Commissioner's report in para 35, that only 75% of the land occupied by the security forces as at 2009 has been released, is at significant variance with the actual numbers. As at March 2019, 88.87% of State lands and 92.16% of private lands have been released.

As for the "mass graves" in Mannar referred to in para 23 of the High Commissioner's Report, despite the test results obtained from a USA laboratory have revealed that the said skeletal remains date back to 1499-1719 AD - a period when Sri Lanka was largely under European colonial rule, the report presupposes "other mass graves might be expected to be found in the future". An assumption of this nature in a public report, on a matter of this magnitude and seriousness, is not acceptable, and may even cast a doubt as regards other assertions in the report.

In referring to para 68 (C) of the OHCHR Report (A/HRC/40/23), which calls for *legislation establishing a hybrid court*, I wish to make it clear that our position on this matter is as follows',

The Government of Sri Lanka at the highest political levels, has both publicly and in discussions with the present and former High Commissioners for Human Rights and other interlocutors, explained the constitutional and legal challenges that precludes it from including non-citizens in its judicial processes. It has been explained that if non-citizen judges are to be appointed in such a process, it will not be possible without an amendment to the Constitution by 2/3 of members of the Parliament voting in favour and also the approval of the people at a Referendum.

Mindful of the time constraint, I wish to table for record, my full statement which provides a detail response to the OHCHR report with reference to the relevant paragraphs therein.

Madam High Commissioner,

At a time when the world is confronted with increasing acts of terrorism and violent extremism, as I stated before this Council last year, the action by the Sri Lankan security forces during the conflict was against a group designated as a terrorist organization by many countries, and not against any community. Further, it must be asserted that there are no proven allegations against individuals on war crimes or crimes against humanity in the OISL report of 2015 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 rights.

These assertions remain in direct contradiction to independent assessments sent by Colombo-based foreign missions, UN agencies as well as other international organizations, including the ICRC - some heavily redacted accounts of which have been presented not only in the House of

Lords in the UK on 12 October 2017, but also in writings by academics and journalists which are found in the public domain<sup>1</sup>.

Madam High Commissioner,

Given this backdrop, while countries including the co-sponsors acknowledge these ground realities in conversations, these incongruities should be corrected in letter as well, and Sri Lanka should be encouraged and assisted in finding innovative and viable local mechanisms and processes which incorporates international best practices, particularly at a time, as recently demonstrated during the political developments in late 2018, our judicial, public service and defence institutions have demonstrated independence, resilience, robustness and resolve. It is only then, that we will be able to bring closure to these events, which would “enjoy the confidence of victims and society at large”, as referred to in the High Commissioner’s Report.

On behalf of the Government, I reiterate that Sri Lanka, based on the above parameters, will continue to work with the Office of the High Commissioner for Human Rights, and other partners.

I thank you.

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<sup>1</sup> [https://hansard.parliament.uk/Lords/2017-10-12/debates/14CAA83D-8895-4182-8C4F-D964E0A5B399/SriLanka;](https://hansard.parliament.uk/Lords/2017-10-12/debates/14CAA83D-8895-4182-8C4F-D964E0A5B399/SriLanka)  
<https://parliament.lk/uploads/documents/paperspresented/report-of-paranagama.pdf>  
[http://margastorehouse.org/The%20Last%20Stages%20of%20the%20war%20in%20Sri%20Lanka.pdf;](http://margastorehouse.org/The%20Last%20Stages%20of%20the%20war%20in%20Sri%20Lanka.pdf)