



No. 248/2024

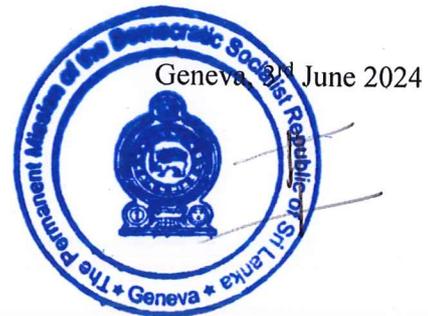
Ref. HR/50

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 1/2024 on the 'Joint Communication from Special Procedures' dated 7<sup>th</sup> February 2024.

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.



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

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

## **GoSL response to the Joint Communication received from Special Procedures Mandate Holders (JAL/LKA 1/2024)**

The Government of Sri Lanka (GoSL) wishes to refer to the Joint Communication (JAL/LKA/1/2024) dated 7 February 2024, submitted by eight Special Procedure Mandate Holders seeking clarifications and information concerning alleged restrictions with regard to commemoration of “Maaveerar Naal”, and wishes to make the following observations:

- There are no restrictions in Sri Lanka for individual family members to memorialize loved-ones along with their relatives and friends. The right to participate in culture, the freedom of expression, and freedom of peaceful assembly are guaranteed under the Constitution of Sri Lanka as justiciable rights.
- Further, memorialisation has been recognized through legislation in the Office for Reparations Act, No. 34 of 2018, as a form of individual or collective reparation.
- However, it is noted that, in certain cases, in the guise of memorializing the deceased, certain elements attempt to glorify and promote the LTTE – a proscribed terrorist organization, by way of displaying the flags and the logo of the LTTE. In such instances, what the Government has sought to prevent is the glorification of terrorism in public gatherings and events with the use of symbols of a terrorist organization.
- The LTTE has been listed as a proscribed organization as per the extra ordinary gazette notification No 1721/2 dated 2011.08.29, promulgated under the Prevention of Terrorism Act (PTA) No 48 of 1979. The LTTE is also listed as a terrorist organization in 33 countries worldwide.
- Glorifying and promoting a proscribed terrorist organisation, by way of displaying their insignia and flags are illegal in Sri Lanka. Law enforcement authorities are required by law to prevent such glorification of terrorism and maintain law and order, as per the relevant Court orders.
- The Hon. Attorney General has given an undertaking in respect of the Court of Appeal case no CA (Writ) 737/23 on 24.11.2023, to take action under the prevailing laws of Sri Lanka and the Section 106 of the Criminal Procedure Code, with regard to any illegal “Mahaviru day” celebration which glorifies terrorism by celebrating deceased LTTE members and is held to coincide with the birthday of LTTE leader Velupillai Prabhakaran.
- Accordingly, restraining orders have been given by the Magistrate Courts of Muttur, Batticaloa and Valachchenai to prevent LTTE commemorations in respective areas.
- The persons in connection with the above activities have been arrested in accordance with violating sub-order 03 of the Special Gazette of the Democratic Socialist Republic of Sri Lanka No. 1721/02 dated 29.08.2011, issued under section 27 of the Prevention of Terrorism Act No. 48 of 1979 for violating aforementioned court orders. The arrested persons have been produced to the relevant Magistrate Courts for judicial action.
- As such, it is stressed that the steps taken were never intended to prevent memorialisation but only to ensure that no glorification of a proscribed terrorist organization takes place in the guise of memorialisation.

## Prevention of Terrorism Act (PTA)

- Recognizing the importance of protecting human rights while combatting acts related to terrorism, Sri Lanka initiated the process of reviewing the PTA. In this context, following extensive deliberations with all relevant stakeholders including civil society, amendments to the PTA were adopted by Parliament in March 2022 through the Prevention of Terrorism (Temporary Provisions) Act No.12 of 2022. This is the first time that the PTA has been substantively amended in 43 years. This progressive step has given persons subject to the said law, tangible protection towards securing, advancing and protecting their fundamental rights guaranteed under the Constitution.
- It may also be noted that instructions have been given to law enforcement officials to follow due process in the conduct of investigations under the PTA and to use this legislation only in instances of extreme necessity.

## Anti-Terrorism Bill

- A Cabinet Sub-Committee was appointed in September 2022 to develop anti-terrorism laws that balance national security concerns while considering, inter alia, international standards and best practices.
- On 20 February 2023, the Cabinet approved the draft **Anti-Terrorism Bill**. Pursuant to the Cabinet decision and the gazetting of the Bill, the Ministry of Justice has actively reached out to the public to receive further views. The Government engaged in further consultations with all stakeholders on the draft Bill and is in the process of reviewing the Bill to ensure that it is in line with international standards while addressing national security imperatives.
- Following further deliberations including the consideration of observations made by different parties such as international partners, the Bar Association of Sri Lanka, the revised draft Anti-Terrorism Bill was approved by the Cabinet on 28.08.2023.
- On 15.09.2023, the draft Anti-Terrorism Bill was gazetted<sup>1</sup>. Several petitions were filed before the Supreme Court challenging the draft Bill. The Supreme Court determined that it does not have the jurisdiction to determine the Constitutionality of the said Bill in terms of Article 121 (3) of the Constitution, as the said Bill has not been placed on the Order Paper of the Parliament.<sup>2</sup>
- After the revised Anti-Terrorism Bill was tabled in the Parliament on 10 January, it was considered by the Supreme Court and the Determination of the Supreme Court has been communicated to the Speaker of Parliament.
- Upon presenting in Parliament, the Bill is currently being taken up before the Sectoral Oversight Committee of the Parliament.

<sup>1</sup> [http://documents.gov.lk/files/bill/2023/9/383-2023\\_F.pdf](http://documents.gov.lk/files/bill/2023/9/383-2023_F.pdf)

<sup>2</sup> [https://www.supremecourt.lk/images/documents/sc\\_sd\\_70\\_2023.pdf](https://www.supremecourt.lk/images/documents/sc_sd_70_2023.pdf)