

February 25, 2019

Your Excellency,

Sri Lanka: Need for time-bound plan for implementation of commitments to the Human Rights Council

We write to seek your support in ensuring that the United Nations Human Rights Council (HRC or Council) adopts a resolution at this 40th session to maintain scrutiny of Sri Lanka's progress towards implementation of its commitments, including, at minimum, regular reporting to the Council and a time-bound plan, developed in collaboration with the Office of the High Commissioner for Human Rights, to implement its pledges.

In October 2015, the [Council adopted resolution 30/1](#) by consensus in which Sri Lanka, through its co-sponsorship, committed to 25 key undertakings across a range of human rights issues. A core commitment was to set up four transitional justice mechanisms to promote “reconciliation, accountability and human rights” in the country. These included an accountability mechanism involving international judges, prosecutors, investigators, and defense lawyers; a truth and reconciliation mechanism; an office of missing persons; and an office for reparations.

While some positive steps have been taken by the government to date, both the current and former High Commissioners in their reports have expressed concern at the slow rate of progress.

The UN High Commissioner for human rights, Michelle Bachelet, noted in her September 2018 [update](#) that Sri Lanka has “moved too slowly towards meaningful implementation of the transitional justice agenda.” She reiterated concern at the “lack of sufficient progress, particularly towards truth seeking and accountability” during the recent intersessional dialogue with HRC members and observers on February 4, 2019, noting that this created “significant obstacles to reconciliation.”

Her predecessor, Zeid al Ra'ad Hussein, in his opening remarks to the Council on September 11, 2017, had called on the government to realize that its obligations are not a mere “box-ticking exercise to placate the Council but as an essential undertaking to address the rights of all its people.”

Yet, it appears that the Sri Lankan government continues with exactly that endeavor.

Thus far only the Office of Missing Persons has been set up, but progress was delayed. The commissioners were appointed only in February 2018 and making the office operational was marred with logistical difficulties. The commissioners have held both public and private consultations with the families of victims and are [observing](#) the ongoing excavation and exhumation of a mass grave in Mannar. However, in its [interim report](#) in September 2018, the Office of Missing Persons called for “active cooperation” of various relevant state institutions, which has not been entirely forthcoming. Families of the forcibly disappeared are [still awaiting answers](#).

While President Maithripala Sirisena said that all military-occupied civilian land in the predominantly ethnic Tamil north would [be released](#) by December 2018, [progress has stalled](#), hindered in part by broad military claims of national security and the lack of a transparent process. Nor has the government fulfilled its pledge to repeal the [abusive](#) Prevention of Terrorism Act (PTA). While the cabinet has apparently adopted [draft legislation to set up a National Truth Commission](#), it has yet to be made public for civil society consultations. Sri Lankan civil society groups have [expressed reservations](#) about the proposed Office for Reparations Bill, calling for a fully independent mechanism.

There has been no discernible progress on establishing an accountability mechanism involving international judges, prosecutors, and investigators. Instead, Sri Lankan political leaders have repeatedly said that there will be no foreign judges, and that “[war heroes](#)” [will be protected from prosecution](#). Importantly, a report issued by the government-appointed Consultation Task Force, which conducted extensive nationwide consultations on the transitional justice mechanisms, has not

been given the attention it deserves. The Task Force report contains detailed recommendations, drawn from all affected communities including the security services, and provides an important blueprint for the way forward in addressing abuses by both the Liberation Tigers of Tamil Eelam and government forces.

Numerous UN experts and special mandates have since 2015 highlighted the marginalization and misrepresentation faced by minority communities, as well as a trust-deficit between these communities and the government, due in significant part to a culture of impunity. This was exposed during the recent political and constitutional crisis in Sri Lanka that laid bare the volatility of the political environment and the imperative need for continued international engagement to support the government in protecting human rights and promoting reform, reconciliation and accountability.

The Human Rights Council has played a vital role in identifying the many steps needed to reconcile with the past, ensure justice and accountability, and implement necessary reforms. Its scrutiny has proved an important catalyst for the progress made to date.

At the upcoming HRC session, the High Commissioner will present a substantive report on the progress towards implementation of the resolution – and the many challenges remaining. It is crucial that the Council remain fully engaged with the process until the commitments Sri Lanka made to the HRC and its own people through its co-sponsorship of resolution 30/1 are met in full.

To maintain confidence in the process, states should engage meaningfully with the High Commissioner's report, and ensure the Council adopts a resolution that, at minimum:

- welcomes the High Commissioner's report (once available) and calls on the government of Sri Lanka to implement its recommendations;
- reaffirms resolution 30/1 and underlines the importance of the commitments therein being met in full;
- maintains reporting by the High Commissioner on the status of Sri Lanka's progress towards implementation of its commitments, with opportunities for regular interim reporting through oral updates and interactive dialogues;
- expresses concern at the slow rate of progress and requests the government of Sri Lanka to collaborate with the OHCHR to develop a time-bound implementation plan for consideration by the Council in an interactive dialogue.

Given the insufficient progress to date, and rising frustrations that any accountability process seems stalled, a mere technical "rollover" resolution will be insufficient unless it includes provision for a clear timetable and framework for Sri Lanka to fulfill its commitments.

States should also make clear that stronger measures are needed to assist in monitoring, implementing and fulfilling these commitments, such as an OHCHR field presence, Special Procedure and evidence-gathering, justice and accountability mechanisms.

Anything less would fall substantially short of the expectations of victims and their families, and risk undermining faith in the process long before the promises of reconciliation, justice and reform have been translated into reality. Sri Lanka's long-term peace and stability hinges upon the international community's willingness to support the government in addressing the past so that it may look to the future.

Sincerely,

Amnesty International
Asian Forum for Human Rights and Development (FORUM-ASIA)
Commonwealth Human Rights Initiative
Franciscans International
Human Rights Watch
International Commission of Jurists

International Movement Against All Forms of Discrimination and Racism (IMADR)
International Service for Human Rights
Sri Lanka Advocacy