



20 June 2016

To: The UN High Commissioner for Human Rights

Dear High Commissioner,

Subject: *Open letter on the oral update on Sri Lanka at the 32nd session of the UN Human Rights Council*

We write to you ahead of your oral update to the UN Human Rights Council on Sri Lanka. October 1, 2015 marked an important milestone in the UN's engagement with Sri Lanka. Sri Lanka joined the international consensus and cosponsored resolution 30/1 at the UN Human Rights Council. The resolution called on the Office of the High Commissioner to "assess progress on the implementation of its recommendations and other relevant processes related to accountability reconciliation and human rights." The resolution identified your forthcoming oral update as a midway point in this process of assessment prior to a comprehensive progress report next March.

While the government's assurances on progress have been plentiful its performance on the ground has been mixed and not befitting expectations outlined in your report and in the resolution as well as those of victims and people on the ground. There have been some positive developments on international cooperation such as the government's recent decision to ratify the Convention against Enforced Disappearances and Convention on the Rights of Persons with Disabilities, the extension of standing invitations to Special Procedures and the visit of a number of Special Procedures, your own visit and that of other UN officials.

At the same time there have been mixed signals on the government's commitments made through the October resolution, at the highest level of the government. There have been distressing reports on the ongoing use of arrests under the Prevention of Terrorism Act (PTA) instead of the regular criminal code. The PTA is a draconian law consistently condemned by UN bodies and officials and which the government had pledged to repeal as part of its October commitment. Repealing the PTA and dealing with the outstanding cases of those still detained under the law should be a foremost priority.

While there is more space for freedom of expression and assembly, incidents of intimidation are still taking place. For example the WGEID reported incidents of intimidation of those who met them, and persons planning to meet you on your visit reportedly were also subjected to intimidation a day before your visit. Some land occupied by the military has been released, but much has not been.

A draft law of the Office of the Missing Persons (OMP), one of the four transitional justice mechanisms committed to by the government, has been published with minimal

consultations, and before the Task Force established to conduct consultations had even begun face-to-face consultations with affected communities and citizens. It is crucial that laws for the other three mechanisms are passed by March 2017, but unlike the OMP, with greater transparency and allowing sufficient opportunities and time for genuine consultations. It is also important to clearly indicate the inter-linkages and complementarity of the different mechanisms and how they will together guarantee rights to truth, criminal justice, reparations and guarantees of non-recurrence, and not undermine any of these rights and the working of each mechanism.

We are convinced that the government needs to meet clear benchmarks in relation to commitments it had made to its own people and the international community. Mindful of the long history of failed efforts towards reconciliation and accountability for human rights violations in Sri Lanka, we are worried that in March 2017, the absence of clear progress may cause a loss of confidence in the current UN backed process for justice, accountability and reconciliation.

Member states of the Council have indicated that their engagement with the Sri Lankan government will be guided by your oral update on the implementation of the October Council resolution on Sri Lanka. This expectation has been heightened by your and your staff's visits to Sri Lanka and those of the Special Procedures. Thus, we believe it is crucial for your oral update to identify areas where progress has been made, as well as areas where there is a lack of progress and incorporate clear benchmarks that include immediately achievable steps.

At the end of your visit to Sri Lanka in February this year, you identified some of these steps in stating that "the military needs to accelerate the return of land it has seized and is still holding to its rightful owners" and "the size of the military force in the North and the East can be reduced to a level that is less intrusive and intimidating, as a first step in security sector reform."

In your statement to the current session of the Council on June 13, you identified a comprehensive transitional justice strategy as critical for the government's implementation of its commitments. In this regard, the establishment, without delay, of a judicial mechanism with full participation of international judges, lawyers and prosecutors, is an element of the Council resolution (and the OISL and OHCHR reports on a judicial mechanism) that represents an essential benchmark for the credibility of the overall process.

Please accept the assurances of our highest consideration

Asian Forum for Human Rights and Development (FORUM-ASIA)

Franciscans International

Human Rights Watch

International Commission of Jurists

International Movement Against All Forms of Discrimination and Racism (IMADR)

International Service for Human Rights