



23rd Session of the HRC

Statement by Sri Lanka – Item 3

ID with the SR on the Independence of Lawyers and Judges

Mr. President,

Sri Lanka welcomes the report of the Special Rapporteur on the Independence of Judges and Lawyers which examines the relevance and the possibilities of providing legal aid to individuals who come into contact with the law but cannot afford the costs of legal advice, counsel and representation. Affording legal assistance to vulnerable groups of a country constitutes a vital segment of the administration of justice.

Legal aid was institutionalised in Sri Lanka in 1978 with the passage of the Legal Aid Act which mandates the operation of an effective legal aid scheme by providing legal advice, funds to conduct legal and other proceedings for and on behalf of “deserving” people. The enactment led to the formation of the Legal Aid Commission primarily funded by the state, and over the years its funding base has seen a significant increase. The Commission’s outreach covers most parts of the country with approximately 70 legal aid centres, including in the former conflict-affected areas, and records a high caseload and provision of services. It may be noted that the National Plan of Action for the implementation of the recommendations of the LLRC has taken due note of the services

that can be extended by legal aid centres in the post-conflict situation. The Commission's mission is to identify those members of society who lack access to the remedies available to them under the law, and to make available to them means through which they can use the law and the legal system to secure justice.

There is a strong legislative basis for legal aid in Sri Lanka. It is implicitly recognized as a fundamental right in the Constitution, especially when read with the [International Covenant on Civil and Political Rights](#) - ICCPR Act No. 56 of 2007. The Legal Aid Act of 1978 provides an administrative and regulatory background to legal aid service provisions.

The absence of a statutory definition of the term “deserving persons” has permitted the Commission to apply the criteria recognised internationally in identifying the groups who are in need of legal aid. Women have been accorded special status and such aid is made available to all women seeking maintenance for themselves and for their children, irrespective of their financial status.

The Commission, while supported by the State, works independently of other justice sector institutions, which in principal ensures its impartiality and equal access to justice system for all citizens. While its main focus is litigation, it also operates several subject-specific desks and projects.

Legal provisions that are relevant in the context of legal aid includes the right to a fair trial by a competent court, and the right to be heard before such a court which are guaranteed to all persons by Article 13(3) of the Constitution of Sri Lanka.

Sri Lanka's Code of Criminal Procedure states that every person accused before any criminal court has the right to be defended by a lawyer, and every aggrieved person has the right to be represented in court by a lawyer (Section 260).

A general right to legal aid in criminal cases at all levels of the court system was expressly legislated in Sri Lanka through the [International Covenant on Civil and Political Rights - ICCPR Act No. 56 of 2007](#).

Further, the Supreme Court Rules 1990 (Rule 44(7)) provide for the Supreme Court to act on a complaint alleging infringement or imminent infringement of a fundamental right, even if it is not in the form of a formal petition, where the complainant may not have the means to follow the usual procedures and may suffer substantial prejudice by such infringement.

Thank you.