



23rd Session of the HRC
Statement by Sri Lanka - Item 3
Clustered ID with the SR on the rights to Peaceful Assembly
& of Association

Sri Lanka notes the Report (A/HRC/23/39) of the Special Rapporteur on the rights to freedom of peaceful assembly and of association Mr. Maina Kiai containing information on the activities undertaken during the period under review as well as a thematic elaboration of his mandate.

We note the reference made by the Special Rapporteur to the desirability of permitting the flow of unhindered funds to associations. Mr. Kiai refers to the transparency and accountability argument being often used by Governments to place limitations on funding of NGOs. While we agree that access to resources is important for the vibrant functioning of civil society, we observe that Mr. Kiai does not seem to adequately take into account the negative impact of lack of or insufficient regulation of funding of associations on national security and counter-terrorism.

While Mr. Kiai expresses the view that civil society organizations play a significant role in combatting terrorism, it has been Sri Lanka's experience as a country that defeated one of the most ruthless terrorist organisations in the world, that certain NGOs and associations can also play a fundamental role in feeding terrorism and conflict. For example, front organisations of

the LTTE posing as legitimate civil society organisations and charities based overseas formed part of a complex international terrorist network which through various means injected the funding and resources needed to nurture the thirty-year terrorist conflict in Sri Lanka. These are actual situations and experiences which the Rapporteur should take cognizance of in order to provide a balanced and pragmatic assessment on the subject of funding of associations and counter-terrorism.

Sri Lanka therefore notes that in actuality, regulation, transparency and accountability of funding to NGOs and NPOs is a pre-requisite in the interest of national security and counter-terrorism as recognized by states. In this regard, we highlight the obligation placed on states to adhere to the regulatory framework all countries are expected to put in place in compliance with 40 Recommendations of the Financial Action Task Force, which makes it mandatory to monitor fund transfers of all financial institutions inclusive of NPOs and INGOs (associations) and other financial institutions, in countering financing of terrorism, money laundering or other related trans-national crimes.

We agree with the Special Rapporteur that the ability to hold peaceful assemblies is a fundamental and integral component of the right to freedom of peaceful assembly. In this context we note that the enjoyment of rights pertaining to the freedom of expression, of peaceful assembly and of association, are fundamental rights guaranteed by the Constitution to all

citizens of Sri Lanka, subject only to strictly defined restrictions set out in the Constitution which the Supreme Court has vigorously applied. While peaceful assembly including demonstrations is permitted under the law, law enforcement authorities retain the right to disperse such assembly in the event it ceases to be peaceful and impinges on the rights of others, particularly in instances where such demonstrations lead to disturbance of public tranquillity. Any person who alleges violation of these rights is entitled to seek redress through the highest court of Sri Lanka or to seek relief through the National Human Rights Commission.

Sri Lanka further notes that with regard to the content of the Special Rapporteur's report (A/HRC/22/39/Add.2) titled 'Observations on communications transmitted to Governments and replies received' our letter dated 15th February 2013 in response to a joint urgent appeal by four special procedures mandate holders including Mr. Kiai, pointed to the erroneous nature of the information contained in the appeal which therefore did not warrant an urgent appeal under any circumstances, as per resolution 5/2 on the Code of Conduct for Special Procedures mandate holders of the Council.

In conclusion, Mr. President, we thank Mr. Kiai for his work and continued engagement.