



No. 705/ 2014

HR/50

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and Other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights (Office of Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Office of the Special Rapporteur on Violence against Women, its Causes and Consequences) and has the honour to refer to the latter's Joint Communication dated 07 July 2014 addressed to H.E. Mr. Ravinatha Aryasinha, Ambassador / Permanent Representative of Sri Lanka to the United Nations in Geneva, by Mr. Juan E. Mendez, Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and Ms. Rashida Manjoo, Special Rapporteur on Violence against Women, its Causes and Consequences, concerning the alleged rape of Ms. [REDACTED] by 2 military officers in June 2010.

The Permanent Mission of Sri Lanka has the honour to transmit to the Office of the High Commissioner for Human Rights the response received from the Government of Sri Lanka on the Joint Communication under reference. (Please see Annex)

The Permanent Mission of Sri Lanka would also appreciate an acknowledgement of this communication.

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and Other International Organizations in Switzerland avails itself of this opportunity to renew to Office of the High Commissioner for Human Rights (Office of Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Office of the Special Rapporteur on Violence against Women, its Causes and Consequences) the assurances of its highest consideration.

Geneva, 26 November, 2014

Office of the High Commissioner for Human Rights (OHCHR),  
Palais Des Nations,  
1211- Geneva.

(Mr. Juan E. Mendez,  
Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,

Ms. Rashida Manjoo,  
Special Rapporteur on Violence against Women, its Causes and Consequences).

**Observations of the Government of Sri Lanka on the Joint Communication dated 7 July 2014, from the Special Rapporteur on Torture and the Special Rapporteur on Violence Against Women on alleged repeated harassment and victimization of Ms. [REDACTED]**

- The following four (04) Army soldiers of battalion no, 622 HQ at Vishvamadhu area had been arrested by the Police for their involvement in raping Ms. [REDACTED] of Bhadrakali Kovill Road, Vishvamadhu on 6<sup>th</sup> June 2010.
  - i. Pandithagedara Shantha Subasinghe (Corporal 239933)
  - ii. Pathiratne Bandaranayake Priyantha Kumara (Lans Corporal 24694)
  - iii. Delgollage Danushka Pushpakumara (Pvt. 24489314)
  - iv. Kobbewalagedara Dhanushka Priyalal Ratnayake (Corporal 7241315)
- The above four Army personnel were indicted by the Attorney-General on 27 August 2012 based on the evidence gathered by the Police during the investigation under case no. HC/1569/2012 in the High Court of Jaffna. The trial in this case commenced in the High Court of Jaffna within a year of filing the indictment.
- The evidence of five witnesses had been concluded in the course of the four trial days.
- In addition to the statements of the victims, the Police have taken steps to gather forensic evidence from the Judicial Medical Officer.
- An identification parade with the assistance of the Magistrate had also been conducted on an application by the Police, during the course of the investigation.
- Evidence of two lay witnesses including Ms. [REDACTED] had been recorded by the trial judge. The Judicial Medical Officer who examined Ms. [REDACTED] has also concluded his evidence. Relevant Medico-Legal Reports have also been produced as part of his evidence. The Learned Magistrate who conducted the Identification Parade also had concluded his evidence having produced the Identification Parade Note as documentary proof.
- Services of all four accused who stand indicted in this case have been terminated by the Army. However, they are provided with all guarantees ensuring a fair trial, including the right to be represented by an Attorney-at-Law and the right to cross examine witnesses.
- It is observed that the accused are liable to be sentenced to a term of imprisonment not exceeding twenty years, to a fine and to pay compensation to the victim for the "injuries" caused to her, upon conviction.
- It is further observed that the "Injuries", according to the Penal Code, include "psychological or mental trauma" suffered by the victim.

- In a separate incident not connected to the above, officers of the Mullaithivu Division Police Anti-Vice Unit raided the house of Ms. [REDACTED] on 13 February 2014 for allegedly selling liquor without a license. After surrendering to the Mullaithivu Police Station on 15 February 2014, she was produced before the Magistrate Court, Mullaithivu for allegedly selling liquor without a valid license. She was released on bail on the same day. In this connection, Mullaithivu Police have filed a case (Case No. 8341) in the Magistrate Court of Mullaithivu on 26 August 2014 and the Court has issued a warrant to arrest Ms. [REDACTED] since she did not appear before the Court on 26 August 2014. The next date for court proceedings is 9 December 2014.
- An efficient and effective investigation has been conducted on the complaint of rape made by Ms. [REDACTED] and the prosecution of the alleged offenders is in progress in the High Court.
- The raid by the Anti-Vice Unit of the Mullaithivu Police was in relation to her allegedly selling illicit liquor and has no connection to her complaint of rape.
- There is no complaint made at Pudukudirippu Police station, which is the concerned Police area of the residence of Ms. [REDACTED], with regard to any of the other allegations mentioned in the Joint Urgent Letter. A perusal of records at other police stations in the Mullaithivu Police Division, also do not indicate the existence of such a complaint. If the Office of the High Commissioner for Human Rights provides further information, including a copy of the First Information Report (FIR) issued by the Sri Lanka Police as mentioned in its communication dated 7 July 2014, the Government of Sri Lanka can investigate the allegations further.
- Moreover, the Government of Sri Lanka wishes to state that Ms. [REDACTED] had unhindered access to justice and has not complained to any judicial body including the High Court that recorded her evidence, the local Police or any other administrative body regarding any reprisals or incidents creating difficulties to provide her testimony.