



THE CENTER FOR JUSTICE AND ACCOUNTABILITY STATEMENT ON U.N. HUMAN RIGHTS COUNCIL RESOLUTION ON SRI LANKA

*New Resolution Mandates a Comprehensive International Investigation, Making
Substantial Strides toward Accountability in Sri Lanka*

Geneva, Switzerland, March 27, 2014 – Earlier today, the 25th Session of the U.N. Human Rights Council (HRC) voted to approve a resolution titled, *Promoting reconciliation, accountability, and human rights in Sri Lanka*. CJA welcomes this significant step forward for accountability in Sri Lanka, which directs the U.N. Office of the High Commissioner for Human Rights (OHCHR) to undertake a “comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka.”

This is the third year that the HRC has passed a resolution calling for accountability in Sri Lanka since the civil war ended in 2009. In 2012 and 2013, the HRC passed resolutions urging the Sri Lankan government to investigate alleged human rights violations and implement the recommendations of its internal Lessons Learnt and Reconciliation Commission (LLRC). Though narrow in scope, the LLRC made a number of positive recommendations for reconciliation, many of which the Sri Lankan government has yet to implement.¹ The U.N. High Commissioner for Human Rights concluded in her recent report that “national mechanisms [in Sri Lanka] have consistently failed to establish the truth and achieve justice,” and “an independent, international inquiry would play a positive role...where domestic mechanisms have failed.”² This year, with no domestic progress in sight, the HRC has demanded an international inquiry.

The Center for Justice and Accountability (CJA) applauds the efforts by the HRC to work toward accountability and meaningful reconciliation for all Sri Lankans. “The Human Rights Council has mandated a much-needed international investigation to establish the truth and ensure accountability for alleged human rights abuses and violations of international law,” said Pamela Merchant, CJA’s Executive Director. “A robust, comprehensive, and vigorous fact-finding investigation is crucial to help Sri Lanka break the cycle of impunity and ensure that perpetrators of crimes on both sides be held to account.”

The resolution requires an international investigation with the following key features:

- **Scope:** OHCHR must “undertake a comprehensive investigation” into violations by both government and rebel forces. The investigation must “establish the facts and circumstances of such alleged violations and of the crimes perpetrated, with a view to avoiding impunity and ensuring accountability.” To ensure accountability, OHCHR’s investigation must be robust and provide a basis for individual criminal prosecutions, including identifying alleged perpetrators.

- **Time frame:** OHCHR’s investigation encompasses “the period covered by the Lessons Learnt and Reconciliation Commission.” Recognizing the link between wartime and post-war violations, the LLRC covered not only events from 2002-2009 but also post-war issues such as demilitarization, land rights, and disappearances. Consistent with this approach, OHCHR should examine whether post-war violations point to ongoing international crimes, as suggested by a 2014 [report](#) by the Sri Lanka Campaign for Peace and Justice, endorsed by CJA and prominent experts, including Juan E. Méndez, U.N. Special Rapporteur on Torture. Moreover, in addition to its investigation, OHCHR must monitor post-war events pursuant to its mandate to “monitor the human rights situation in Sri Lanka and continue to assess progress on relevant national processes.”
- **Investigative Team:** OHCHR must conduct its investigation “with assistance from relevant experts and special procedures.” Given the scope and depth of the investigation required by the Human Rights Council and the nature of the violations alleged to have been committed, it will be critical for OHCHR to involve a wide range of special procedures mandate holders—including on arbitrary detention, enforced disappearances, torture, extra-judicial killing, internally displaced persons—as well as experts in international criminal law with relevant experience in human rights fact-finding.

The need for this international investigation is urgent. Nearly five years after the end of its 26-year civil war, despite mounting evidence of alleged violations of international law during its last stages, Sri Lanka has failed to initiate a credible national investigation process. The government rejects conclusions by an independent U.N. Panel of Experts as lacking “credence or legitimacy.”³ Videos of summary executions by government forces, deemed “authentic” by U.N. Special Rapporteurs⁴ and warranting further investigation by Sri Lanka’s own LLRC,⁵ are rejected outright as “fake.”⁶ Those who seek accountability, including prominent human rights defenders, continue to be silenced or labelled as terrorists.⁷ No one has been held accountable for even the most publicized cases, including the 2006 extrajudicial killings of five students in Trincomalee and seventeen aid workers from Action Contre Le Faim. The breakdown of the rule of law—culminating with the irregular impeachment of the Chief Justice in January 2013—contributes to systemic impunity.⁸ Accountability is “nearly impossible” in Sri Lanka: “survivors do not receive redress, and perpetrators are not brought to justice.”⁹

The government’s lack of domestic progress and its continued assault on dissent underscore the urgent need for an international investigation. As the High Commissioner noted, Sri Lanka’s lack of domestic progress “can no longer be explained as a function of time or technical capacity, but ... is fundamentally a question of political will.”¹⁰

In passing the resolution today, the Human Rights Council took an important step forward toward accountability and justice. As the HRC stated in its resolution, “a comprehensive approach to transitional justice,” including “individual prosecutions, reparations, truth-seeking, institutional reform, and vetting of public employees and officials” is needed. A robust, comprehensive fact-finding investigation is crucial to advancing these goals for all Sri Lankans to find lasting peace.

About the Center for Justice and Accountability

CJA is a San Francisco-based human rights organization dedicated to deterring torture and other severe human rights abuses around the world and advancing the rights of survivors to seek truth, justice and redress. CJA uses litigation to hold perpetrators individually accountable for human rights abuses, develop human rights law, and advance the rule of law in countries transitioning from periods of abuse. www.cja.org

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¹ Report of the Office of the United Nations High Commissioner for Human Rights on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka, A/HRC/25/23, ¶¶2 7-35 (24 Feb. 2013)

² *Id.*, ¶ 72

³ Comments received from the Permanent Mission of Sri Lanka on the draft report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka (A/HRC/25/23), A/HRC/25/G/9, ¶ 2 (24 Feb. 2013)

⁴ Technical Note prepared by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, in relation to the authenticity of the “Channel 4 videotape” (7 January 2010), available at <http://www2.ohchr.org/english/issues/executions/docs/TechnicalNote.doc>; Report of the Special Rapporteur on extrajudicial summary or arbitrary executions, Christof Heyns, A/HRC/17/28/Add.1 (27 May 2011), available at <http://www.ohchr.org/Documents/Issues/Executions/A-HRC-17-28-Add1.pdf>

⁵ Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, ¶ 4.375 (Dec. 2011)

⁶ See, e.g., *Channel-4 video a fake, concludes video forensic analyst* (13 June 2011), available at http://www.defence.lk/new.asp?fname=20110613_03; Sri Lanka Ministry of Defence, *Lies Agreed Upon* (1 August 2011), available at http://www.defence.lk/new.asp?fname=20110801_LAUvdo; *False allegations will be laid to rest with the ‘Factual Analysis Report’-Secretary of Defence*, available at http://www.defence.lk/new.asp?fname=20110801_04

⁷ Opening remarks by High Commissioner Navi Pillay in Colombo (31 Aug. 2013), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673&LangID=E>; Asian Human Rights Commission, *The Sri Lankan Government retaliates to the proposed Human Rights Council resolution by arresting activists and witnesses* (17 Mar. 2014), available at <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-045-2014>

⁸ International Bar Association, *A Crisis of Legitimacy: The Impeachment of Chief Justice Bandaranayake and the Erosion of the Rule of Law in Sri Lanka* (Apr. 2013), available at <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=C90B7A2F-5EE2-4E5B-BE6C-F7FCB9864E81>

⁹ International Commission of Jurists, *Authority without accountability: The crisis of impunity in Sri Lanka*, p.1 (Nov. 2012)

¹⁰ Report of the Office of the United Nations High Commissioner for Human Rights, *supra* note 1, ¶ 72