
47TH SESSION OF THE UN COMMITTEE AGAINST TORTURE - STATEMENT BY THE LEADER OF THE DELEGATION OF SL

Friday, 11 November 2011

Last Updated Monday, 14 November 2011

47th Session of the UN Committee Against Torture Consideration of the Combined 3rd and 4th Periodic Reports on Sri Lanka Introductory Statement by the Leader of the Delegation of Sri Lanka Mr. Mohan Pieris, President's Counsel, Former Attorney General, Senior Legal Advisor to the Cabinet on Legal Affairs Geneva, 8th November, 2011

Mr. Chairman and Distinguished Members of the Committee, My delegation and I are pleased to be associated with the examination of Sri Lanka's combined 3rd and 4th periodic Report under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment covering a period which has presented the Government and people with unprecedented challenges. A thirty-year terrorist conflict compelled the State to assume, during all of those years, an expanded and formidable task of maintaining national security, law and order. In these challenging years, the State also pursued an ambitious national development Plan with an emphasis on economic and infrastructure development that sought to enhance the quality of life of its people. The pursuit of peace saw the Government engaging in negotiations with a terrorist movement acknowledged as the most ruthless in the world, which over time lost its credibility as one which had a sincere desire for peace. Finally, in May 2009, terrorism was defeated and the task of rebuilding a fractured nation commenced. Sri Lanka's Report is presented highlighting the manner in which its obligations under the Convention were sought to be honored during this challenging period. The end of the armed conflict brought with it renewed hope for peace and also new challenges. In the post-conflict phase, the Government has concertedly engaged in harmonizing the economic, social and political life of the people primarily in the areas affected by the conflict through the re-introduction of civil administration and special economic development programmes with a strong focus on rehabilitation, reconstruction and reconciliation. The government of Sri Lanka has sought to deal with these issues through homegrown solutions, and a commitment that is both sincere and determined. The consideration of the periodic report also comes at a time when the country is on an onward march to reform laws and develop and enhance domestic mechanisms of implementation. Let me assure and reiterate to all members of this Committee that Sri Lanka has assiduously followed a tradition of close and constructive co-operation with all human rights treaty bodies as well as the special procedure mechanisms of the human Rights Council and efforts are afoot to strengthen this tradition. Mr. Chairman, Let me also highlight another salient matter. Despite the ongoing conflict, the Committee will be pleased to observe that the government of Sri Lanka remained committed to complying with international norms and that is demonstrated by the invitation extended to two special rapporteurs on torture who visited Sri Lanka twice. Despite grave atrocities committed by non state actors, Sri Lanka has at no time sought to invoke any justification for torture nor has it resorted to or acquiesced in torture. As a matter of state policy and practice, the Government of Sri Lanka has been maintaining a policy of zero tolerance on torture, as is evidenced by the meaningful measures taken to curb acts of torture. Constitutional guarantee on torture elevate it as a fundamental non-derogable right not to be subjected to torture or inhuman and degrading treatment. It is an absolute right. The commitment to honor the obligations under the Convention Against Torture has continued in earnest, and the progress in many areas has been exemplary while in some, there is a great deal of work that must still be done. In presenting its Report to the Working Group of the Universal Periodic Review of the Human Rights Council in May 2008, Sri Lanka while confirming its recognition of the need to address grave violations of human rights in situations of armed conflict, and their potential contribution to peace-building, fully endorsed the approach based on giving greater impetus to the promotion of international peace and security. In its Report, Sri Lanka confirmed its commitment to formulate a National Action Plan for the Protection and Promotion of Human Rights with the objective of improving its human rights protection and promotion in all areas, with targets to be achieved in five years. The expectation is that such an initiative would facilitate a holistic approach to human rights protection and promotion, and lead to greater cooperation between government and civil society. In pursuance of this pledge, the process of formulating a National Human Rights Action Plan commenced in 2009. Mr. Chairman, The process that has been adopted in formulating the Plan is significant in that it has placed reliance on a consultative approach that sought to include civil society. Eight thematic areas one of which is torture were identified consequent to stocktaking of the human rights situation in the country. The stocktaking involved an examination of Sri Lanka's UPR, all of the Treaty Body Recommendations of the past ten years including those of the Committee against Torture, recommendations of Special Rapporteurs, and Reports of NGO's submitted during the UPR. This process moved on to conduct national consultations with the involvement of over 200 civil society Organizations as well as relevant Governmental Agencies to identify issues in relation to each thematic area. Eight Drafting Committees that comprised six to ten experts from both Governmental and Non-Governmental members were appointed to prepare a draft Action Plan in respect of each thematic area. An important feature of the draft Action Plan is the inclusion of measurable indicators, emphasizing a serious focus on the monitoring and evaluation component. In September 2010 under a Presidential directive, a Cabinet sub-committee assisted by me was appointed to finalize a composite Plan incorporating the eight thematic Plans. The composite Plan titled the "National Action Plan for the Protection and Promotion of Human Rights" and incorporating a time frame for implementation, was submitted to the Cabinet which has given its imprimatur to the Action Plan recently. The Thematic Action Plan on Torture has identified issues affecting torture under eleven (7) focus areas. These are – (1) Legal Framework. (2) Detection and Post Investigation, (3) Prevention, (4) Institutional Mechanisms for Monitoring, (5) Addressing Impunity, (6) Special

Protection for Women and Children, (7) Rehabilitation and Reparation. This process has been long and time consuming. However, it is believed that the process is as important as the final product. The seriousness about meaningful and effective implementation of the Plan inspired a process that provides for the input of all stakeholders including those who will assume responsibility for implementation. The inclusion of measurable indicators will ensure that there is a ready platform for Monitoring and Evaluation. We believe that the Monitoring and Evaluation component will make the difference between a Plan that will work and one that may not. Prior to this initiative, while the armed conflict was ongoing, several programmes were commenced to ensure a respect for the observance of Human Rights within the armed forces. These included the establishment of a Directorate on Human Rights and Humanitarian Law within the Sri Lanka Army, which conducted awareness programmes and training on human rights and humanitarian law for the security personnel. Human Rights cells were established in each of the three Forces to promote human rights and these cells reported directly to the Service Commanders. The Police department established a Human Rights Division with the objective of strengthening the role of law enforcement officers in the protection of human rights. Mr. Chairman, The State machinery mandated with responsibilities for human rights, IDP's and ex-combatants was strengthened, with the establishment in early 2006 of a special Ministry vested with responsibilities for human rights as well as the humanitarian assistance that was provided by International Agencies, at the time. There was also the Ministry of Resettlement and Disaster Relief Services, which was vested with responsibilities for the IDP's. All of these initiatives confirm Sri Lanka's commitment to the observance of human rights including its commitment to eliminate torture. The massive humanitarian rescue operations that were conducted during the final stages of the conflict focused on ensuring the safety and security of civilians and on evacuating them from the clutches of the terrorists. The State assumed the responsibility of caring for approximately 300,000 displaced persons, including approximately 12,000 ex-combatants, including 2,024 females who are now known as beneficiaries, with assistance from relevant UN Agencies. In the post conflict period, the government has been engaged in the most challenging task, firstly, of caring for the Internally Displaced Persons (IDP's) and thereafter of returning them to their homes, of rehabilitating ex-combatants and re-inserting these persons in society. The Bureau of the Commissioner General of Rehabilitation was further strengthened with a full time Commissioner-General in July 2009, vested with the special mandate of rehabilitating and reintegrating the ex-combatants. This task has been and is being carried out with sensitivity to Sri Lanka's unique post conflict context and by crafting a way forward based on its own experiences, national and international principles and guidelines and universal best practices. The Way-Forward on Rehabilitation, Reinsertion and Reintegration (W-RRR), which has been so formulated is a national initiative approved by the Cabinet of Ministers. The W-RRR programme, which treats ex-combatants as "beneficiaries", comprises three phases/segments, namely, Rehabilitation, Reinsertion and Reintegration. The programme also included psycho-social and socio-economic profiling with a view to categorizing the beneficiaries for the purpose of pursuing the rehabilitation process. In the next phase, beneficiaries were re-inserted in their original homes with a three-month reinsertion assistance package, which provided them with support to meet their basic needs including food, shelter, clothing and healthcare upon their immediate return to communities. During this phase, the beneficiaries were supported through the rehabilitation centre and community based support structures. In the final phase, beneficiaries are assisted with social reintegration and economic reintegration over a two-year period at the local community level. Social reintegration is a process through which the beneficiaries are provided with the necessary community based support networks to facilitate the transition into civilian life. Economic reintegration seeks to provide for the employability of beneficiaries by ensuring that they are engaged in decent, productive and sustainable income generating activities. Enhancing equitable access to education (including catch-up education), vocational training, wage and self-employment, micro finance facilities, and business support services, are features that are essential to sustain the reintegration programme. All female ex-combatants who were in this programme as beneficiaries have now been released and are back with their families. The under aged boys and girls who had been forcibly recruited and who surrendered to the government have all undergone rehabilitation in terms of access to vocational training, literacy classes, etc. They are now reunited with their families in their own communities. The success of this programme is perhaps demonstrated in a way, through the heartwarming stories of about 30 students who, while pursuing the rehabilitation programme, sat the G.C.E. Advanced Level examination, were successful and gained admission to the Medical and other Faculties of Universities. In May 2010, His Excellency the President appointed "The Lessons Learnt and Reconciliation Commission" (LLRC). The Commission comprises eight (08) members including one woman. In doing so, His Excellency articulated a concern that was real to all of our people: "It has become necessary to reflect on the conflict phase and the sufferings the country has gone through as a whole and learn from this recent history, lessons that would ensure that there will be no recurrence of any internecine conflict in the future and assure an era of peace, harmony and prosperity for the people." The Commission is mandated to inquire into and report on, inter-alia, the lessons we would learn from those events and their attendant concerns, in order to ensure that there will be no recurrence; whether any person, group or institution directly or indirectly bears responsibility in this regard; the methodology whereby restitution to any person affected by those events or their dependents or to their heirs, can be effected; the institutional administrative and legislative measures which need to be taken in order to prevent any recurrence of such concerns in the future, and to promote further national unity and reconciliation among all communities. In furtherance of its mandate to report on those responsible for past events relating to the conflict, the Commission has a focus on restorative justice. The Commission has held public sittings in Colombo as well as in the conflict affected areas and has had discussions with women as well as men. As is well known, the Commission is expected to submit its report to His Excellency the President shortly. Mr. Chairman, Foremost among Sri Lanka's post conflict challenges is a need to be successful in responding to the economic and social consequences, particularly in the former theater of conflict. One of the most important challenges is that of forging a common identity of being Sri Lankan for our people. While there are many ongoing initiatives for reconciliation we are also working on inspiring in our

people a respect for diversity, pluralism and multi-cultural values. In our quest to improve legal norms that would facilitate the elimination of the opportunity for torture, our legislature is considering the enactment soon of an amendment to the Code of Criminal Procedure that would bring about a paradigm shift in the criminal jurisprudence of the Country. It is proposed in the first phase to introduce a duty attorney scheme in every police division in lines with the practice and procedure of PACE in the UK. The police stations in these divisions will be mandatorily inform the attorney on duty of the arrest of the suspect within a prescribed period of time upon arrest. The duty attorney will have a statutory right of access to a suspect upon arrest with a view to ensuring that the suspect is not subjected to extra judicial procedures and the suspect will be afforded the full amplitude of constitutional guarantees. It is our sincere belief that this will seriously address the issues of police officers using the colour of office behaving in such a manner to defeat constitutional guarantees. The legislature is also considering the introduction of an investigatory magistrate, an office that is well known to civil law jurisdiction. The magistrate will be required to direct the investigatory process. Emergency Regulations are a thing of the past as of 30th August 2011 and this total abolition was in fulfillment of the pledge that the Government of Sri Lanka undertook before the Human Rights Council. Sri Lanka reports to this Committee today with a sense of satisfaction about what has been done, and with a deep sense of awareness that there is more to do. Sri Lanka is conscious that real progress of our nation will result when we have got on our feet having ridden ourselves of all impediments that have dampened us. In this arduous task we solicit that co-operation of all our friendly countries and those who helped us in a great deal. Mr. Chairman, We are sensitive to the fact that in the human rights context, the State is the ultimate guarantor of the rights protected and has both duties and responsibilities for the observance of those rights. We also cannot violate those rights or fail in our responsibility to protect the rights. We are able and are required to take appropriate measures to put an end to any infringements. Our desire is not merely to pay lip service to international obligations. Our sincere desire is to ensure real progress that will result in a happy and contented citizenry, empowered without discrimination but with the right to make the choices that matter to him or her, untrammelled by violence, torture or any kind of coercion. Sri Lanka remains firmly committed to uphold the obligations assumed under Convention against Torture and truly give life to the goal of ushering in a Sri Lanka that will boast of the golden ideals of no torture, no ill-treatment and no exception. The Sri Lankan delegation looks forward to a constructive and interactive dialogue with you Mr. Chairman and your Committee. Thank you.