

SRI LANKA

CERD A/39/18 (1984)

549. The initial report of Sri Lanka (CERD/C/101/Add.6) was considered by the Committee together with the introductory statement made by the representative of the reporting State, who highlighted some points in the report and clarified his Government's approach to questions relating to the policy on minorities and the application of the Constitution and other legislative and practical measures to strengthen national unity among all sectors of the population. He stated, in particular, that the efforts of a small minority to divide the State of Sri Lanka in separate racial entities had seriously hampered the Government's efforts to achieve racial integration of the various communities, and that Sri Lanka's problems arose out of its Government's determination to preserve Sri Lanka as a nation consisting of different races but living as an integrated unit.

550. Members of the Committee commended the Government of Sri Lanka for its well-organized report, which showed that the Government was ready to co-operate with the Committee, and took note with interest of the information provided therein on the demographic composition of the population and on many practical measures dealing with the actual situation and the rights of various ethnic groups in the country.

551. In connection with the implementation of article 1, paragraph 4, and article 2, paragraph 2, it was pointed out that the definition of racial discrimination mentioned in the report was narrower than that in the Convention and that discrimination based on colour might manifest itself at a later date. Since the concept of descent formed part of the definition of racial discrimination in article 1, its deletion in article 12 (2) of chapter IX of the Constitution seemed to fall short of the requirements of that article of the Convention. Clarification was requested on the reasons for the criteria of descent being deleted. Further details were also requested on such "affirmative action" by the Government as a "quota system" for regulation of admissions into institutes of higher education. Referring to the information in the report concerning the All-Party Conference of January 1984 on the rights of minorities, some members asked to be informed about the results of that dialogue and any other measures being taken to encourage integrationist multiracial organizations and movements as a means of eliminating racial barriers. Regarding information on acts of terrorist groups and army confrontations in northern Sri Lanka, it was asked whether the central Government felt that it had complete control over the army units dispersed throughout the northern province or whether they were to some extent acting on their own initiative and whether the Government had any further concrete measures in mind to solve that dangerous problem and to restore harmony.

552. Some members asked for clarification of the difference between the Sri Lankan Tamils and the Indian Tamils: whether they inhabited different geographical regions, or whether they were ethnically the same; what was the geographical distribution of the Sri Lankan Moores; and whether they had any grievances similar to those of the Tamils. Further information was requested on the immigrant workers who lived in Sri Lanka.

553. As far as article 3 of the Convention was concerned, members praised the stand of Sri Lanka

against apartheid both in the United Nations and in the Movement of Non-Aligned Countries. It was noted that many of the acts which constituted the crime of apartheid were common crimes punishable under the Penal Code or other enactments in Sri Lanka. Inquiries were made as to what measures the Government envisaged in order to prevent incidents of that kind arising, perhaps through education or information. Information on relations with South Africa would also be welcome, in particular, whether Sri Lanka was no longer economically dependent on the export of tea to South Africa, a consideration which had previously prevented Sri Lanka from complying with sanctions.

554. With respect to the implementation of article 4, additional information was requested on the provisions of the Penal Code relating to that article, on special legislation concerning the results of the investigations of the communal incidents of July 1983 and any action taken under article 2, paragraph 1, and article 4 (c) of the Convention.

555. With regard to the information provided on the implementation of article 5, the Government was requested to submit the relevant extracts of the articles on fundamental rights incorporated in chapter III of the Sri Lankan Constitution in its next report as well as information on how far the emergency regulations adopted in connection with the current security situation derogated from the rights guaranteed under article 5. In particular, it was asked whether the freedoms provided for under article 14 of the Constitution included freedom of the press and whether freedom of association included the holding of political meetings. It was noted that, in view of the destruction of life and property during communal violence, it was important to have more information on the implementation of article 5 (b) of the Convention, including any government measures to control private armies fomenting trouble and any specific measures for the rehabilitation of victims of communal violence. In view of Sri Lanka's liberal tradition, further information was requested on the rights of stateless persons, particularly their economic, social and cultural rights, their rights to just and favourable conditions of work, equal pay for equal work, housing, public health, medical care, social security and the right to education, and on the remedies available to them to redress grievances, since most of them were not represented in Parliament or in local government. Concern was expressed that under the new Constitution Sinhala had been declared the only official language although both Sinhala and Tamil were national languages. Questions were asked about how those disadvantages could be overcome and whether there were sufficient provisions for translators; whether there would be any period of grace during which Tamil speakers would be given special facilities and whether they possessed freedom of movement. Regarding the setting up of District Development Councils, more details were asked for on the work of those Councils and the way in which the people concerned were able to participate in their administration. It was asked whether the councils were advisory or executive; what subject they dealt with; how they were funded and in what way the central Government assisted in their operation. Further information was requested on ongoing measures to defuse the tension arising from political differences and members asked whether the Government would be willing to agree to the establishment of a regional council with enhanced powers.

556. Members of the Committee voiced concern about the statement in the report that fundamental rights, such as the freedom of thought, conscience and religion, freedom from torture, cruel degrading or inhuman treatment or punishment, could only be altered by a two-thirds majority decision of Parliament. In this connection, it was asked whether that meant that freedom of opinion,

for example, could be altered and abolished by a simple majority; if a guarantee was so worded that a right could be exercised only within the limits of law, then a simple law could restrict that right. Clarification was requested on that point.

557. With regard to article 6, information was sought on some specific cases of persons whose rights had been violated and who had obtained satisfaction. Clarification was also requested on the special procedures laid down by article 126 of the Constitution, in particular as to whether the time-limit for the completion of cases by the Supreme Court was mandatory or discretionary; how it affected a person who wished to complain of infringement of a fundamental right which had taken place while he was in detention; and what remedies were available for groups which were allegedly victims of racial violence or the abuse of state power. More details were requested on how the Parliamentary Commissioner's findings, reported to Parliament through the Public Petitions Committee, were acted upon.

558. Replying to the questions raised by members of the Committee on the omission in Sri Lankan legislation of any reference to skin colour, the representative said that in Sri Lanka pigmentation did not indicate a person's race and that there were, for instance, Sinhalese and Tamils whose complexion was fairer than that of the average conception of a Burgher's complexion. People could not be categorized by colour in Sri Lanka and that was why colour played no part in its legislation. He also stated that there was no quota system in Sri Lanka for job opportunities, professions or any such matter; the only area in which there was some degree of differentiation, as opposed to pure selection by merit, was in university admissions. In areas, both Sinhalese and Tamil, where the level of education was considered below the national average, the results of students sitting for examinations were weighted to ensure that they were not excluded from university through no fault of their own.

559. In reply to questions concerning the All Party Conference, the representative explained that it identified specific issues regarding the rights of the minorities. The Conference resolved to set up two committees of experts representing the diversity of opinion within the Conference: (i) to work out the structure, powers and functions of the unit of devolution and (ii) to consider whether there were any inequalities in education, employment and exercise of language rights, and, if so, to consider the measures required to remove such inequalities. The Conference had been able so far to achieve consensus on the need to give increased power to grass roots democratic organizations with a view to getting active and direct participation of the people in the governmental process; on the need to settle approximately 90,000 so-called stateless people of Indian origin as citizens of Sri Lanka, if they were not accepted by India and wished to remain in the country; and on the need to eradicate terrorism. At the last meeting in July 1984, it had been proposed that the Second Chamber of the Sri Lankan Parliament should consist of 50 members elected on the basis of two for each of the 25 districts of Sri Lanka (including the Tamil-speaking districts) and about 25 members appointed from among persons of eminence in public life. In that manner, it was proposed to give increased representation in the Parliament to all ethnic and religious groups. Among the powers envisaged for the Second Chamber was the initiation of legislation of a provincial or district nature and conciliation and mediation in issues involving ethnic, religious or communal harmony.

560. Referring to other questions on minorities, he said that Indian Tamils differed from Sri Lankan Tamils in that they were the descendants of indentured labourers brought over from India under the

British colonial régime. Sri Lankan Tamils had settled in the island very much earlier and did not necessarily wish to be identified with them. He pointed out that two of the 25 members of the Cabinet were Sri Lankan Tamils while a third minister was an Indian Tamil. The Cabinet also had three Moslem members. There was no difference in status between them and the majority community.

561. With regard to employment opportunities, in conformity with article 2, he said that the different groups were proportionately represented. As for university admissions, he quoted the note verbale submitted by Sri Lanka to the Commission on Human Rights (E/CN.4/1984/10), which provided a statistical table showing that the number of Tamils gaining admission to universities was in excess of the proportion of their numbers in the country. He stressed that a substantial percentage of Tamils lived outside the Jaffna district and were distributed throughout most parts of the island.

562. Replying to comments to the effect that the crime of apartheid was considered a “common” crime in Sri Lanka, the representative explained that the word “common” had not been intended to mean that such crimes took place frequently, but rather that they were punishable under common criminal law rather than by a specific law designed for that purpose. He did not know of any crime of apartheid committed in Sri Lanka, and he regretted that misunderstanding. Sri Lanka had a liberal economy and consequently could not prohibit private firms from dealing with South Africa until such time as the international community decided to impose a ban on trading with that country. There were, however, no state trade or economic relations with South Africa.

563. With regard to article 4, he said that the Government had taken and continued to take all measures to bring to justice persons who had committed offences during the communal disturbances of July 1983. With regard to excesses committed by some members of the armed services, there was no positive identification beyond reasonable doubt of individual servicemen who had committed specific offences. In Sri Lankan criminal law, the accused was given the benefit of the doubt and the prosecution had to prove its case beyond reasonable doubt.

564. Referring to implementation of article 5, the representative stated that its provisions were ensured by article 14 of the Constitution which listed the fundamental rights in detail. His country recognized derogations of certain rights only in case of emergency or in the interest of the community as a whole or of racial or religious harmony. Parliament was jealous of its prerogatives and had the authority to amend any law by the prescribed majority but in some cases a referendum was required.

565. With reference to the question relating to stateless persons, in conformity with article 5, he said that it was accepted that those persons who had not been accepted by India would be granted Sri Lankan citizenship once the appropriate legislation had been prepared. The public service was open to non-Sinhala-speaking citizens provided that they acquired a degree of proficiency in Sinhala within a prescribed period. The requirement of proficiency in a particular language was not contrary to article 5 of the Convention. In any case, if a person failed to acquire proficiency in Sinhala he would not be dismissed but his chances of promotion would be considerably reduced.

566. With reference to the implementation of article 6, the representative stated that article 126 of the Constitution gave effective protection to fundamental human rights in his country. The Supreme

Court had ruled that time-limits for legal sanctions against any violation of those rights were not mandatory. Therefore if a person was unable to file an application before a court of law because of torture, the time-limit would start on the day he became capable of doing so. About 85 applications had been filed under article 126 seeking redress for violations of rights. It was important that a large percentage of those cases had been withdrawn by the complainants because the Government had accepted responsibility and made reparation for the damage suffered. Applications to the courts had to be filed by one or more individuals but a group could seek redress by acting through one or more of its members. Because of procedural requirements, it would not be possible for a group to act as such.

567. In conclusion, the representative stated that his country's second periodic report would provide the Committee with all the information it wished and make good any deficiencies in his statement in reply.

CERD A/42/18 (1987)

268. The second periodic report of Sri Lanka (CERD/C/126/Add.2) was considered by the Committee at its 764th and 765th meetings on 12 and 13 March 1986 (CERD/C/SR.764-SR. 765).

269. Introducing his country's report, the representative of Sri Lanka said that, with a view to achieving a political settlement of the Tamil question, a draft "terms of accords and understanding" had been finalized by his Government and India on 30 August 1985. In addition, a cease-fire had been established between the Government of Sri Lanka and certain sections of the terrorist groups operating in the country, but it had been sabotaged by continued violations on the part of the terrorists. The number of displaced persons resulting from the most recent terrorist violence had reached 150,000. He indicated that 93,000 persons of recent Indian origin and their children had been given Sri Lankan citizenship by an Act of Parliament on 30 January 1986. Sri Lanka's problem was that a very small minority urged separation of the country into two racially homogeneous States. Terrorism had prevented a solution of the problem and no meaningful steps towards a political dialogue could be taken until most members of the minority community could exercise their free will unhindered by terrorist action.

270. Members of the Committee appreciated the prompt submission of Sri Lanka's second periodic report in spite of the difficult situation, as well as the statement of the representative of the reporting State providing updated information on important political developments since submission of the report. They pointed out, however, that the report did not conform to the Committee's guidelines (CERD/C/70/Rev.1) and that the situation prevailing in the country required that its report, in depicting the current ethnic crisis, reflect on the past and look forward to the future.

271. They noted that the report suggested that there was alarming internal violence between the minority Tamil community and the Sinhalese and that escalating violence had undermined security to the point where there were currently 150,000 displaced persons, almost all of whose rights had been violated. They indicated that they would welcome information on the causes of the violence and the reasons for the separatist trend and asked what social and economic differences existed between the two groups concerned. There was a marked tendency in the report to characterize the Tamil community as the only guilty party in the current situation. The central problem seemed to be not just the violence of certain groups of the Tamil community, but the fact that the Government was not addressing the underlying causes. Explanations were requested regarding the three rather different elements which were amalgamated in the report, namely terrorist violence, communal disturbance and the minority Tamil community. Those three categories should be clearly distinguished and terrorism should be considered quite separately.

272. It was pointed out that ethnic polarization was at the root of the tragedy that had been unfolding in Sri Lanka since 1958. Combatting polarization in Sri Lanka required political responsibility and the maintenance of law and order. The army, in its determination to impose order, should not commit atrocities. It was asked whether the police in Sri Lanka were underpaid, undertrained and understrength as that would obviously have a considerable bearing on the situation. The adoption of the policy aiming at a military solution would lead to a suspension of civilian government and the loss of the independence of the judiciary. The Government bore political

responsibility for the strong anti-Tamil sentiment in souther Sri Lanka, where very few Tamils lived.

273. It was indicated that the violence in Sri Lanka had escalated alarmingly and that excesses had been committed by the Tamil elements and by the government security forces. There was an element of religious antagonism in addition to ethnic antagonism. Information was sought on the fate of the committee set up to monitor the cease-fire agreed by the All-Party Conference and the Government through the good offices of the Government of India. Clarifications were sought about additional measures being taken to restore Tamil confidence in the credibility of the cease-fire committee, which seemed to have been eroded after the resignation of two of its Tamil members.

274. It was also observed that the Government should not counter violence with violence and that it was the duty of any State to combat violence without suspending constitutional guarantees.

275. Members expressed concern about the civilian population who were caught in the middle of the conflict. They requested information on the protection that was according to civilian populations in the security zones as well as to those Tamils who were forced to flee and on the impact of military actions on the non-combatant Tamil population.

276. Members of the Committee welcomed the references in the report and in the representative's introduction to the search for a political solution and the determination of the Government to follow a peaceful path. The efforts of the President of Sri Lanka and the co-operation extended by the Prime Minister of India were encouraging and it was hoped that they would bear fruit.

277. With reference to the implementation of articles 2 and 5 of the Convention, it was pointed out that compliance with those two articles was not a matter of terrorism requiring a military solution, but a matter arising from an increasing sense of frustration among the Tamil population and from legitimate social, economic and political grievances, particularly in such areas as denial of equal status for their language, the problem of land settlement, education, employment and a growing sense of insecurity. Many of the rights provided for in those articles of the Convention were in jeopardy and it was important to adopt measures to safeguard them. It was pointed out that the relevant extracts of the provisions of the Constitution concerning fundamental rights, requested during the consideration of Sri Lanka's initial report, had not been received.

278. Members requested additional information regarding the extent of devolution of power at local government level that might have been proposed or discussed in the recent negotiations with Tamil community leaders. It was asked why successive Governments had had difficulties in implementing the Bandaranaike-Chelvanayakam Pact of 1957. Further information was also requested concerning the declared policies of the Government as well as of the non-government opposition parties regarding the maintenance of the unitary multicomunal, multireligious status of Sri Lanka.

279. Additional information was requested about the national policy on land settlement and the basis on which the Government intended to undertake land colonization, as well as on the opening up of previously unsettled rural lands through the establishment of new irrigation projects; it was asked whether such lands included parts of the Northern and Eastern Provinces.

280. It was pointed out that the policy of the Government on admissions to universities did not

reflect the ethnic composition of the population. Tamil students pursuing university studies in various branches of science had significantly decreased since 1970. Tamil-speaking Sri Lankans had contributed greatly to the country's development. However, the inflexible approach of the Government had signalled to qualified Tamil youths that they could not look forward to equal competition with other citizens in their country, and that had reinforced the separatist tendency within the Tamil community. The latest admission policy of the University Grants Commission was that 5 per cent of the available places in each course of study would be allocated to five administrative districts. Since the proportion of Tamils and Sinhalese varied in each of those districts, the basis for that figure needed clarification.

281. Members of the Committee requested additional information on the relationship between Buddhism, the Hindu caste system and the Sinhalese community. They also wished to know whether the class and caste system concerned both the Sinhalese and the Tamil populations. Since it was stated that there was no evidence to indicate that the Sinhalese and the Tamil sects had kept their ethnic identities distinct, it was difficult to understand the real differences between them around which the whole issue appeared to revolve.

282. It was asked how many of the displaced persons accommodated at welfare centres after the 1983 communal disturbances had been able to return to their homes and whether the Government was committed in principle to creating the conditions required for the displaced persons, including refugees in India, to return to their homes. Questions were also asked about the Government's policy towards the estimated 50,000 Tamils who had been driven out of the Trincomalee and Batticaloa areas in the Eastern Province, since the exodus was likely to change the demographic character of that Province. Information would also be welcomed about the impact of the security zones in the Northern Province.

283. Members wished to know what the prospects were of lifting the sixth amendment to the Constitution, so as to enable moderate members of the Tamil United Liberation Front to participate in Parliament and work towards a political solution to the ethnic crisis. They also asked what was being done to guarantee the right to vote to the entire Tamil population, which was currently only available to 20 to 25 per cent of them in some areas, whether the Government intended to increase the percentage of Tamils entering the administration, which had decreased to approximately 6 per cent, what additional measures were being taken to restore harmony among the people of Sri Lanka, and what special measures the Government was adopting to safeguard the cultural identity of the Tamil community, in which language played a crucial role.

284. In relation to article 3 of the Convention, members of the Committee were interested to learn whether the Government still maintained its policy of having no relations with South Africa and wished to receive information about recent developments in Sri Lanka's anti-apartheid struggle. They asked whether it would be possible to control trading between Sri Lankan individuals and South Africa through import-export legislation. It was asked why the Government could not prohibit individuals from exporting tea to South Africa, when the Government had on a previous occasion imposed deterrent punishment on a private group of Sri Lanka cricketers for touring in South Africa. In view of Sri Lanka's excellent record in its endeavours to isolate South Africa, members of the Committee asked the representative of the reporting State to transmit their apprehensions to his Government with a view to encouraging it to find ways and means to stop even

limited relationships with the South African régime.

285. It was pointed out that nothing was to be found in the report concerning in measures called for in article 4.

286. With regard to article 6, clarifications were sought on the manner in which effective protection and remedies, as well as appeal procedures were implemented in cases of racial discrimination. Further information was also requested about the decision of the Sri Lankan Supreme Court in relation to the Job Bank Scheme mentioned in the report.

287. It was pointed out that implementation of article 7 of the Convention was of special significance in Sri Lanka. Additional information was requested regarding measures that were being taken to improve intercommunity relations through education, culture and information, with a view to achieving a fair and workable solution to the ethnic problem within the framework of a united Sri Lanka.

288. The Committee expressed the wish that the people and the Government of Sri Lanka would overcome their difficulties in a manner satisfactory to all concerned. A political solution must be sought in the framework of the country's territorial integrity and unity. The Committee hoped that peace and order would be restored and efforts to partition the country abandoned. They also hoped that the Government would achieve equality for all and that it would guarantee to everyone the rights laid down in the Convention irrespective of origin or religion.

289. In reply to questions raised and observations made by the members of the Committee, the representative of the reporting State said that, in its second periodic report, the Sri Lankan Government had focused on the country's current problems, which were directly related to the implementation of the Convention. He was sure, however, that his Government would comply with the Committee's guidelines in the preparation of the third periodic report. He added that the reasons why certain members of the Tamil minority community had resorted to violence, the historical background of that situation and the steps that the Government had taken or proposed to take with a view to achieving a political solution would be dealt with in a detailed report at a later stage.

290. The troubles in Sri Lanka were being caused by a small group of terrorists who were seeking to establish a mono-ethnic entity based on racism on a portion of the island. The terrorists had stated that their demands were non-negotiable. Polarization was indeed the crux of the current problem, but polarization was the goal, not of the Sri Lankan Government, but of certain groups within the country, which claimed that certain parts of the national territory were theirs alone. It was a mistake to state that the report implied that the Tamil community was to blame for the current problems in Sri Lanka. Only a small number of Tamils were involved. The Government and moderate groups within the country had sought to enter into negotiations, but were prevented from doing so by extremist groups. The only issue on which the Government was not prepared to negotiate was that of the territorial integrity of Sri Lanka.

291. The representative of Sri Lanka stated that the security forces took every precaution to avoid civilian casualties, but the terrorists located their camps in, or initiated their action from, populated areas and sometimes launched mortar attacks on army installations from behind the cover of civilian

residences. Instances of irresponsible behaviour on the part of the security forces had been extremely rare and the Government had taken appropriate steps to deal with them. While the Sri Lankan Government conceded that there had been unfortunate incidents in which civilians had been the victims of clashes between the security forces and the terrorists, it must be recognized that not all the people portrayed to the international community as civilian victims were genuine civilians. The army and navy camps had been located in the same premises for a very long time. Members of the police force were not underpaid in comparison with similar public servants in Sri Lanka. However, they were understaffed and steps had been taken to remedy that problem through recruitment.

292. Pending a political solution, the Government had to take steps to protect civilians from terrorists who sought to evict them from their homes. Unfortunately, that situation was regarded as a spiral of violence. For many years, large numbers of Sri Lankans had been seeking economic benefits in Western Europe. More recently, some members of the Tamil community had been claiming that they were refugees fleeing from violence, when in fact, they were seeking greater affluence. The 90,000 "stateless persons" mentioned in the report were Tamils who had been brought from India by the British in the nineteenth and twentieth centuries to work on plantations. The question had been solved only recently, when such persons had been given Sri Lankan citizenship by an Act of Parliament.

293. No racial distinction could be made between the Sinhalese and Tamil communities. No caste system existed under Buddhism. Not all Sinhalese families had been classified according to occupational groups. Among the Sinhalese, there were both Buddhists and Christians and among the Sri Lankan Buddhists, there were both Sinhalese and non-Sinhalese. The structure of Buddhism was the very antithesis of the caste system. In Sri Lanka, the caste system was a racial phenomenon that was not based on any religious factor and was to be found among Tamils and Sinhalese. All schools in Sri Lanka taught the Sinhalese and Tamil languages. Admission quotas were determined on the basis of administrative districts, regardless of the ethnic background of students from those districts.

294. Irrigation and development projects were largely financed by donor countries and international financial institutions such as the World Bank. Certain provinces were better endowed with natural resources and were consequently more likely to be chosen as project sites. Other factors were also responsible for the determination of project locations: a project financed with Canadian aid in the northern part of the country had had to be abandoned as a result of terrorist activity there.

295. There was legislation that met the requirements of the Convention, for example, chapter III of the Constitution which was in conformity with article 5 of the Convention. A Ministry for Hindu Affairs and a Ministry for Muslim Affairs had been set up, under a Tamil and a Moor Cabinet Minister, to ensure that the cultural traditions of the population groups concerned were maintained and fostered. Details would be provided in the next report. As for the question as to whether the sixth amendment to the Constitution could be repealed or modified, he drew the Committee's attention to the fact that Sri Lanka was a unitary State. Anybody who aimed to uphold the Constitution must disallow separatism, and anybody who wished to remain a member of the Parliament must uphold the Constitution. The representative rejected statistics given by one member of the Committee concerning the percentage of Tamils who could vote. Sri Lanka had had universal

adult franchise for many years. The only persons who had been unable to vote previously were “stateless” persons, a situation which had since been rectified. He further pointed out that the Chief Justice, the Attorney-General and three Cabinet members were all Tamils.

296. As of 31 January 1986, some 81 inquests had been carried out in connection with deaths caused by the security forces during the period of violence, and the verdicts had been forwarded to the Commission of Human Rights. While an individual could, under Sri Lankan law, plead diminished responsibility as a defence, it was impossible for a group to do so. Thus, if a group of security forces was alleged to have committed a crime, the group as a whole could not be convicted unless it was proved that they had a common intent or were guilty of unlawful assembly. As a result, the Government was frequently compelled to try such cases under military law. It should be noted that, as yet, there had been no cases in which witnesses were willing to speak out against the security forces.

297. Under the Job Bank Scheme, preference was given to members of a family in which nobody was employed. The term “class” referred to the classification of applicants.

298. In relation to the implementation of article 7, the representative of the reporting State said that Sri Lanka endeavoured to inculcate the principles of human rights in university students at all levels, including the doctorate level.

CERD A/50/18 (1995)

110. The third, fourth, fifth and sixth periodic reports of Sri Lanka, submitted in one document (CERD/C/234/Add.1) were considered by the Committee at its 1079th and 1080th meetings, held on 3 and 6 March (CERD/C/SR.1079 and 1080).

111. The report was introduced by the representative of the State party who expressed confidence in the constructive dialogue between his country, the Committee and other United Nations human rights mechanisms. He drew particular attention to a recent major constitutional change whereby administrative power had been devolved to provincial councils in response to the demands of minorities, and Tamil had been made an official language.

112. The representative described the work and powers of the Official Languages Commission, established in 1991, which monitored compliance with the constitutional provisions concerning language and recommended policy concerning official languages. Problems concerning minorities were also being addressed through initiatives in the field of employment. Further to recommendations of the Youth Commission, there was now a policy of positive discrimination to redress under-representation of minority ethnic groups in the public service, subject to restrictions laid down by the Supreme Court. Developments in promoting human rights education in schools, universities and professional courses were also described.

113. The representative stated that considerable progress in promoting human rights had occurred following a change of Government in 1994. A range of measures to promote peace in the northern part of the country were described, including a cease-fire and peace negotiations with the Liberation Tigers of Tamil Eelam (LTTE), consideration of devolution options for minority groups in the region and rehabilitation projects. He also noted that the Government had established a Ministry of Ethnic Affairs and National Integration and would soon put before Parliament a proposal to establish a national Human Rights Commission. The representative presented to the Committee a document entitled, "Sri Lanka - Human Rights", which outlined his country's action in the field of human rights since the submission of the sixth periodic report.

114. The members of the Committee commended the State party on the quality of its report, prepared in accordance with the Committee's guidelines, and thanked the representative for the information provided orally. Measures taken by the Government to find a political solution to problems in the northern and eastern provinces were welcomed as were the recent constitutional and legislative changes and the establishment of the Ministry of Ethnic Affairs and National Integration. Members expressed approval for the increased promotion of human rights education in the country and the expressed willingness of the Government to cooperate with international human rights mechanisms and institutions.

115. Concerning article 2 of the Convention, members put a number of questions about the 1978 Constitution and the extent to which its provisions could be suspended in times of emergency. Clarifications were also requested as to its compatibility with international law and the status of international human rights law in the national legal system. Members requested information on the operation of emergency legislation and the proposed National Human Rights Commission.

Information was requested as to whether, in its efforts to combat discrimination within the terms of article 1 of the Convention, the Government was considering ratification of relevant ILO conventions and Protocol II Additional to the Geneva Conventions of 12 August 1949.

116. Concerning article 4, further information was requested regarding the practical application of the criminal law provisions concerning prosecution of manifestations of racial and religious hatred. Members also expressed unease as to the effectiveness of those provisions and the fact that they did not address acts of hatred other than those which are racial or religious.

117. In discussing implementation of article 5, a number of members drew particular attention to the situation of the Tamil, Sinhalese and other communities. More information was requested on matters including freedom of movement between the mainland and the Jaffna peninsula and elsewhere, the role of the army and the extent to which it might impede national reconciliation, the reports of the ongoing practice of torture by the security forces and the work of the Presidential Commission investigating abductions and disappearances. A member asked about the fate of some 4,000 to 5,000 Sinhalese who the Government stated in 1991 were to be detained for life. Information was requested on the status of some 85,000 stateless Tamils of Indian origin currently in the country.

118. Other matters queried in terms of article 5 were the treatment of workers, notably women in free trade zones, trade union freedoms and equal employment opportunities. A member queried the extent to which ethnic quotas were or might be employed to select from among candidates for government posts, with reference, *inter alia*, to the information in the report that Muslims were allotted 8 per cent of such posts.

119. Concerning implementation of article 6 members asked for further information on the work of the commissions set up to examine cases of bribery and corruption, disappearances and political murders as well as on the extent of protection provided to those who had been threatened for taking legal action against the State in matters concerning alleged abuse of human rights. Further information was also requested on the effectiveness of legal remedies for violations of rights protected by the Convention and on the role and activities of the ombudsman. Some members expressed concern as to the extent to which the variety of human rights monitoring and redress bodies might overlap or effectively hinder each other in the carrying out of their activities.

120. The representative of the State party in commencing his replies expressed satisfaction with the dialogue with the Committee and gave assurances that matters not dealt with orally would receive consideration in his country's next report.

121. The representative explained the security exigencies which had prevented the holding of a national census and gave details of the new constitutional reforms, including the strengthening of human rights guarantees. He emphasized that the changes would restrict the possibility of limiting a range of rights other than for purposes of maintaining public order. The representative clarified that the policy of the State was to ensure compatibility of national laws with international standards prior to adherence to the international instruments.

122. The state of emergency declared for the entire country on 24 October 1994 was still in effect

in certain regions.

123. The representative provided information to the effect that many of the detainees referred to by members had now been released and that there was an ongoing inquiry which made recommendations on release and conditions of detention. The Government would, he stated, take all necessary action to halt and punish violations of human rights.

124. The representative described in some detail the mandate and composition of the proposed national Human Rights Commission and indicated that its reports would be put regularly before Parliament.

125. In response to the questions of a member the representative explained the reasons for restricted freedom of movement between the mainland and the Jaffna peninsula and expressed his Government's determination to improve the situation.

126. Clarifications were given concerning the nature of the Muslim and Tamil communities and on consultations with Muslim communities in matters concerning their welfare.

127. The representative contended that the number of disappeared persons in the country was considerably less than the number of 60,000 mentioned by a member. He described government policy concerning the future role of the armed forces and ongoing programmes of human rights education for troops. Also described were strategies to care for and bring about the return of displaced people. Other institutional initiatives to redress human rights problems included the human rights task force, the independent commission on corruption, the Centre for the Independence of Magistrates and Advocates, implementation of recommendations of the United Nations Working Group on Enforced or Involuntary Disappearances, the Presidential Commission of Inquiry on Involuntary Disappearances, the Ombudsman, etc. The role of the Supreme Court was described.

128. The representative denied that religious freedom, freedom of expression or trade union and employment rights were limited in a manner inconsistent with the Convention.

129. In conclusion, the representative presented figures on the ethnic composition of the public service and its recruitment policy.

Concluding observations

130. At its 1094th meeting, held on 15 March 1995, the Committee adopted the following concluding observations.

(a) Introduction

131. The Committee commends the State party on the quality of its report prepared in accordance with the Committee's guidelines for the preparation of State party reports and expresses its appreciation to the State party's delegation for additional information that it provided to the Committee orally. It notes with satisfaction the submission by Sri Lanka of the core document (HRI/CORE/1/Add.48) and of the document entitled "Sri Lanka - Human Rights" containing

information of a general character. The Committee regrets, however, that the third, fourth, fifth and sixth periodic reports have not been submitted on time and that the report under consideration combines the third to sixth reports and covers a period of almost 10 years.

(b) Positive aspects

132. Measures adopted by the People's Alliance Government of Sri Lanka with a view to finding a political solution to the problems affecting the northern and the eastern provinces are welcomed. Those measures, particularly the commencing of negotiations with the Liberation Tigers of Tamil Eelam (LTTE), the elaboration of the rehabilitation projects of some US\$ 800 million for the northern province, and the signing of a cessation of hostilities agreement with LTTE which came into effect on 8 January 1995 pave the way to national integration and to the promotion of national reconciliation between all communities of the Sri Lankan society.

133. Also welcomed are legislative and administrative measures recently adopted by the Government with a view to fostering and consolidating the process of peaceful resolution of the conflict situation prevailing in the country during the period under review. Among measures noted are the thirteenth amendment to the Constitution providing, inter alia, for the creation of the mechanism of provincial councils to satisfy minority demands and for the introduction of Tamil as an official language in addition to the Sinhalese language, with English as the link language; the amendments to the Parliamentary Commissioner for Administration Act No. 17 of 1981 simplifying the procedure for submission and consideration of complaints; the creation of the Ministry of Ethnic Affairs and National Integration; and the announced establishment of a National Human Rights Commission which would be yet another forum through which the minorities could seek redress to their grievances.

134. Noted with satisfaction are measures taken by the Government to disseminate knowledge of human rights among the various segments of the national community by, inter alia, the incorporation of human rights concepts into school curricula; training in human rights provided for law enforcement officials; and introduction of human rights as a subject in undergraduate and postgraduate university studies.

135. The readiness of the Government of Sri Lanka to cooperate with various United Nations human rights monitoring mechanisms, other intergovernmental and non-governmental organs and institutions in the domain of human rights protection is appreciated.

(c) Factors and difficulties impeding the application of the Convention

136. It is noted that the situation prevailing in the country during the period under review has not been conducive to the effective implementation of the Convention and has made it difficult for the State party to comply with its reporting obligations, thus preventing the Committee from fulfilling its obligations in accordance with article 9, paragraph 1, of the Convention.

(d) Principal subjects of concern

137. It is noted with concern that the state of emergency in effect intermittently since 1983

continues in a significant part of the national territory. The Committee hopes that the situation improves so that the state of emergency can be lifted.

138. Concern is expressed that the State party has not provided sufficient information on the implementation of the provisions contained in articles 4 and 5 of the Convention.

(e) Suggestions and recommendations

139. The Committee draws the State party's attention to the obligation under article 9 of the Convention to report regularly and that the seventh report, due on 20 March 1995, be submitted without delay.

140. The Committee also recommends that the State party pay more attention to sensitizing the members of the law enforcement agencies, security and armed forces about human rights.

141. The Committee also recommends that the State party, in its seventh periodic report, provide more detailed information on the system of human rights organs functioning in the country, and in particular on how their mandates relate to the rights mentioned in the Convention; information on how these organs interact and coordinate their activities is also requested.

142. It is recommended that the Government provide the Committee with the information necessary to assess its implementation of articles 4 (b) and 5 (e) of the Convention. The Government is reminded that it should adopt specific penal legislation in accordance with General Recommendation 15.

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321. The Committee considered the seventh, eighth and ninth periodic reports of Sri Lanka (CERD/C/357/Add.3), which were due on 20 March 1995, 1997 and 1999, respectively, at its 1478th and 1479th meetings (CERD/C/SR.1478 and 1479), on 7 and 8 August 2001. At its 1487th meeting (CERD/C/SR.1487), on 14 August 2001, it adopted the following concluding observations.

A. Introduction

322. The Committee welcomes the seventh, eighth and ninth periodic reports of Sri Lanka, as well as the supplementary report presented by the State party. The additional oral and written information provided by the delegation during its presentation is also welcome. The Committee expresses its appreciation for the opportunity to continue its dialogue with the State party.

B. Factors and difficulties impeding the implementation of the Convention

323. The Committee recognizes that the serious internal situation faced by the State party has not been conducive to the effective implementation of the Convention. The long-lasting armed conflict in the country has resulted in thousands of persons killed and over half a million internally displaced. It is the view of this Committee that military means will not solve the conflict and that only a negotiated political solution, which includes the participation of all parties, will lead to peace and harmony among ethnic communities in the island.

C. Positive aspects

324. The Committee welcomes the establishment of the Human Rights Commission in March 1997, aimed at, inter alia, investigating and settling human rights complaints, advising the Government in the formulation of relevant legislation and making recommendations to the Government on human rights issues.

325. It further welcomes the establishment on 20 November 2000 of the Permanent Inter-Ministerial Standing Committee on Human Rights entrusted with the mandate of monitoring and reviewing action taken by government agencies concerning allegations of human rights violations as well as follow up to recommendations made by United Nations human rights mechanisms.

326. The Committee welcomes the State party's readiness to cooperate with United Nations human rights procedures and thematic mechanisms of the Commission on Human Rights. The ratification on 3 October 1997 of the Optional Protocol to the International Covenant on Civil and Political Rights is also an encouraging step.

327. The Committee welcomes the statement by the Government that they will continue to provide food and other kinds of relief to displaced and other needy citizens.

328. The Committee notes with approval that on July 2001 media restrictions were lifted. Thus, the system of requiring journalists to obtain permission to visit all areas in the north and eastern

provinces is no longer in effect.

329. The Committee notes with appreciation that steps have been taken to address human rights violations, in particular the appointment of three Zonal Commissions of Inquiry to inquire into the disappearances of persons from January 1988 to December 1990.

330. The Committee notes the Government's proposal for constitutional reform which includes a devolution of power to regions, as well as its willingness to come to a negotiated political solution leading to, inter alia, the establishment of a regional legislative assembly enjoying federal powers.

331. It also notes the work of the Ministry of Ethnic Affairs and National Integration, responsible for implementing the Government's policy on ethnic affairs.

D. Concerns and recommendations

332. The Committee is concerned at the restrictions placed on civil and political rights under the Prevention of Terrorism Act and Emergency Regulations and their allegedly discriminatory application with regard to Tamils. While commending the recent amendments to the Emergency Regulations, and noting that the Emergency Regulations lapsed on 4 June 2001, the Committee reiterates its concern, as expressed in previous concluding observations, that a state of emergency has been intermittently in effect in different parts of the country since 1983. The Committee hopes that the situation in the country will improve so that the state of emergency can be lifted.

333. Concern is expressed about the situation of civilians living in the north and east of the country, and particularly about those persons internally displaced by the conflict. The Committee recommends that the State party continue to provide assistance to the civilian population in the north and eastern provinces and cooperate with humanitarian agencies.

334. The Committee is concerned at the fact that a large number of Tamils of Indian origin, particularly plantation workers, and their descendants have still not been granted citizenship and that many of them even continue to be stateless. Tamils without Sri Lankan citizenship are allegedly discriminated against and do not fully enjoy their economic, social and cultural rights. The Committee recommends that early and effective measures be taken to solve this problem and that these persons should not be threatened with repatriation.

335. The situation of the country's indigenous people, the Veddhas, and the creation of a national park on their ancestral forestland is of concern. In this context attention is drawn to the Committee's general recommendation XXIII calling upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

336. Concerning allegations of violations of human rights, the Committee reminds the State party of its obligation to conduct exhaustive and impartial investigations into allegations of human rights violations involving racial discrimination and bring to justice those responsible. The Committee recommends that the State party continue to disseminate knowledge of human rights instruments as well as international humanitarian law among security forces and law enforcement officers.

337. The State party is invited in its next report to provide updated information on the demographic composition of the population, including in the north and east of the island and its breakdown by community, ethnic group and gender. The Committee further recommends that the State party review the categorization of ethnic groups in Sri Lanka.

338. The State party is further invited to provide information on the following issues: (a) the content of the devolution regime for regions; (b) the scope of restrictions on the movement of Tamils living in the north and eastern provinces; (c) the situation of the Veddas; (d) measures taken to solve the problem of stateless persons in Sri Lanka; (e) measures taken to eliminate racial discrimination among Tamil and other minority groups; (f) the application of the Prevention of Terrorism Act and Emergency Regulations, particularly their application to Tamils and other ethnic groups.

339. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

340. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of the States Parties to the Convention.

341. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

342. The Committee recommends that the State party submit its tenth periodic report jointly with its eleventh periodic report, due on 20 March 2003, and that it address all the points raised in the present observations.