



Date: June 20, 2018

RE: House Foreign Affairs Subcommittee Hearing on Human Rights Concerns in Sri Lanka

Statement by Amnesty International USA

In 2015, Sri Lanka made important commitments to the UN Human Rights Council that it would finally provide truth, justice and reparations to victims of human rights violations and that it would enact reforms to ensure that such violations would not recur. Over the past 35 years, Sri Lanka has suffered two brutal internal conflicts in which both the security forces and opposition groups committed human rights violations and abuses. In the vast majority of these cases, no one has been held accountable. Instead, impunity has prevailed. The government's commitments in 2015 marked a welcome change.

Since 2015, the Sri Lankan government has taken some steps to fulfill its promises. After signing the International Convention for the Protection of All Persons from Enforced Disappearances in December 2015, in May 2016, Sri Lanka ratified the Convention. Domestic legislation giving effect to the Convention was passed in March 2018. The law establishing an Office on Missing Persons was passed in August 2016, and was deemed operational by the President in September 2017. The members to the Office were appointed late February 2018 and the Office, which is tasked with investigating cases of enforced disappearances, has started its work. Amnesty International has estimated that as many as 60,000 to 100,000 alleged enforced disappearances have occurred in Sri Lanka since the late 1980s. While the government's progress is welcome, the fact that it took over two years to adopt implementing legislation on the Disappearances Convention is evidence that progress on meeting human rights commitments has slowed. Further, no progress has been made on establishing a justice mechanism, a commission on truth, justice, reconciliation and non-recurrence. Legislation to set up the Office for Reparations was only approved by cabinet this month.

Another example of delay in meeting human rights commitments is repealing and reforming the Prevention of Terrorism Act (PTA) in line with international standards- a

commitment made under UNHRC resolution 30/1. The present Act permits extended administrative detention and shifts the burden of proof to detainees alleging torture or other ill-treatment. The PTA has been used against suspected members of armed opposition groups (such as the Liberation Tigers of Tamil Eelam) as well as against independent journalists. It has facilitated the use of torture. Following the government's promise to repeal and reform the PTA, it subsequently produced a draft policy and legal framework for a Counter Terrorism Act. However, this would have continued to give police broad powers to detain suspects without charge and hold them in administrative detention. Fortunately the draft framework has not been enacted into law but nothing has emerged so far in its place. More than two years later, the PTA is still in operation and is used to arrest and detain persons without charge for prolonged periods. Torture is still widespread, with the Human Rights Commission of Sri Lanka in its 2016 report to the Committee Against Torture stating, "torture is routinely used in all parts of the country, regardless of the nature of the suspected offence for which the person is arrested."

The passage of the 19th amendment to the Constitution in 2015 established the Constitutional Council, tasked with recommending appointments to several key independent commissions. The Human Rights Commission reformulated under the 19th amendment recently received an 'A' grade accreditation by the Global Alliance for National Human Rights Institutions (GANHRI), recognizing the Commission's independence and good work. However it is reported that although it is one of the Commission's main tasks to advise the government on drafting rules and regulations maintaining compliance with human rights, drafts are not shared with the Commission for their scrutiny, making it challenging for the Commission to input into government policy. This is especially problematic since there is no post-enactment judicial review of legislation in Sri Lanka.

The government promised in 2015 to establish a judicial mechanism to investigate alleged human rights violations and violations of international humanitarian law (including war crimes). No progress has been made at all in establishing this mechanism. Senior government officials have made public statements since 2015 promising that members of the security forces would not face justice for alleged war crimes or crimes against humanity; these statements create grave concern that the government may not follow through on its stated commitments in this area.

In the absence of the justice mechanism, impunity for alleged war crimes and many other human rights violations and abuses is continuing, including in cases in which the

government has carried out some investigations. Emblematic cases include: the January 2006 extrajudicial execution of five students in Trincomalee, the August 2006 killing of 17 aid workers with the NGO Action Against Hunger in Muttur, the January 2009 killing of newspaper editor Lasantha Wickrematunge, the January 2010 disappearance of dissident journalist/cartoonist Prageeth Eknaligoda, and the December 2011 disappearances of political activists Lalith Weeraraj and Kugan Muruganandan.

Christian and Muslim minorities have faced threats and physical violence from members of the majority Sinhalese community, including some extremist Buddhist monks. Notable instances of attacks against Muslims occurred in Aluthgama in 2014 and in Kandy and Ampara earlier this year. While recent government steps to prosecute those responsible for this year's violence are welcome, they must be seen in a context in which for many years such attacks have occurred without anyone being held responsible and while the security forces for the most part took no action to protect the victims while the attacks were occurring. The government must proactively use law enforcement to tackle violence, protect the human rights of the affected and ensure accountability in order to prevent recurrence.

Congress should impress on the Administration and the Sri Lankan government the importance of Sri Lanka fulfilling its human rights commitments to the international community and its own citizens. In particular, Congress should insist that the government of Sri Lanka undertake the following actions:

- Repeal the Prevention of Terrorism Act and replace it with legislation in line with international standards
- Release all PTA detainees unless they are promptly charged with a recognizable crime under international standards and given fair trials
- Publish list of all detainees and detention centres
- Provide the families of the disappeared with information they have requested, including detailed lists and information on persons who surrendered to the armed forces at the final phase of the war in 2009 and full and effective reparation
- Establish the office for reparations, the judicial mechanism with a special counsel, and the truth justice, reconciliation and non-recurrence commission without delay and in line with the recommendations made by Consultation Task Force on Reconciliation Mechanisms
- Implement commitments made under UNHRC resolution 30/1, including returning land to their civilian owners, introducing effective security sector

reforms and establishing independent and effective victim and witness protection systems

- Publish a timeline for implementation of all of the government's human rights commitments made in UNHRC resolution 30/1
- Conclude prompt, thorough, independent and effective investigations into the emblematic cases noted above and, where sufficient evidence exists, prosecute those suspected of responsibility for these crimes
- Share draft rules and regulations with the Human Rights Commission for their scrutiny and input prior to enactment
- Take strong action to protect human rights defenders and journalists and investigate attacks by individuals and groups on journalists, human rights defenders, members of religious minority groups and other members of civil society, with a view of holding perpetrators to account