



Introductory Statement

At the Presentation of Sri Lanka's 5th Periodic Report
(E/C.12/LKA/5)

International Covenant on Economic Social and Cultural Rights

by

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OPENING STATEMENT

Madam Chairperson, Distinguished members of the Committee, Delegations and Observers to this Meeting, Members of Civil Society.

I am pleased to have this opportunity to make this opening presentation on behalf of Sri Lanka and introduce the following members of my delegation who represent a broad spectrum of disciplines that are relevant to the implementation of this important Covenant.

- Mr. R.P.A. Wimalaweera, Commissioner General of Labour
- Mr. Nerin Pulle, Deputy Solicitor General, Attorney-General's Department
- Mrs. Samantha Jayasuriya, Deputy Permanent Representative/Geneva
- Mrs. Swarna Sumanasekera, Chairperson of the National Committee on Women
- Dr. Mrs. Yuthika Indraratna, Director/Economic Research, Central Bank of Sri Lanka
- Mr. Gehan Gunatilleke, Consultant, Ministry of Foreign Affairs
- Ms. Shashika Somaratne, Counsellor, Mrs. Mafusa Lafir, First Secretary and Ms. Dulmini Dahanayake, Second Secretary of the Permanent Mission of Sri Lanka in Geneva and
- Ms. Rajmi Manatunga, Asst. Director, Ministry of Foreign Affairs.

In preparing for this review, which takes place 7 years since we last came before this Committee, we have followed a consultative process with relevant line Ministries and agencies, and many of the issues raised by this Committee have also been extensively discussed with members of civil society and the Human Rights Commission of Sri Lanka in the context of the formulation of the National Human Rights Action Plan (NHRAP) 2017-2021 which contains a separate chapter on Economic, Social and Cultural Rights. This has been formulated by a committee which included a number of civil society experts. The Government is in the process of translating the NHRAP 2017-2021 into the vernacular languages, following which it will be available to the public. We are pleased that some of these civil society members have also engaged with this Committee with specific shadow reports.

Madam Chair,

As you are aware, following the Presidential election in January 2015 and the Parliamentary Election in August 2015, the present National Unity Government was formed by the two main political parties in Sri Lanka – the Sri Lanka Freedom Party and the United National Party – under the leadership of President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe respectively. This was a watershed moment in the political history of our country and particularly in its post conflict

transition period, which helped in building the foundation for policy stability that is required to secure and advance human rights, democracy, rule of law and to work towards national reconciliation and development. Along with this key change in the political landscape of my country, there were also profound positive developments in the area of economic, social and cultural rights that paved the way for all Sri Lankans to enjoy the benefits of the peace dividend.

It has been 37 years since Sri Lanka became a State Party to this important international human rights instrument, which forms the core of the International Human Rights Treaties. Sri Lanka has always believed and supported the view that guaranteeing Economic, Social and cultural Rights is as important as those of Civil and Political rights. Our engagement with the UN system has been strengthened based on our approach for open and transparent dialogue. Since the last review, there have been 8 Treaty body reviews with regard to Sri Lanka - namely on:

- Civil and Political Rights (ICCPR) - 2014,
- Racial Discrimination (CERD) - 2016,
- 2 reviews on Torture (CAT) - 2011 and 2016,
- Rights of migrant workers (CMW) - 2016,
- 2 reviews on the Elimination of Discrimination against women (CEDAW) - 2011 and 2017,
- and today on ICESCR.

Further, we have had country visits by both the current and previous UN High Commissioners for Human Rights in 2013 and 2016, 6 thematic Special Procedure Mandate Holders namely,

- Dr. Chaloka Beyani, Special Rapporteur on IDPs in December 2013,
- Mr. François Crépeau, Special Rapporteur on Human Rights of Migrants in May 2014,
- Mr. Pablo De Greiff, Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence in March 2015 and November 2016,
- Mr. Juan Mendez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment during 29 April-7 May 2016,
- Ms. Monica Pinto, Special Rapporteur on the Independence of Judges and Lawyers during 29 April-7 May 2016,
- Ms. Rita Izsák, Special Rapporteur on Minority Issues in October 2016,

and the visit of the Working Group on Enforced or Involuntary Disappearances in November 2015.

We engaged in the Interactive Debate in the HRC during the presentations by the Special Rapporteurs of their respective reports.

As per the **Standing Invitation by GOSL**, we are in the process of discussing with the relevant mandate holders some further visits that will take place in the coming months including Mr. Ben Emmerson, Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism and Mr. David Kaye, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. We are also making preparations for our **3rd cycle of the UPR** to be held in November 2017. Our engagement with this important process today, and the human rights processes in general have proved useful for us in the implementation of our national obligations.

The Government has expressed its political commitment to ensure non-recurrence of conflict and further strengthen the enjoyment of human rights by all people. In this context, Sri Lanka is mindful that the path ahead will have challenges. However, it would be important to note what has been achieved over the last several years and the work that has been set in motion, in the context of a country that has faced a protracted conflict which ravaged the entire socio-economic and cultural fabric of the country for more than thirty years. Thus one may appreciate the fact that while certain aspects of post-conflict reconciliation have moved fast, some are yet to be at the desired level and pace of implementation.

Madam Chair,

The ongoing **consultations to develop a new Constitution for the country** that began on 5 April 2016 pursuant to the adoption of a resolution in the Parliament for it to sit as a Constitutional Assembly was a major step in this respect. A Public Representations Committee (PRC) which sought the views of the people and the report that was submitted to the Government can now be accessed online¹. A 21-Member Steering Committee headed by the Prime Minister is currently working on the draft which is expected to be finalized before the end of this year and tabled for the consideration of the Constitutional Assembly. Therefore, with regard to the adequacy of legal and policy framework to reinforce the ICESCR, I wish to state that under the proposed framework, much clarity on the justiciability of the rights enshrined in the Covenant is expected and the specific points proposed by the Sub Committee on Fundamental Rights to be included in the draft Constitution has been detailed in para 1.4 of our response to the List of Issues (LoI).

As you may agree, legislative enactments are an important tool, but are not the only means to safeguard the rights enshrined in the Covenant, hence, like in many other State Parties, Sri Lanka too has put in place **a range of other options such as policies, administrative regulations, institutional mechanisms such as the**

¹http://www.yourconstitution.lk/PRCRpt/PRC_english_report-A4.pdf

National Human Rights Commission and access to legal remedies through courts, which have effectively guaranteed and also provided redress on the socio-economic and cultural rights. There are a large number of instances in my country where the Supreme Court – the Apex Court of the country and the Court of Appeal, has taken cognizance of the Covenant in its judicial pronouncements and we would be happy to provide further information in our discussion today. Hence, as a developing country every endeavour has been made to build-in satisfactory and pragmatic mechanisms to make available resources to guarantee and uphold the socio-economic and cultural rights for our people.

Further, a number of new policy and institutional measures have been introduced and treaty obligations have been undertaken, in furtherance of several recommendations made by the Committee during the last review in 2010, with a view to rectifying gaps in the existing framework. In addition, steps have been taken to create greater awareness on the importance of reviewing the policies and practices that may have a negative impact on enjoying equal rights. On Non-Discrimination (minority, women, Women Headed-Households, LGBTIQ, Disabled, IDPs), Article 12(2) of the present Constitution stipulates that 'no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds'. As said before, the proposed new Constitution is expected to be more explicitly provide constitutional guarantees.

Since the last Review in 2010, GOSL has taken the following concrete measures to strengthen human rights and to build an environment conducive to any aggrieved person to seek redress;

- Parliament enacted the **19th Amendment to the Constitution** in May 2015 which further strengthened the appointment process with respect to the Election Commission, Judicial Service Commission, Public Service Commission, National Police Commission, Finance Commission, Human Rights Commission of Sri Lanka, Commission to Investigate Allegations of Bribery or Corruption, and provided for the establishment of a National Procurement Commission and Audit Service Commission. This has set in place greater checks and balances among the three arms of the Governance structure - the Legislature, the Executive and the Judiciary. It also reduced certain executive powers vested in the Executive President.
- We have also further strengthened the capacity, autonomy and independence of the **Human Rights Commission of Sri Lanka**. In this context, the Government has increased financial resources and also enhanced the engagement and consultations with the Commission. The Commission is empowered to investigate complaints of infringements or imminent infringements of fundamental rights, advise the government in formulating legislation, make recommendations to the Government on ensuring that

national laws comply with international human rights standards and on the need to subscribe or accede to human rights treaties. We hope that in accordance with the Paris Principles, it will become eligible to regain 'A' status.

- The 19th Amendment to the Constitution also specifically provided for **measures to implement the United Nations Convention against Corruption** (UNCAC) and any other international convention relating to corruption, to which Sri Lanka is a party. Sri Lanka Country Review under Chapter III- Criminalization and Law Enforcement and Chapter IV- International Cooperation of the United Nations Convention against Corruption was conducted by the UNCAC Implementation Review Group in 2013 in the first cycle of review. In the second cycle which started in 2016, Sri Lanka is preparing for the Country Review under Chapters II and V of UNCAC.
- **NHRAP 2017-2021** was finalised by GoSL in January 2017 and political rights, economic, social and cultural rights, rights of the child, women, migrant workers, labour, IDPs, disabled persons, as well as on preventing torture and protecting environment have been included. The NHRAP 2017-2021 contains provisions aimed at securing the achievement of the action points in NHRAP 2011-2016 that remain unimplemented while at the same time further advancing measures to protect and promote human rights.
- **Sri Lanka became State Party to a number of additional international legal instruments** such as the International Convention on the Rights of the Persons with Disabilities (ICPRD) in February 2015, the Palermo Protocol on Prevention of Trafficking in Women and Children in June 2015, the ILO Convention No 122 of 1964 (ILO C-122) in February 2016, International Convention for the Protection of All Persons from Enforced Disappearance (ICED) in May 2016, and the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired September 2016. The Government of Sri Lanka formally withdrew its reservation to Article 29 of the Convention on Rights of Migrants (CMW) and the depository notification in this regard has been circulated by the UN Secretary-General on 16 August 2016 in his capacity as the depository. Sri Lanka also withdrew all reservations under the ICCPR in June 2010 and November 2015. Further, Sri Lanka made a declaration under Article 22 of the CAT recognising the competence of the Committee to receive individual communications.
- The Ministry of Women and Child Affairs in 2016 has developed **a national plan for Women Headed Households** with inputs from the gap analysis of immediate needs and existing services for women headed households. Cabinet approval was obtained for the plan in November 2016. The plan focuses on health, livelihoods, support services systems, security, social protection, policy formulation and awareness-raising. The action plan is being implemented with the support of the relevant line ministries.

- **A Policy Framework and National Plan of Action to address Sexual and Gender-based Violence in Sri Lanka (2016-2020)** was approved by the Cabinet of Ministers in June 2016. The Policy Framework used a multi-sectoral approach to address violence against women in the areas of child affairs, disaster management, economic development and employment, education, empowerment and prevention, foreign employment, health, justice and law reforms and media. The Ministries have already taken measures to implement activities envisaged in the Plan of Action.
- **A National Policy on Child Protection (2017-2027)** was developed in March 2017 by the National Child Protection Authority to provide an overall framework of goals, principles and institutional arrangements to guide multi sectoral approach to child protection in Sri Lanka. The framework set out by the National Policy will be implemented through a multi sectoral, multi stakeholder five-year National Action Plan on Child Protection which will be developed with the support of the stakeholders.
- The Ministry of Finance issued a directive in 2016 **requesting line ministries, provincial councils, and district secretaries to allocate a minimum of 25% of the investments for the economic development of rural women as well as infrastructure.** The progress of implementation of this directive is being monitored by the women development officers attached to divisional secretariats.
- Sri Lanka has achieved considerable progress **in health care delivery** due to cost-efficient use of resources and the coordinated use of its well ingrained primary, secondary and tertiary health care facilities as outlined in detailed in our report to this Committee. One of the most notable achievements made in the recent past includes WHO certification of Sri Lanka in 2016 as a country that eliminated malaria, a disease which caused death and misery to hundreds of thousands over the years. Action to combat Non- communicable diseases has taken many strides, including introduction of traffic light labelling system to indicate the sugar content in fizzy drinks, increasing pictorial warnings to 80% in cigarette packs despite the legal challenges by tobacco companies, increasing the tobacco taxation from 70% to 90% and new moves towards plain packaging and eventually moving away from tobacco cultivation are also considered. Particular attention is also given to improve health service delivery through digital health.
- Sri Lanka is among the few countries that has developed a comprehensive '**National Migration Health Policy**', an evidence-based policy which was launched in 2013 aiming at the promotion of health requirements of in-bound, internal, out – bound as well as families left behind. In this regard, we have

made considerable strides in several aspects, with specific focus on awareness raising at the pre –departure stage in both national languages and integration of returning Sri Lankan refugees from India, providing free health checks, and integrating to the community health services. They were also provided with an awareness booklet entitled 'Welcome home' to raise awareness on the health services available for them upon their arrival to the country. In addition, under the policy, special hospitals were set up through a rapid response plan to provide health care to the Internally Displaced Persons (IDPs) resulted by the 30-year-old internal conflict, during their transition period. One unique feature of this Policy is its focus on migrant as well as the families left behind through a coordinated care plan.

- Education in Sri Lanka **continues to be state funded and offered free of charge at all levels**, including the university level. The Constitution of Sri Lanka as well, provides for education as a fundamental right. Sri Lanka's population had an adult literacy rate of 92.6% in 2016, which is above average by world and regional standards. Education falls under the control of both the Central Government and the Provincial Councils, with some responsibilities lying with the Central Government and the Provincial Council having autonomy for others.

The government has also taken numerous measures to ensure that every child has access to primary and secondary education by establishing schools within every two kilometers and four kilometers respectively. As at 2016, Sri Lanka has 10,162 schools island wide. The Ministry of Education has allocated 10 % of its budget to provide free text books to all students, uniforms, nutrition programmes, bursaries, scholarships and other similar subsidies. The medium of language could be Sinhala, Tamil or English. English is taught as a second language. Students sit the G.C.E O/L at the end of 11 years of formal education and G.C.E. A/L examinations at the end of 13 years. Undergraduate education in state universities is free but extremely competitive, limited and standardized. Children from vulnerable groups have been integrated into the system by establishing schools, providing special education units to children with special needs. Under new education reform proposals, mandatory 13 years of education has been proposed as a strategy to enable the country to meet the SDGs by 2030.

- Sri Lanka has made **significant strides in poverty alleviation**, with extreme poverty in the country reducing from 13 per cent in 2002 to less than 3 per cent in 2012/2013. The government has accorded high priority to poverty alleviation which is the first objective of the Sustainable Development Programme proclaimed by the UN. The new economic policy orientation of the government takes into account issues relating to social security, disparities in income distribution, the plight of economically and socially marginalised sectors, and the prevailing developmental inequalities at the provincial and district levels.

On a proposal made by H.E. the President, the Government decided in August 2016 to declare the year 2017 as the 'Year of Alleviation of Poverty', and appoint a high powered committee chaired by H.E. the President and comprising the Hon. Prime Minister and relevant ministers to steer and ensure the implementation of a national policy on poverty alleviation with the participation of all stakeholders. The overall objective of this policy is to ensure that Sri Lanka is free of poverty by the year 2030. A Bureau has been established directly under H.E. the President to coordinate the effort and to implement a community-driven collaborative rural development approach.

- Sri Lanka is **a resilient middle-income economy with impressive social indicators on par with developed countries**. We have been able to maintain an average growth rate of over 5 percent in the recent past. Robust growth in tourism since 2009 has been a key driver of growth while remittances from overseas workers have also been a major contributor. We have maintained low inflation at mid-single digit levels for 98 consecutive months, while sustaining low unemployment rates which in 2016 stood at 4.4%. The government has reduced the budget deficit to 5.4 per cent of GDP in 2016 from 7.6 percent of GDP in the previous year. Disparities between regions have reduced over the years. Our poverty head count ratio has also declined to 6.7% in 2012/2013. Life expectancy at 75 years is comparable to those of advanced countries.
- **With the objective of ameliorating the socio-economic situation in the estate sector, a dedicated Ministry of** Ministry of Hill country New Villages, Infrastructure and Community Development is in place since September 2015, and the Government, in 2016, adopted a National Plan of Action for the Social Development of the Plantation Community for 2016-2021. The allocation of funds for the social and infrastructure development of the estate sector community has been increased substantially since 2015.
- **Measures have also been taken to protect the rights of the adivasi community** by providing facilities to preserve as well as show case their cultural heritage, while the members of the community are also provided with assistance to engage in agriculture, fishing or any other livelihood of their choice. Representatives of the adivasi community participate in the meetings held at the divisional level to discuss matters relevant to their community.
- The **Right to Information (RTI) Act, which has been a recommendation of this Committee as well (COB-10)** was enacted in August 2016 and is currently being implemented. In the context of the 19th Amendment to the Constitution, which guarantees the Right of Access to Information in Article 14 A of the Constitution, this Act ensures the need to

foster a culture of transparency and accountability in public authorities by giving effect to the public's right to access information and thereby promoting a society in which people would be able to more fully participate in public life through combatting corruption and promoting accountability and good governance.² To facilitate the implementation of the provisions of the RTI, the RTI Commission has been set up and its members appointed, and the Commission is ready to hear appeals in terms of the Act. On the instructions of the Commission, rules and regulations under the RTI have been gazetted in February 2017. Information officers have been appointed in government institutions and programmes to train them are underway. As of now, over 1,500 requests were made in the first month of the Act coming into operation. At present, individuals and organisations are regularly using the Act, and information officers of public authorities are in the process of responding to these requests. Civil society organisations have successfully accessed government information through the new Act. For example, Transparency International Sri Lanka successfully accessed information relating to the policy and investments of the Employees Provident Fund (EPF) from the Central Bank of Sri Lanka. It also successfully applied for and received information on political party financial statements, as filed with the Election Commission of Sri Lanka.

- Prescription (Special Provisions) Act No. 5 of 2016 by Parliament and it was certified on 26 April 2016. This Act enables special legal provisions to be made in respect of persons who are unable to pursue their **rights in court for the recovery of any immovable property including land due to the activities of any militant terrorist group** which prevailed in Sri Lanka.³ As of today, the Government has resettled 888,206 Internally Displaced Persons belonging to 255,259 families. 41,936 persons belonging to 13,133 families are to be resettled. Out of the persons to be resettled, 2,998 persons are currently in welfare centres. Approximately 24,394 acres of private land out of a total of 30,833 have been released since 2009. This includes 4,190.58 acres released since 2015. The balance is earmarked for release, with immediate plans to release 519 acres.

The Government's efforts to strengthen the socio-economic and cultural rights will have a definitive link with the ongoing process of the four-pronged reconciliation mechanisms that the Government has described and set out at the 30th Session of the UN Human Rights Council. The Government is committed to work with the support of the international community, to address outstanding issues relating to reconciliation, accountability and human rights through credible processes to deal with truth-seeking, justice, reparations and the guarantee of non-recurrence. The Government, while

² Preamble of the Right to Information Act No. 12 of 2016, certified on 4 August 2016.

³ Prescription (Special Provisions) Act No. 5 of 2016

remaining committed to continuing with democratic reform, reconciliation, and protection and promotion of human rights of all, is conscious of the need to do so through consultative and inclusive processes. This may entail the processes taking more time, yet, the importance of creating awareness, seeking views of the public etc., has its merits in terms of ensuring long-term durability and success of the reforms undertaken and implemented. This position of the Government was supported and agreed upon at the 34th Session of the HRC by consensus and expressed support for implementing the four-pillar reconciliation mechanism which is work in progress. In this regard, it may be noted that the Office on Missing Persons Act was passed by Parliament and was certified by the Speaker on 23 August 2016. An Amendment to the Act is to be presented in Parliament shortly, following the passage of which the Office on Missing Persons could be operationalised. Further, the Cabinet of Ministers has approved a Policy and Legal Framework for a new Counter Terrorism legislation that would replace the Prevention of Terrorism Act (PTA), based on which a new Counter Terrorism Bill is being formulated by the Legal Draftsman. In this regard, it may be noted that currently no person is held in executive detention under the PTA.

- The Government maintains a **zero-tolerance policy** on acts in violation of the law including those targeting minority religious and ethnic groups. Thus, laws will be strictly enforced on those committing violence against religious groups or practicing hate speech. Meanwhile, programmes are being implemented through the Office of National Unity and Reconciliation to foster religious harmony and strengthen inter-faith dialogue.
- Sri Lanka has **ratified all 8 ILO core conventions** and the Government has taken every effort to give full effect to its provisions in law and in practice. The enactment of the National Minimum Wage Act, undertaking the Labour Law Reform Process, introduction of an automated labour inspection system, steps taken to speed up addressing unfair labour practices, facilitating Trade Union representatives to meet their members in the export processing zones, adoption of Child Labour Policy are some of the recent initiatives implemented by the Government of Sri Lanka in order to protect the rights of the working people with the conditions of freedom, non-discrimination, equity and human dignity.

These progressive measures have already been acknowledged by the international community, most visibly in the recent grant of GSP + to Sri Lanka by the European Union. Recommending the grant of GSP + to Sri Lanka in January 2017, the European Commission observed that “Sri Lanka has taken important steps to improve respect of human rights and extend good governance. A significant development is the 19th Constitutional amendment, which re-establishes the independence of key institutions such as the National Human Rights Commission.

Sri Lanka has also taken concrete actions to among other things: ensure cases of missing persons are examined; offer better protection of witnesses and victims; release persons detained under controversial anti-terrorism regulations; combat child labour. Sri Lanka has also re-engaged with the UN system, in particular the UN Human Rights Council, where it has made commitments to promote reconciliation, accountability and human rights. Moreover, Sri Lanka has achieved most of its Millennium Development Goals, especially in health, education and gender equality”.

Madam Chair,

While endeavouring to realize the rights enshrined in the Covenant, we have also realized that there are challenges that can and must be resolved through better inter agency coordination and coordination between central and provincial authorities, in particular given many of the socio-economic and cultural development areas fall under the devolved subjects of power.

Collecting credible disaggregated data and analysing them has been a consistent challenge that needs to be addressed as it is crucial in evaluating the impact of development projects and reviewing policies accordingly for more accurate results at ground level. For example, on the availability of ESCR data in the estate sector, the Ministry of Hill country New Villages, Infrastructure and Community Development in collaboration with the UNDP, is in the process of developing a database for the plantation sector which would assist in identifying the areas of intervention. The proposed database is expected to document statistical data to assess the extent to which ESC rights are enjoyed by the community. We would need similar action in other sectors as well.

In Conclusion Madam Chair,

We look forward to a fruitful dialogue with the distinguished members of this Committee and will be glad to further expand on any of the matters mentioned, or clarify on any other specific issues that you might have. We believe that your recommendations will assist the Government of Sri Lanka to carry forward the progressive steps taken so far in the promotion and protection of human rights of all Sri Lankans. We thank you Madam Chairperson, The Rapporteur for Sri Lanka review and members of the Committee, for your engagement and we also wish to thank the Secretariat for their kind technical assistance provided to our delegation during this review process, and last but not least to the interpreters for their excellent job.

Thank you.