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Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General****Promoting reconciliation, accountability and human rights in  
Sri Lanka****Report of the United Nations High Commissioner for Human Rights\****Summary*

Pursuant to resolution 40/1 of the Human Rights Council, the present update assesses the progress made in implementing Human Rights Council resolution 30/1 on promoting reconciliation, accountability and human rights in Sri Lanka, particularly during 2019.

While some progress has been made since 2015 in promoting reconciliation, accountability and human rights in line with resolution 30/1, the inability of the Government to deal comprehensively with impunity and to reform institutions may cause the recurrence of human rights violations. The High Commissioner is concerned by various signs indicating a possible reversal of past commitments by the Government which would setback the promotion of reconciliation, accountability and human rights, reduce civic space and erode important institutional safeguards. The overall goals of resolution 30/1 must be protected and built upon to provide justice and redress to victims, guarantee the non-recurrence of past patterns of human rights violations, and promote peaceful, inclusive and sustainable development.

The High Commissioner encourages the Government of Sri Lanka to fully implement resolution 30/1 and continue to engage positively with OHCHR and United Nations human rights mechanisms to promote reconciliation, accountability and human rights as critical elements for the implementation of the Sustainable Development Goals. She urges the Human Rights Council to sustain its close monitoring of and engagement on developments in Sri Lanka.

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\* The present report was submitted after the deadline in order to reflect recent developments.

## I. Introduction

1. This update is presented pursuant to Human Rights Council Resolution 40/1 on promoting reconciliation, accountability and human rights in Sri Lanka, which was adopted by consensus and further to Human Rights Council Resolutions 30/1 and 34/1. In resolution 40/1, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to continue to assess progress on the implementation of its recommendations and other relevant processes relating to reconciliation, accountability and human rights in Sri Lanka, and to present a written update to the Human Rights Council at its forty-third session, and a comprehensive report on the implementation of resolution 30/1 at its forty-sixth session.

2. Resolution 40/1 of the Human Rights Council requested the Government of Sri Lanka to implement fully the measures foreseen in resolution 30/1 that were outstanding. The present update reviews the progress made by the Government of Sri Lanka in implementing resolution 30/1, particularly from January 2019 to January 2020. In line with past practice OHCHR invited the Government to provide information for the preparation of this update. In a Note Verbale sent on 5 February 2020, the Permanent Mission of Sri Lanka informed the Office that the Government did not wish to provide information. The Government also did not provide comments on the draft report shared by the Office, and indicated it will respond to the report during its presentation at the Human Rights Council. An OHCHR delegation visited Sri Lanka in January 2020 to engage with the Government as part of the preparation of this update.

3. This update should be read in conjunction with the reports of the High Commissioner for Human Rights on Sri Lanka of 8 February 2019 (A/HRC/40/23), 25 January 2018 (A/HRC/37/23) and 10 February 2017 (A/HRC/34/19), the oral update of the High Commissioner for Human Rights to the Human Rights Council of 29 June 2016 (A/HRC/32/CRP.4), the comprehensive report of OHCHR on Sri Lanka of 28 September 2015 (A/HRC/30/61) and the detailed findings of the OHCHR investigation of 2015 (A/HRC/30/CRP.2).<sup>1</sup>

4. Sri Lanka is at an important juncture following the election, on 16 November 2019, of Gotabaya Rajapaksa, as the 7<sup>th</sup> Executive President of Sri Lanka. The election results, while decisive, reflected an electorate highly polarized along ethnic lines. On 21 November 2019, Mahinda Rajapaksa was sworn in as Prime Minister and a new Cabinet was appointed. Parliamentary elections are expected in the first half of 2020. The Government has signalled its intention to review the commitments made under resolution 30/1.

5. President Rajapaksa campaigned on a manifesto that highlighted the 2030 Sustainable Development Agenda. In a speech to Parliament on 3 January 2020, he declared that he wanted Sri Lanka to be at the global forefront in implementing the Sustainable Development Goals (SDGs). The Government appears to prioritize development as a way to deal with the past. The 2030 Agenda includes SDG 16 to “promote peaceful and inclusive societies, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. A commitment to human rights, justice, accountability and transparency - all of which are recognized as prerequisites for an enabling environment in which people are able to live freely, securely and prosperously - underpins the 2030 Agenda.

6. The High Commissioner therefore considers that implementation of the measures envisaged in resolution 30/1 are essential for achieving the aspiration to a peaceful and prosperous Sri Lanka. The resolution sets out a comprehensive roadmap to advance accountability and reconciliation, and to strengthen the protection of human rights, democracy and the rule of law. Many of the core elements of the resolution evolved through Sri Lanka’s national process, including under the previous administrations. Sri Lanka’s co-sponsorship of the resolution therefore represented a landmark commitment to all Sri Lankans and to the international community, and promised to underpin a peacebuilding process after three decades of devastating conflict.

7. Nearly five years after the adoption of resolution 30/1, some progress has been made but the Government has been unable to deal comprehensively with the past, risking to repeat cycle of violence and human rights violations. The High Commissioner is concerned by

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<sup>1</sup> [www.ohchr.org/EN/Countries/AsiaRegion/Pages/LKIndex.aspx](http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/LKIndex.aspx).

various signs indicating a possible reversal of past commitments by the Government which would setback the promotion of reconciliation, accountability and human rights, reduce civic space and erode important institutional safeguards in Sri Lanka. The important goals of resolution 30/1 must be protected and built upon to provide justice and redress to victims, guarantee the non-recurrence of past patterns of human rights violations, and promote peaceful, inclusive and sustainable development.

## **II. Engagement of the Government with the Office of the United Nations High Commissioner for Human Rights and United Nations human rights mechanisms**

8. The Government of Sri Lanka has maintained regular engagement with the United Nations system, including with OHCHR, during the reporting period. OHCHR has provided technical assistance to the Government in a number of areas, including support to the Office on Missing Persons, the Office for Reparations and the Human Rights Commission of Sri Lanka. OHCHR has supported the United Nations Resident Coordinator and the United Nations Country Team in developing programmatic activities and mainstreaming human rights in line with the 2030 Sustainable Development Agenda

9. Sri Lanka has maintained a standing invitation to all Special Procedures since December 2015. In March 2019, the Special Rapporteur on Counterterrorism<sup>2</sup> and the Independent Expert on foreign debt and its impact on human rights<sup>3</sup> presented the reports on their visits to Sri Lanka conducted respectively in July 2017 and September 2018. In July and August 2019, respectively, the Special Rapporteur on the rights to freedom to peaceful assembly and association<sup>4</sup> and the Special Rapporteur on freedom of religion and belief<sup>5</sup> conducted missions to Sri Lanka.

10. With regards to treaty bodies, the Committee on the Rights of the Child reviewed Sri Lanka under the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography in May 2019<sup>6</sup>. The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment visited the country between 31 March and 11 April 2019<sup>7</sup>. The High Commissioner welcomes the formal designation by the Government, in July 2019, of the Human Rights Commission of Sri Lanka as the National Prevention Mechanism pursuant to the Optional Protocol to the Convention against Torture.

## **III. Developments in reconciliation, accountability and human rights**

11. During 2019, various events had a significant impact on Sri Lanka's political and human rights context.

12. On 21 April, seven coordinated suicide-bomb attacks occurred in three Christian churches, in Colombo, Negombo, and Batticaloa, and three high-end hotels and a small guesthouse in Colombo. These terrorist crimes killed more than 250 people<sup>8</sup>, becoming the

<sup>2</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/365/91/PDF/G1836591.pdf?OpenElement>.

<sup>3</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/009/95/PDF/G1900995.pdf?OpenElement>.

<sup>4</sup> End of Mission Statement:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24818&LangID=E>.

<sup>5</sup> End of Mission Statement: <https://lk.one.un.org/news/end-of-mission-statement-ohchr-special-rapporteur-on-freedom-of-religion-or-belief/>.

<sup>6</sup> See the Committee on the Rights of the Child, Concluding Observations CRC/C/OPSC/LKA/CO/1, 3 July 2019:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/OPSC/LKA/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/OPSC/LKA/CO/1&Lang=En).

<sup>7</sup> "UN torture prevention body concludes visit to Sri Lanka":

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24477&LangID=E>.

<sup>8</sup> During the attack, 269 people were killed (including 45 children) in addition to the eight suicide bombers, and more than 400 people were injured.

most lethal single terrorist incident in the country's history. The attacks were attributed to the *National Tawhid Jamaat* (NTJ), a small local extremist organization believed to have obtained inspiration and support from individuals linked with the so-called Islamic State in Iraq and Syria (ISIS), who claimed the attack. The High Commissioner unequivocally condemns these crimes and the ideology behind them and expresses her solidarity with the people of Sri Lanka, particularly the victims and their families.

13. Understandably, the attacks placed national security once again at the centre of the political agenda. In addition, Government institutions also continued to experience some paralysis resulting from the polarity between the then President and Prime Minister and their respective parties following the political events of October 2018. The last months of 2019 were dominated by the election campaigns and installation of the new Government. These developments impacted the implementation of resolution 30/1.

14. With regard to the Office on Missing Persons and the Office for Reparations, despite the delays in implementation highlighted in previous reports, both institutions have achieved a considerable degree of institutional building and have undertaken important initiatives.

15. In 2019, the Office on Missing Persons opened regional offices in Mannar, Matara, Batticaloa and Jaffna, and it recruited and trained permanent staff, including the Victims and Family Support Officers who will be the first point of contact for family members. Importantly, a scheme for immediate relief for vulnerable families of the missing who have obtained Certificates of Absence began to be rolled out, with a budget allocation of 500 million Rupees (approximately 2.76 million USD) in 2019<sup>9</sup>. This initiative has great significance for victims and their families and the timely disbursement of payments should be ensured.

16. On 1 April 2019, five commissioners were appointed to the Office for Reparations, enabling its operationalization<sup>10</sup>. It has since taken over the functions of the previous reparations authority (Rehabilitation of Persons, Properties and Industries Authority)<sup>11</sup>, and has conducted consultations with stakeholders across the country on the design of a reparations policy. In July 2019, the Office for Reparations provided compensation (amounting to 265 million Rupees) to the victims of the terrorist attacks of April 2019 and their families. It is hoped that reparations will be more comprehensive and transformative than the monetary compensation approach which was the basis of the mandate of Rehabilitation of Persons, Properties and Industries Authority.

17. While further steps need to be taken for the two institutions to be effective in fully responding to the expectations of victims, the High Commissioner wishes to reiterate the enormous potential of their mandates for people from all communities who were affected during different periods of Sri Lanka's history. The Office on Missing Persons caseload includes many thousands of victims of the war in the north and east and of the earlier Janatha Vimukthi Peramuna (JVP) insurgency in the south in the 1980s, as well as the families of Sri Lankan military personnel abducted or missing in action. Both institutions evolved from the recommendations of previous Presidential Commissions, including some established under the previous administrations, and a subsequent broad-based national consultation process.

18. The Government has indicated it may take a different approach to the issue of missing persons who may have been the victims of enforced disappearances during and after the conflict. This has created considerable distress and anxiety among victims and their families. In a statement on 26 January, the President's office clarified that "after the necessary

<sup>9</sup> The Cabinet of Ministers approved the operationalization of this proposal on 3 September 2019. Families holding a valid certificate receive a monthly allowance of 6,000 Rupees (approximately 33 USD), which started to be paid from October 2019, with retroactive effect to January 2019. Actual disbursement commenced in November 2019. On 29 October 2019, given the overwhelming number of Certificates of Death historically issued in cases that could now merit a Certificate of Absence, the Cabinet agreed to extend the same monthly interim relief of 6,000 Rupees to those who possess a death certificate explicitly mentioning that the cause of death is disappearance.

<sup>10</sup> SCRM Press release:

[https://docs.wixstatic.com/ugd/003bad\\_9ed49f6cb4b54eaf996a353e03687edd.pdf](https://docs.wixstatic.com/ugd/003bad_9ed49f6cb4b54eaf996a353e03687edd.pdf).

<sup>11</sup> REPPA - Rehabilitation of Persons, Properties and Industries Authority [www.reppia.gov.lk](http://www.reppia.gov.lk).

investigations, steps would be taken to issue a death certificate and the necessary support for the families to rebuild their lives”<sup>12</sup>.

19. The High Commissioner appeals to the Government to take a more considered and comprehensive approach that ensures the investigation of these cases and provides justice and redress to victims and their families. This cannot be achieved through an expedited administrative and compensation process alone. As highlighted also by the Working Group on Enforced and Involuntary Disappearance, any comprehensive policy should address all the enforced disappearances that took place in the country, regardless of the time of the disappearance and without any type of discrimination<sup>13</sup>. Sri Lanka has now also ratified the Convention for the Protection of All Persons from Enforced Disappearances. The High Commissioner urges the Government to safeguard and build upon the valuable work of the Office of Missing Persons, the Office of Reparations and the judiciary. As the Government seeks to bring closure to the issue of missing persons, it is critical that it provides adequate political support and resources to the Office on Missing Persons and the Office for Reparations to deliver concrete benefits for victims and their families, particularly in clarifying the fate of the missing and providing reparations.

20. There has been no further progress towards the development of a more comprehensive Truth and Reconciliation Commission. A conceptual framework was reportedly last submitted on 16 October 2018 to the former Cabinet of Ministers, which decided to refer it for the observations of the Ministry of Defence. There has also been no progress in the establishment of a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law envisaged in resolution 30/1.

21. Meanwhile, there has been minimal progress in the investigation and prosecution before Sri Lanka’s courts of the long-term emblematic cases highlighted in previous reports of the High Commissioner to the Human Rights Council. These cases involve victims from all Sri Lanka’s communities<sup>14</sup>. While noting the current efforts of the Attorney-General to handle pending cases more efficiently, the absence of progress on these cases highlights the systemic impediments to accountability in the criminal justice system.

22. Meanwhile, on 9 January 2020 the Government appointed a new Presidential Commission to investigate alleged political victimization of public officials by the previous Government. On 22 January 2020, the Commission issued directives to the Attorney-General to suspend the prosecution of naval officers over the abduction for ransom of 11 youths in Colombo in 2008 and 2009. At time of writing, the Attorney-General had not complied with this order, asserting the independence of his office. Several officers responsible for the investigation of other high profile cases have been transferred or deprived of their security details.

23. On 20 January 2020 a German court convicted a former member of the Liberation Tigers of Tamil Eelam (LTTE) for the assassination, in 2005, of former Sri Lankan Foreign Minister Lakshman Kadirgamar, and sentenced him to six years and 10 months in prison. The case highlights the importance of accountability for crimes committed by all parties, including in foreign jurisdictions.

24. Resolution 30/1 includes other commitments that would foster an enabling environment for transitional justice and reconciliation, such as devolution of political authority, protection of the rights of minorities, and settlement of long-standing issues related to security legislation, militarization, security sector reforms and land return.

25. Of fundamental importance is the 19<sup>th</sup> Constitutional Amendment of April 2015 which strengthened the independence of key institutions and provided check and balances on the executive. The Government has signaled its intention to repeal or revise this important constitutional guarantee if it achieves the required parliamentary majority. The President has

<sup>12</sup> <http://www.president.gov.lk/death-certificates-for-missing-after-investigations/>.

<sup>13</sup> Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka, 8 July 2016, A/HRC/33/51/Add.2, para. 65.

<sup>14</sup> For background on the cases, see previous reports of the High Commissioner on Sri Lanka to the Human Rights Council (including A/HRC/40/23, para. 38 ff.; A/HRC/37/23, para. 299 ff.).

also indicated his opposition to any further devolution of power to provinces as foreseen in the 13<sup>th</sup> Constitutional Amendment.

26. The High Commissioner regrets that the Government declined to include the national anthem in Tamil language during the official Independence Day celebrations on 4 February 2020, despite the preceding years' practice of singing it in two languages as a significant gesture towards reconciliation.

27. In the wake of the attacks of April 2019, the Government did not finalize or proceed with the Counter-Terrorism Bill which had been drafted to replace the Prevention of Terrorism Act (PTA).<sup>15</sup> On 4 January 2020, it announced that it would be withdrawn. PTA has continued to be used and was a basis to arrest individuals believed to be linked to the organizations responsible for the attacks. As of January 2020, more than 200 individuals were in detention and under judicial custody under PTA, including in relation to the attacks of April 2019.

28. Following the April attacks, the former President declared a state of emergency that was extended three times until 22 August 2019. Emergency powers were granted to the armed forces to search and arrest, which curtailed freedoms of movement and peaceful assembly and some fair trial guarantees. Extraordinary deployment of the Armed Forces in law enforcement operations continued after the lapse of the state of emergency and was still in effect at the time of drafting.

29. Some emergency regulations adopted following the terrorist attacks were perceived as targeting specific ethno-religious communities. In particular, the prohibition for security reasons of full-face covering<sup>16</sup> - including full-face motorbike helmets but also some traditional Muslim female dresses like burqa or niqab. This measure led to a rise in intolerance towards those observing religious dress codes, especially Muslim women in public institutions such as hospitals, schools and public transports<sup>17</sup>.

30. The terrorist attacks were followed by a backlash against religious minorities, particularly the Muslim community, with serious incidents reported from several places. In Negombo (a Catholic majority town and target of one of the bomb explosions), refugees and asylum seekers from Pakistan and Afghanistan (including Ahmadi, Christians and Shia Muslims, among others) were forced to leave their residences due to pressure from landlords, neighbours and mobs, and took shelter in the police station and religious centres until they were relocated. In May 2019, organized mobs conducted attacks against mosques and Muslim-owned shops in several locations in the districts of Puttalam and Kurunegala, causing widespread destruction of property and killing one person in Kottaramula. These inter-ethnic tensions were fuelled notably by extremist Buddhist religious and nationalist groups who were implicated in deadly anti-Muslim riots at Aluthgama in 2014, in Ampara and Kandy districts in 2018, and dozens of fuel bombs attacks in 2017<sup>18</sup>.

31. On 27 May 2019, a group of United Nations Special Rapporteurs sent a joint communication to the Government on the violence targeting religious minorities and the precarious living and security conditions of refugees and asylum seekers belonging to religious minorities<sup>19</sup>. In his press release issued at the end of his visit to Sri Lanka in August

<sup>15</sup> The Supreme Court delivered its determination on the constitutionality of the Bill and the observations of the Court were shared with the Parliament and published on 14 November 2018 (available here: <https://www.parliament.lk/uploads/bills/gbills/scdet/6123.pdf>).

<sup>16</sup> Gazette Extraordinary 2121/1 of 29 April 2019; [http://documents.gov.lk/files/egz/2019/4/2121-01\\_E.pdf](http://documents.gov.lk/files/egz/2019/4/2121-01_E.pdf).

<sup>17</sup> See the Special Rapporteur on freedom of religion's End of Mission statement: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24918&LangID=E>.

<sup>18</sup> See A/HRC/40/23, para. 58. See also the communications sent to the Government of Sri Lanka on these incidents over the years by various Special Rapporteurs: 26 June 2014, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=16811>; 13 June 2017, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23155>; 27 March 2018, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23715>.

<sup>19</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24617>. The Government sent two responses on 29.

2019, the Special Rapporteur on freedom of religion and belief highlighted the long-standing traditions of religious harmony and co-existence in Sri Lanka, expressing concern that tolerance and sustainable peace were at risk from religious and political violence, lack of accountability, distrust of institutions and resentment against perceived majoritarian privilege<sup>20</sup>.

32. There has been a significant opening of civic space in Sri Lanka since 2015. However, reports of harassment or surveillance of human rights defenders and victims of human rights violations increased during 2019. In particular, starting from October 2019, more than a dozen organizations working on documentation or litigation around accountability and disappearances issues have reported being visited by agents claiming to belong to security agencies and requesting administrative details of the organizations, list of staff, funding sources and external travel. Some relatives of victims of disappearances who took part in organized protests in 2019 were asked to report to police stations for further questioning. Such visits, which began before the presidential election and have since continued, have been documented in different parts of the country, generating considerable fear and anxiety. Several journalists were summoned by the Criminal Investigation Department, arrested and detained or had their offices searched; others have received threats. In some cases, Sri Lankans who travelled to Geneva to attend sessions of the Human Rights Council were questioned about the motives of their trips, either at the airport or during visits by the police at their homes upon their return<sup>21</sup>.

33. Resolution 30/1 encourages the Government to introduce effective security sector reforms. The return of land occupied by the military in the Northern and Eastern provinces continued in 2019, with the majority of land now returned. Yet, there has been a disturbing trend towards the militarization of civilian government functions. Control of several key civilian departments has been recently put under the oversight of the ministry of defence, including the police, the immigration department, telecommunications registration, the national media centre and the secretariat for non-governmental organizations.

34. Very little action has been taken to remove individuals responsible for past violations, to dismantle structures and practices that have facilitated torture, enforced disappearances and extrajudicial killings, and to prevent their recurrence. The High Commissioner is deeply concerned about the appointment of several military officers to senior command positions, both before and after the presidential elections, despite the serious allegations that troops under their command committed gross violations of international human rights and humanitarian law during the war, as documented by the United Nations Secretary-General's Panel of Experts on Accountability in Sri Lanka<sup>22</sup> and the OHCHR Investigation on Sri Lanka<sup>23</sup>.

35. The High Commissioner is also concerned by the steps taken in 2019 to resume implementation of the death penalty after over 40 years of de facto moratorium<sup>24</sup>, notably the recruitment of executioners and the reported signature of executions warrants for four prisoners convicted of drug-related offences. The High Commissioner recalls that the United Nations opposes the use of capital punishment in all circumstances and urges the Government

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May 2019 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34716>) and 31 July 2019 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34809>).

<sup>20</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24919&LangID=E>.

<sup>21</sup> See also the Secretary General's 2019 report on the issue of reprisals: A/HRC/42/30.

<sup>22</sup> <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20Rep%20on%20Account%20in%20Sri%20Lanka.pdf>.

<sup>23</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24908&LangID=E>; see also a statement issued by a group of UN Special Rapporteurs <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24923&LangID=E>.

<sup>24</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24371&LangID=E>. Also, on 28 June 2019, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a urgent appeal calling on the Government to take all necessary measures to ensure those executions are not carried out and the moratorium is maintained:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24686>.

See Government's reply on 19 July 2019:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34796>.

to continue to uphold the long-standing moratorium on the death penalty and to work towards abolishing the punishment altogether.

#### IV. Conclusions

36. Some progress has been made by Sri Lanka in promoting reconciliation, accountability and human rights in line with resolution 30/1, but the inability of the Government to deal comprehensively with impunity and to reform institutions, may trigger the recurrence of human rights violations. The High Commissioner urges the full implementation of resolution 30/1, considering that the commitments under it remain essential to achieve the peaceful society and sustainable development aspired to by people from all communities in Sri Lanka. Many of the commitments in resolution 30/1 originated in Sri Lanka's domestic process, notably the Lessons Learned and Reconciliation Commission established by the Government during the presidency of Mahinda Rajapaksa, and elaborated further in a comprehensive civil society-led national consultation that involved all stakeholders, including the military<sup>25</sup>. The commitments in resolution 30/1 reflect the aspirations of all communities seeking to overcome the legacy of decades of armed conflict, terrorism and authoritarianism.

37. Of critical importance are Sri Lanka's independent institutions, strengthened under the 19<sup>th</sup> Constitutional Amendment. The Human Rights Commission of Sri Lanka has continued its proactive and outspoken defence of human rights in an independent and professional manner. The High Commissioner commends its timely interventions in the aftermath of the attacks of April 2019, which played an important role in preventing resort to excessive or discriminatory measures. The Right to Information Commission established in 2016 is another key institution to guarantee citizens' right to access information from all public authorities.

38. As noted, other institutions, can also play an important and positive role. The Office of the Missing Persons and the Office of Reparations were established to provide answers for relatives of victims from all communities in Sri Lanka to clarify the fate of the missing and disappeared persons towards redress and reparations. It is essential that their independence be scrupulously respected and that they be provided with adequate resources to effectively fulfil their mandate.

39. The space for civil society and critical and independent media, which had widened in recent years, must also be protected. The High Commissioner urges the authorities to immediately end the intimidating visits by State agents and all forms of surveillance and harassment of and reprisals against human rights defenders, social actors and victims of human rights violations and their families. The High Commissioner is also concerned by hate speech and aggressive campaigns by some militant nationalist and religious groups against ethnic, religious and other minorities, particularly Muslims, and urges the Government to take measures to actively prevent such extremism, to investigate and hold those involved in communal violence accountable, and to take measures to prevent similar incidents, notably by curbing hate speech.

40. The High Commissioner is concerned that the failure to ensure accountability for past violations and to undertake comprehensive security sector reform to dismantle the structures that facilitated them, means that the people of Sri Lanka, from all communities, have no guarantee that violations will not recur. Such failure alienates victims and their communities, instilling distrust in the State, and can potentially fuel further cycles of violence. The High Commissioner urges the Government to promptly investigate and prosecute all allegations of torture and other gross human rights violations, and to give the highest priority to ensuring accountability for long-standing emblematic cases.

41. The High Commissioner encourages the Government to urgently proceed with the review and repeal of the Prevention of Terrorism Act and to engage with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while

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<sup>25</sup> Final Report of the Consultation Task Force on Reconciliation Mechanisms, 17th November 2016, <http://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf>.

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countering terrorism<sup>26</sup> and the United Nations, as well as with the Human Rights Commission of Sri Lanka, in finalizing a new legislation that is compliant with international human rights norms and standards.

42. The High Commissioner urges the Human Rights Council to continue to closely monitor developments in Sri Lanka and to maintain engagement with the Government to promote the full implementation of resolution 30/1. The High Commissioner hopes that the Government of Sri Lanka will safeguard and build upon the gains that have been made and continue to engage positively with OHCHR and United Nations human rights mechanisms to promote reconciliation, accountability and human rights for all in Sri Lanka.

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<sup>26</sup> On 26 February 2019, the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism wrote to the Government of Sri Lanka, highlighting some outstanding concerns in the Bill (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24364>)