



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture

SRI LANKA

1. The Committee considered the second periodic report of Sri Lanka (CAT/C/48/Add.2) at its 671st and 674th meetings (CAT/C/SR.671 and 674), held on 10 and 11 November 2005, and adopted, at its 683rd meeting, the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Sri Lanka, which focused on the Committee's conclusions and recommendations (A/53/44, paras. 243-257) as well as the recommendations from the article 20 inquiry visit in 2000, and is in accordance with the Committee's guidelines, but notes the delay of five years in the submission of the report. The Committee expresses its appreciation for the dialogue with the State party's delegation and welcomes the extensive responses to the list of issues in written form, which facilitated discussion between the delegation and Committee members. In addition, the Committee appreciates the delegation's oral responses to questions raised and concerns expressed during the consideration of the report.

B. Positive aspects

3. The Committee notes with satisfaction the following positive developments:

(a) The signing of the Ceasefire Agreement between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam in February 2002, which has led to a considerable decrease in reported cases of torture in connection with the conflict, mainly by the armed forces. The Committee encourages the parties to resume further talks, leading to a resolution of the problem;

(b) The strengthening of the Human Rights Commission of Sri Lanka, which enables it to deal more effectively with violations of human rights in general and cases of torture in particular;

(c) The creation of the National Police Commission by the seventeenth amendment to the Constitution in 2001, which has proved successful in promoting human rights;

(d) Institutional and other measures taken by the State party to implement the Committee's conclusions and recommendations and the recommendations of the inquiry under article 20 of the Convention, including the establishment of the Permanent Inter-Ministerial Standing Committee and Working Group on Human Rights Issues, the Criminal Investigation Department, the Special Investigation Unit of the police and the Central Registry of persons in police custody;

(e) The establishment of human rights directorates in the army, navy and air forces and in the police forces, as well as human rights cells in the three branches of the armed forces, with the power to investigate human rights violations;

(f) The ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 21 August 2000 and the accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 15 October 2002;

(g) The recent abolition of corporal punishment by Act No. 23 of 2005.

C. Factors and difficulties impeding the implementation of the Convention

4. The Committee acknowledges the difficult situation arising from the internal armed conflict in Sri Lanka. However, it points out that no exceptional circumstances whatsoever may be invoked as a justification of torture.

D. Principal subjects of concern and recommendations

Definition

5. The Committee is concerned about the lack of a comprehensive definition of torture as set out in article 1 of the Convention in the domestic law.

The State party should adopt a definition of torture that covers all the elements contained in article 1 of the Convention.

Human Rights Commission of Sri Lanka

6. Acknowledging the important role of the Human Rights Commission of Sri Lanka in the promotion and protection of human rights in Sri Lanka and its adoption of a zero-tolerance policy against torture, the Committee is concerned about the frequent lack of implementation by the State party of the Commission's recommendations.

The State party should strengthen the Human Rights Commission of Sri Lanka so as to allow it to function effectively and ensure that its recommendations are fully implemented. The Commission should be provided with adequate resources, notification of arrests, and full cooperation in implementing its 24-hour torture hotline and improving the system of inspection visits. Furthermore, the State party should ensure that new commissioners are appointed promptly when the three-year term of office of the present commissioners ends in March 2006.

National Police Commission

7. While noting the significant role of the National Police Commission in disciplinary investigations of the police force, the Committee notes that the terms of office of its current commissioners will expire at the end of November 2005 and is concerned that no new commissioners have yet been appointed.

The State party should proceed urgently with the appointment of the commissioners of the National Police Commission. Furthermore, the State party should ensure that the public complaints procedure provided for in article 155G (2) of the Constitution is implemented and that the Commission is given adequate resources and full cooperation by the Sri Lanka police in its work.

Fundamental safeguards

8. The Committee is concerned about allegations that fundamental legal safeguards for persons detained by the police, including habeas corpus rights, are not being observed.

The State party should take effective measures to ensure that the fundamental legal safeguards for persons detained by the police are respected, including the right to habeas corpus, the right to inform a relative, access to a lawyer and a doctor of their own choice, and the right to receive information about their rights.

Non-refoulement

9. The Committee notes with concern that the State party has not given effect to the principle of non-refoulement contained in article 3 of the Convention.

The State party should adopt domestic legislation to implement the principle of non-refoulement contained in article 3 of the Convention.

Universal jurisdiction

10. The Committee is concerned about the absence in Sri Lankan law of provisions establishing universal jurisdiction for acts of torture.

The State party should ensure that Sri Lankan law permits the establishment of jurisdiction for acts of torture in accordance with article 5 of the Convention, including provisions to bring criminal proceedings under article 7 against non-Sri Lankan citizens who have committed torture outside Sri Lanka, who are present in the territory of Sri Lanka and who have not been extradited.

Systematic review of all places of detention

11. The Committee is concerned about the lack of an effective systematic review of all places of detention, including regular and unannounced visits to such places (art. 11), by the Human Rights Commission of Sri Lanka and other monitoring mechanisms.

The State party should allow independent human rights monitors, including the Human Rights Commission of Sri Lanka, full access to all places of detention, including police barracks, without prior notice, and set up a national system to review and react to findings of the systematic review.

Prompt and impartial investigations

12. The Committee expresses its deep concern about continued well-documented allegations of widespread torture and ill-treatment as well as disappearances, mainly committed by the State's police forces. It is also concerned that such violations by law enforcement officials are not investigated promptly and impartially by the State party's competent authorities (art. 12).

The State party should:

(a) Ensure prompt, impartial and exhaustive investigations into all allegations of torture and ill-treatment and disappearances committed by law enforcement officials. In particular, such violations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture, the accused should be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation;

(b) Try the perpetrators and impose appropriate sentences on those convicted, thus eliminating any idea that might be entertained by perpetrators of torture that there is impunity for this crime.

Sexual violence and abuse

13. The Committee expresses its concern about continued allegations of sexual violence and abuse of women and children in custody, including by law enforcement officials, as well as the lack of prompt and impartial investigations of these allegations (art. 12).

The State party should ensure that procedures are in place to monitor the behaviour of law enforcement officials and promptly and impartially investigate all allegations of torture and ill-treatment, including sexual violence, with a view to prosecuting those responsible. Furthermore, the State party should take all necessary measures to prevent such acts, including by ensuring full implementation of the directive concerning the treatment of women in custody, and should consider setting up women and children's desks at police stations in conflict areas.

Delay of trials

14. The Committee is concerned about the undue delay of trials, especially trials of people accused of torture.

The State party should take the necessary measures to ensure that justice is not delayed.

Intimidation and threats

15. The Committee is concerned about alleged reprisals, intimidation and threats against persons reporting acts of torture and ill-treatment as well as the lack of effective witness and victim protection mechanisms (art. 13).

In accordance with article 13, the State party should take effective steps to ensure that all persons reporting acts of torture or ill-treatment are protected from intimidation and reprisals for making such reports. The State party should inquire into all reported cases of intimidation of witnesses and set up programmes for witness and victim protection.

Rehabilitation

16. The Committee notes with concern the absence of a reparation programme, including rehabilitation, for the many victims of torture committed in the course of the armed conflict (art. 14).

The State party should establish a reparation programme, including treatment of trauma and other forms of rehabilitation, and provide adequate resources to ensure its effective functioning.

Child soldiers

17. The Committee expresses its serious concern about allegations of continued abduction and military recruitment of child soldiers by the Liberation Tigers of Tamil Eelam (art. 16).

The State party should take the necessary steps, in a comprehensive manner and to the extent possible in the circumstances, to prevent the abduction and military recruitment of children by the Liberation Tigers of Tamil Eelam and to facilitate the reintegration of former child soldiers into society.

18. The Committee further recommends that the State party:
 - (a) Consider making the declaration under articles 21 and 22 of the Convention;
 - (b) Consider becoming party to the Optional Protocol to the Convention;
 - (c) Consider becoming party to the Rome Statute of the International Criminal Court.
19. The Committee requests the State party to provide in its next periodic report detailed statistical data, disaggregated by crime, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on the related investigations, prosecutions, and penal or disciplinary sanctions. Information is further requested on any compensation and rehabilitation provided to the victims. The Committee recommends that the State party welcome participation from non-governmental organizations in the preparation of its next periodic report.
20. The State party is encouraged to disseminate widely the reports submitted by Sri Lanka to the Committee and the conclusions and recommendations, in appropriate languages, through official websites, the media and non-governmental organizations.
21. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6, 7, 8, 11, 12 and 15 above.
22. The State party is invited to submit its next periodic report, which will be considered as the combined third and fourth report, by 1 February 2007, the due date of the fourth periodic report.
