



No. 997/2023

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. JAL/LKA 7/2023 on the 'Joint Communication from Special Procedures' dated 13th September 2023.

The Permanent Mission of Sri Lanka wishes to submit herewith the observations provided by the Government of Sri Lanka on the issues raised.

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, 16 November 2023



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

Email: ohchr-registry@un.org

**Observations of the GoSL in response to Joint Communication
(AL/LKA/2023) dated 13 September 2023 from 06 Special Procedures
Mandate Holders**

The Government of Sri Lanka (GoSL) wishes to provide the following observations on the Joint Communication (AL/LKA/07/2023) dated 13 September 2023, submitted by 06 Special Procedures Mandate Holders, seeking clarifications and information concerning the draft Bill to establish a Truth and Reconciliation mechanism in Sri Lanka:

1. At the outset, it is noted that the comments made by the Special Procedures Mandate Holders (SPMHs) are based on a document that has not been issued by the Government of Sri Lanka.
2. The Government wishes to inform that the draft legal framework relating to a truth-seeking mechanism is currently being formulated with the participation of relevant stakeholders. The following details pertaining the ongoing process may be noted:
 - A Cabinet Sub-Committee on Reconciliation was appointed by the President in October 2022 under his chairmanship with the objective of promoting reconciliation in the country. Following the deliberations of this Committee, a number of issues were identified to be addressed expeditiously including the development of a national mechanism for truth-seeking.
 - The proposal to formulate this mechanism, submitted by the Cabinet Sub-Committee, was approved by the Cabinet on 16 January 2023. As approved by the Cabinet, an Advisory Committee was appointed by Hon. Minister of Justice, Prison Affairs and Constitutional Reforms and Hon. Minister of Foreign Affairs to initiate discussions with the stakeholders to facilitate the drafting of a new legislation.
 - On 29 May 2023, Cabinet approval was granted to establish and operate an Interim Secretariat on the Truth and Reconciliation Mechanism. Pursuant to this approval, a Director General has been appointed to lead the Interim Secretariat and several officers have been recruited following a transparent and careful selection process.
 - One of the tasks of the Interim Secretariat is to ensure stakeholder engagement, to create public awareness of the intended work of the Truth and Reconciliation Mechanism to be established in Sri Lanka, and to consider their feedback and/or observations and/or concerns in connection with the establishment of such mechanism.

- Several consultations have already been held with key government stakeholders, including reconciliation mandated organizations namely: Office on Missing Persons, Office for Reparations and Office for National Unity. In addition, civil society representatives, members of trade unions, Parliamentarians from the minority parties, associations representing the diaspora community, and associations representing religious groups have also been consulted on the proposed mechanism. These consultations were conducted in Sinhala/Tamil and English. These efforts of stakeholder engagement provided a platform for the said stakeholders to raise concerns, verbally and in writing. The participants thereat were also encouraged to make recommendations to the process. The GoSL is committed to following an inclusive path in establishing the mechanism. Thus, all relevant observations of the stakeholders will be given due consideration when the draft legislation for establishing the mechanism is prepared.
3. It is reiterated that Sri Lanka has a very transparent process in enacting legislation that makes provision for a Bill to be challenged in the Supreme Court within 14 days of it being placed on the Order Paper of Parliament. This allows anyone to challenge its constitutionality in the Supreme Court. The Supreme Court may provide its determination on the draft Bill as appropriate. Thereafter, the said Bill will be considered by the Parliament.
 4. As evident from the above, the GoSL has embarked on a journey towards establishing a Truth-Seeking Mechanism with extensive discussions and building on the work that has already been done in the past. It has been a conscientious decision to ensure that the engagements and efforts of the past are not dispensed with, and that the proposed Truth and Reconciliation Mechanism benefits from the serious efforts, resources and findings of the previous domestic commissions that have undertaken the said task.
 5. The Government is open to receiving any further comments and observations regarding the proposed Truth and Reconciliation Mechanism, in order to make the process as inclusive as possible, while following due process established by law, and balancing the need to expedite the process. The international community including the UN in Sri Lanka has been kept informed of the above developments at periodic intervals.
 6. The comments on the failure to include witness protection mechanism are regretted as the Assistance to and Protection of Victims of Crime and Witnesses Act No. 10 of 2023 already provides a witness and victim protection mechanism to any victim or witness even they come under the proposed Bill.

7. It is important to note that the drafting of the Bill is yet underway, and the aforesaid Interim Secretariat was established recently. The consultation process in connection with the development of the Bill is still ongoing. Before the Bill is gazetted, the said Interim Secretariat is expected have further engagements with the key stakeholders including public consultation sessions in different parts of the country, including the North and the East, to ensure that stakeholder and public concerns are taken into consideration when finalizing the draft of the Bill.
8. It is pertinent to note that in GoSL's Transitional Justice process, the Truth and Reconciliation Mechanism will be the third entity to be established following the Office on Missing Persons (OMP) and the Office for Reparations (OR). The GoSL believes in the need to address the past in order to move forward and thus is committed to establishing a truth-seeking mechanism that is transparent and victim-centric, in order to heal past wounds and encourage meaningful coexistence and reconciliation between Sri Lankan citizens of diverse ethnicities and religions, and to promote an environment that will foster non-recurrence of conflicts.
9. With regard to references made to civil society space in the country, it is reiterated that Sri Lanka has a vibrant civil society. Regular dialogue with civil society on a wide range of issues continues with a view to harnessing their insights, expertise and experience including on the draft truth-seeking mechanism. The Government is committed to ensuring that complaints received on alleged attacks against civil society are investigated and prosecuted. Any complaint can be directed to the law enforcement authorities or to independent national institutions such as the Human Rights Commission of Sri Lanka or the National Police Commission, so that action can be taken to investigate the alleged incidents.