



No. 981/2023

Ref. 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 Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights (OHCHR) and has the honour to refer to the communication No. JOL/LKA 8/2023 on the 'Joint Communication from Special Procedures' dated 23<sup>rd</sup> October 2023.

The Permanent Mission of Sri Lanka wishes to submit herewith the response of the Government of Sri Lanka to the Joint Communication under reference.

The Permanent Mission of Sri Lanka would appreciate an acknowledgment of the receipt of this communication by the Special Procedures Branch at the earliest.

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

Geneva, 27 October 2023



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

Email: [ohchr-registry@un.org](mailto:ohchr-registry@un.org)  
[ohchr-spbquickresponsedesk@un.org](mailto:ohchr-spbquickresponsedesk@un.org)

**Draft GoSL response to the Joint Communication received from Special Procedures Mandate holders (JOL/LKA 8 /2023)**

1. The Government of Sri Lanka (GoSL) wishes to refer to the Joint Communication (OL/LKA/8/2023) dated 23 October 2023, submitted by four Special Procedures Mandate Holders, seeking clarifications and information concerning draft bill for the amendment of the Muslim Marriage and Divorce Act no. 13 of 1951 (MMDA).
2. It is noted that the Government of Sri Lanka has been provided only 48 hours to comment on the communication. It would be appreciated if the special procedures afford adequate time for the State concerned to consult with the relevant stakeholders and respond to lengthy commentaries of this nature particularly where the matter pertains to legislation which has to follow due process in accordance with the Constitutional provisions of the State concerned. This practice is a matter of concern to Sri Lanka.
3. In this context, without prejudice to the above, the following may be noted regarding the draft legislation under reference:
  - It is notable that Sri Lanka's legal system is a unique blend of customary and personal laws enriched by history, culture and sacred beliefs of the people who are subject to such laws. This includes laws provided for the self-management of Islamic religious institutions, marriage, divorce and succession laws particular to Sri Lankan Muslims. In this manner, the Muslims of Sri Lanka are governed by their customary personal laws in keeping with their religion and culture.
  - In this context with regard to the amendment of the Muslim Marriages and Divorce Act (MMDA), a ten-member Muslim Law Reforms Advisory Committee appointed by the Minister of Justice in December 2020 has handed over their Report to the Hon. Minister in June 2021, and the same has been submitted to the Cabinet of Ministers. The Advisory Committee has been requested to make further observations.
  - Given the direct relevance of the matter to the Muslim community of the country, it is important that any revisions to the law are carried out in close consultation with the community concerned. The objective of introducing amendments is to bring the personal laws into conformity with prevailing international and domestic standards. Personal laws will remain in operation as an integral part of the country's legal system.
  - In addition to the above, it may be noted that constitutionality of any Bill could be challenged in the Supreme Court within 14 days of it being placed on the Order Paper of Parliament in terms of Article 121 of the Constitution. Further, it is pointed out that in terms of Article 78 (1) of the Constitution every Bill shall be published in the Gazette at least seven days before it is placed on the Order Paper of the Parliament. In this context, its pertinent to note that any reference to the 'Draft Bill for the Amendment of the Muslim Marriage and Divorce Act no. 13 of 1951' at a stage prior to the said Bill being published in the gazette in terms of Article 78 (1) of the Constitution, is a misconceived perception in terms of the Constitution.