



No. 464/2021

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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 Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to refer to the latter's Note Verbale No. OL LKA 7/2021 dated 09 December 2021 and subsequent Note Verbale dated 10 December 2021, with regard to the joint communication from a group of special procedures mandate holders.

The Permanent Mission wishes to inform the Special Procedures Branch of the OHCHR that further to the response of the Government of Sri Lanka to the above joint communication from a group of Special Procedure Mandate Holders which was sent by Note Verbale No. 460/2021 on Saturday 11 December 2021 at 9.45 a.m. i.e. within the 48 hour deadline, additional information from the Government of Sri Lanka in response to the joint communication is forwarded herewith.

The Permanent Mission requests the Special Procedures Branch of the OHCHR to publish the additional information along with the joint communication of the special procedures, and information provided previously as indicated in the text of the joint communication, on the communications reporting website, as well as in any other report that would contain the joint communication.

An acknowledgement of receipt of this note and the additional information from the Government of Sri Lanka in response to the above joint communication from a group of special procedure mandate holders would be appreciated.

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 the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 16 December 2021

Special Procedures Branch  
Office of the United Nations High Commissioner for Human Rights  
Geneva



With reference to the Joint Communication (OL/LKA/7/2021) dated 09 December 2021, submitted by seven Special Procedures Mandate Holders, and the response submitted on 11 December 2021, the Government of Sri Lanka (GoSL) wishes to submit the following as additional information:

1. Detention orders issued by the President under the Prevention of Terrorism Act (hereinafter referred to as the PTA) as qua Minister of Defence and all acts performed by other persons under the Prevention of Terrorism Act are amenable to judicial review before the Court of Appeal in the exercise of the Writ jurisdiction under Article 140 of the Constitution and under Article 126 of the Constitution in terms of the Fundamental Rights jurisdiction.
2. Apart from the judicial oversight, it is also relevant to note the following administrative oversight that the PTA provides over person's subject to the Prevention of Terrorism Act
3. In this regard, specific reference is made to the provisions of Section 28 of the Human Rights Commission Act of 1996 which provides as follows:

Duty to inform the Human Rights Commission of arrest or detention under the PTA and power of the Commission.

Section 28 of the Human Rights Commission Act No. 21 of 1996 provides as follows:

*"28. (1) Where a person is arrested or detained under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 or a regulation made under the Public Security Ordinance, (Chapter 40) it shall be the duty of the person making such arrest or order of detention, as the case may be, to forthwith and in any case, not later than forty-eight hours from the time of such arrest or detention, inform the Commission of such arrest or detention as the case may be and the place at which the person so arrested or detained is being held in custody or detention. Where a person so held in custody or detention is released or transferred to another place of detention, it shall be the duty of the person making the order for such release or transfer, as the case may be, to inform the Commission of such release or transfer, as the case may be, and in the case of a transfer to inform the Commission of the location of the new place of detention.*

*(2) Any person authorised by the Commission in writing may enter at any place of detention, police station, prison or any other place in which any person is detained by a judicial order or otherwise, and make such examinations therein or make such inquiries from any person found therein, as may be necessary to ascertain the conditions of detention of the persons detained therein.*

*(3) Any person on whom a duty is imposed by subsection (1), and who willfully omits to inform the Commission as required by subsection (1), or who resists or obstructs an officer authorized under subsection (1) in the exercise by that officer of the powers conferred on him by that subsection, shall be guilty of an offence and shall on conviction after summary trial by a Magistrate, be liable to imprisonment for a period not exceeding one year or to a fine not exceeding five thousand rupees, or the both such fine and imprisonment."*

4. Apart from the said power conferred on the Human Rights Commission, it also pertinent to note that pursuant Sri Lanka's accession to the OPCAT on 5<sup>th</sup> December 2017, the Human Rights Commission of Sri Lanka has been designated as the National Preventive Mechanism in terms of Articles 3 and 17 of the OPCAT.
5. Further the provisions of Section 12 of the OFFICE ON MISSING PERSONS [ESTABLISHMENT, ADMINISTRATION AND DISCHARGE OF FUNCTIONS) ACT, No. 14 OF 2016 that provides for the powers of investigation of the Office of Missing Persons envisages thus:

*"12 (f) to authorize in writing a specified officer of the OMP, to enter without warrant, at any time any place of detention, police station, prison or any other place in which any person is suspected to be detained, or is suspected to have previously been detained in, whether by judicial order or otherwise and make such examinations therein or make such inquiries from any person found therein, to ascertain the conditions of detention and retain any documents or objects, as may be necessary;*

*For the purposes of this paragraph, the Minister assigned the subject of Justice shall make guidelines for the conduct of the search and place it before Parliament within a period of three months;*

*The OMP shall inform the Inspector General of Police within twenty-four hours of conducting the search without a warrant;"*

6. As such, the Office for Missing Persons has also been conferred the powers to *enter without warrant*, at any time any place of detention, police station, prison or any other place in which any person is suspected to be detained and make such examinations therein or make such inquiries from any person found therein, to ascertain the conditions of detention.
7. The above are a few of the statutory safeguards available in addition to other administrative procedures available to protect the rights of persons subject to the PTA.