



General Assembly

Distr.
GENERAL

A/HRC/8/46/Add.1

13 August 2008

HUMAN RIGHTS COUNCIL
Eighth session
Agenda item 6

UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

Sri Lanka

Addendum

**Response of the Government of Sri Lanka
to the Recommendations noted in paragraphs 28 (a); 33 (a); 36; 39 (c); 48 (b);
57 (b); 72 (b) and 75 (c), (d) and (e) of the Report of the
Working Group on the Universal Periodic Review of Sri Lanka
contained in Document A/HRC/8/46 of 5 June 2008***

* The present document was not edited before being sent to the United Nations translation services.

**Response of the Government of Sri Lanka
to the Recommendations noted in paragraphs 28 (a); 33 (a); 36; 39 (c); 48 (b);
57 (b); 72 (b) and 75 (c), (d) and (e) of the Report of the
Working Group on the Universal Periodic Review of Sri Lanka
contained in Document A/HRC/8/46 of 5 June 2008**

1. [T]o address torture and implement safeguards to prevent torture and extrajudicial executions (para 28(a): Portugal)

Sri Lanka accepts this recommendation.

The Government does not condone torture or extra-judicial executions under any circumstances and refutes any implicit suggestion that it has been complicit in torture or extra-judicial executions.

In Article 11 of the Constitution, there is an absolute constitutional guarantee against torture and the Supreme Court is empowered to make determinations regarding allegations of torture and award compensation. Further, torture is also a criminal offence which if found proven carries a seven year minimum mandatory term of imprisonment. All complaints of torture are impartially and comprehensively investigated into and perpetrators prosecuted in court. The victim is also entitled to pursue civil damages in court. The suspect public servant perpetrator of torture is also subject to disciplinary proceedings in terms of the Establishments Code, with disciplinary sanctions that may include a dismissal from the public service.

Extra-judicial killings are also criminalised without any exception. Comprehensive legal processes are available to act against those responsible for such criminal activity.

Sri Lanka will, as it does at present, continue to implement and further develop safeguards to prevent the occurrence of such criminal activity.

2. [To] sign and ratify the International Convention for the Protection of All persons from Enforced Disappearance (para 33(a): France)

3. [To] ratify the Optional Protocol to the Convention against Torture. (para 48 (b): Brazil)

With regard to recommendations (2) and (3) above, the Government of Sri Lanka wishes to state that, pursuant to several written recommendations made by countries in response to Sri Lanka's National Report for the UPR, a Committee Chaired by the Legal Advisor of the Ministry of Foreign Affairs to assess the feasibility of further participation (signature / ratification / accession) in human rights treaties was appointed by the Hon. Minister of Disaster Management and Human Rights. The Committee has undertaken an in-depth study of the two instruments referred in the recommendations, and has requested further time to consider the matter in greater depth.

However, Sri Lanka will continue to strive to ensure full compliance with its human rights obligations.

4. Sri Lanka to investigate the involvement of the paramilitary Karuna Group of abducting children for use as soldiers (para 36: The Holy See)

Sri Lanka has a zero-tolerance on the use of child soldiers and remains firmly committed to its obligations under the Optional Protocol to the Convention on the Rights of the Child. By a recent amendment to the Penal Code, the procurement and abduction of children for use in armed conflict has been made a criminal offence.

Sri Lanka has commenced investigations into allegations of abducting children for use as soldiers by the Karuna Group. All complaints into such abductions and conscriptions will be fully investigated to ensure that perpetrators are prosecuted.

All necessary action will be taken to prevent the use of children in armed conflict. The government is also taking steps to address root causes relating to the phenomena of ‘child soldiers’.

The government encourages the release of child soldiers by all armed groups and has in place a comprehensive programme aimed at rehabilitation and re-integration of former child soldiers.

5. Sri Lanka to share the findings of the special bodies created to stop the persistent pattern of enforced disappearances and the measures put into place to address this problem. (para 36: The Holy See)

Sri Lanka refutes the allegation implicitly contained in the recommendation that there exists in Sri Lanka such a pattern of disappearances.

The substantive criminal law prohibits enforced disappearances and carries penal sanctions. All complaints are fully investigated into and where evidence exists, perpetrators prosecuted.

Some of the findings of independent bodies established to inquire into allegation of enforced disappearances have already been shared. These findings do not suggest a “persistent pattern” of disappearances. The other findings will be published in keeping with the provisions of the Sri Lankan law.

Various measures to prevent disappearances are already in place. The government is working towards setting in place further measures to totally eliminate enforced disappearances.

6. [To] implement various recommendations made by treaty bodies and special procedures to ensure that security measures adopted in the context of armed violence including the state of emergency the 2005 emergency laws and measures to combat terrorism comply with international human rights law. (para 39 (c): Mexico)

Sri Lanka accepts this recommendation.

However, since article 4(1) of the ICCPR permits States to derogate from its obligations in times of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, all practicable measures including those necessary to combat terrorism would be put in place in conformity with its obligations under international law. Such measures will be strictly to the extent that is required for the exigencies of the situation.

7. [To] establish the Constitutional Council as foreseen by 17th Amendment to the Constitution as soon as possible, and that this Council be mandated to appoint a number of commissioners to public Commissions, such as the NHRC and the Police Commission. (para 57 (b): The Netherlands)

A multi-party Parliamentary Select Committee is currently considering this issue with a view to accommodating contemporary concerns regarding the Constitutional Council. It has proposed an amendment to the Seventeenth Amendment to the Constitution. This proposal is presently under consideration.

8. [To] implement the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions and take steps to verifiably disarm all paramilitary groups. (para 72 (b): United Kingdom)

Sri Lanka accepts this recommendation and undertakes to comprehensively work towards its implementation.

Steps to disarm all paramilitary groups are in progress but finalization will be subject to satisfactory guarantees of safety from the attacks of the LTTE. It should be noted that the situation has changed considerably since the recommendations were made in March 2006, with the resumption of overt terrorist activity by the LTTE.

9. [To] demobilize child soldiers by assuring children serving with pro-government militias (forced or voluntary) are released and adequate resources allocated for disarmament, demobilization, reintegration, repatriation and other activities to halt the unlawful recruitment of children. (para 75 (c): United States)

10. Sri Lanka's plan to address the forcible recruitment of child soldiers should be publicized (para 75 (d): United States)

11. Sri Lanka should work with international and domestic non-State actors to halt the recruitment and use of child soldiers. (para 75 (e): United States)

Answering (9) to (11), the government reiterates the response given to Recommendation No. 4 above.

Sri Lanka asserts that it does not have any 'pro-government militias'. Subject thereto, these recommendations are all acceptable to the government. It is important to note that there are no children serving with armed groups apart from the LTTE and its splinter groups.

Sri Lanka has always had a policy of zero-tolerance for child soldiers and the government welcomes assistance with affirming such a policy throughout the country, and with full reintegration of former child soldiers.

The government asserts that the concept of 'repatriation' does not arise in the context of released child soldiers.
