

13 March 2017

Excellency,

This submission by the All Survivors Project, relates to the government of Sri Lanka's commitments under UN Resolution 30/1, currently being considered at the 34<sup>th</sup> Session of Human Rights Council (March 2017).

The All Survivors Project provides research to improve the global response to sexual and gender-based violence in situations of conflict and displacement. We document cases of abuse against boys and men to supplement work on girls and women, and to support a global response that includes all victims of violence. We are an independent, international research project based in UCLA School of Law and work with individuals and organizations to strengthen communities by upholding the dignity of each individual.

Our ongoing research in Sri Lanka has raised concerns about the lack of legal and institutional recognition of conflict related sexual violence against men in Sri Lanka, which has continued in the post war period.

In 2015, the Office of the High Commissioner for Human Rights investigation on Sri Lanka (OISL) found that male detainees "... *were as likely to be subjected to sexual violence as female detainees.*" The OISL also concluded that incidents of sexual violence were not isolated acts but part of a deliberate policy to inflict torture. In the case of rape victims (male and female) the OISL concluded that, in addition to seeking to obtain information, the purpose of torture often consisted of a combination of sexual gratification, degradation and humiliation of the victims, and the instilling of fear.<sup>1</sup>

The persistence of sexual violence, including against males, in Sri Lanka was highlighted in the October 2016 report of the National Human Rights Commission of Sri Lanka to the UN Committee against Torture which cited 13 cases of arrests under the Prevention of Terrorism Act (PTA) involving complaints of torture or ill-treatment. Methods of sexual violence described by detainees include forced nudity, squeezing of genitals and the insertion of pins into genitals.<sup>2</sup>

Lack of recognition of male sexual violence within the context of the conflict in Sri Lanka has meant that responses to the needs of male survivors by both government and non-government actors remains absent. Even as conflict related sexual violence against women is increasingly acknowledged and the target of advocacy on accountability, practical measures to provide support and redress to female survivors too remain scarce. We see the current review of Sri Lanka's progress towards implementing its commitments under United Nations Human Rights Council [resolution 30/1](#) as a welcome opportunity to

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<sup>1</sup> Report of the OISL (September 2015), paragraphs 586 and 603.

<sup>2</sup> Human Rights Commission of Sri Lanka report to the Committee Against Torture (October 2016)

address ongoing challenges with respect to the needs of male survivors of sexual violence.

### **Transitional Justice Mechanisms**

In October 2015, the government of Sri Lanka, acting through the Human Rights Council, committed to an ambitious plan of legal, policy and constitutional reform to address past large-scale human rights violations and prevent their recurrence. As part of that process, the government pledged to establish four judicial and non-judicial transitional justice mechanisms, including a Commission for Truth, Justice, Reconciliation and Non-Recurrence; an Office of Missing Persons; an Office for Reparations; and an Independent Judicial Mechanism to investigate allegations of violations and abuses of human rights and violations of international humanitarian law.<sup>3</sup>

A Consultation Task Force, comprising 11 members drawn from civil society, was established in January 2016 to undertake public consultations on the proposed mechanisms. Its final report, published in 2017, found a strong desire for truth and accountability amid a lack of trust and confidence in the government to deliver on its promises – the legacy of past inaction and numerous failed inquiries and accountability processes.<sup>4</sup> While survivors of sexual violence, both male and female, were hesitant to engage publicly in the consultations, at least one male victim did recount his experience openly.<sup>5</sup> Demands for justice and reparations by victims of sexual violence were made repeatedly. While there was willingness to consider amnesties for some crimes, amnesties were not seen as appropriate in the case of war crimes, crimes against humanity, genocide, or for “crimes of sexual violence”.<sup>6</sup>

Recommendations received by the CTF in relation to the prosecution of sexual violence explicitly reference male sexual violence. One submission found that “...two thirds of persons affected by post war torture are male” and that “[a]nal rape of male detainees by members of the Sri Lankan security forces appears prevalent and is an even less recognised issue than vaginal and anal rape of women.” The report notes that “being gender sensitive in the prosecution of sexual violence will mean being sensitive to the needs of both men and women who have experienced sexual violence in the context of the war.”<sup>7</sup>

Both the CTF and OHCHR have recommended that the government draw up a clear strategy on how various transitional justice mechanisms will function,

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<sup>3</sup> Resolution on “Promoting Reconciliation, Accountability and Human Rights in Sri Lanka, 25 September 2015, UN Doc. A/HRC/30/L.29.

<sup>4</sup> Final Report of the Consultation Task Force on Reconciliation Mechanisms, January 2017, available at, [https://drive.google.com/drive/folders/0Bzl\\_GkvmvUNzM1ZKcENidk8zT0k](https://drive.google.com/drive/folders/0Bzl_GkvmvUNzM1ZKcENidk8zT0k)

<sup>5</sup> Final Report of the Consultation Task Force on Reconciliation Mechanisms, January 2017, Chapter V, Section 10.2, “Males Affected by Sexual Violence”, page 274.

<sup>6</sup> Final Report of the Consultation Task Force on Reconciliation Mechanisms, January 2017, Chapter IV, Section 10.2.4, “Crimes and perpetrators beyond amnesty”, page 173.

<sup>7</sup> Final Report of the Consultation Task Force on Reconciliation Mechanisms, January 2017, Section 10.2 “Males Affected by Sexual Violence”, page 274.

relate to one another, and be coordinated and sequenced.<sup>8</sup> However, a roadmap is yet to be developed, with a series of ad hoc bodies<sup>9</sup> and technical working groups often working to disparate ends. The passing of legislation in August 2015 to establish an Office for Missing Persons marked some progress but the law has yet to be gazetted and commissioners have not yet been appointed. Further amendments to the OMP Act are also under consideration.

The UN High Commissioner for Human Rights noted with concern in his February 2017 report that the design of truth and reparations mechanisms appear to have been prioritised by the government, with “little commitment to the judicial mechanism...”, and with preparatory work on incorporating international crimes into domestic law and strengthening investigative and prosecutorial capacity yet to begin.<sup>10</sup>

### **Security Sector Reform**

Under Human Rights Council Resolution 30/1, the government also committed to security sector reform, including vetting processes that would ensure that any person implicated in violations of international human rights and humanitarian law will not be recruited or retained in the security forces. However, there is no indication that plans to implement this promise have been developed in any meaningful way. Vetting and screening must be an institutional requirement in all state services, including for members of staff of the transitional justice mechanisms, witness protection authorities and judiciary.

The Sri Lankan government has so far made no attempts to permanently dismantle regressive national security laws. While the government has committed to repeal the regressive Prevention of Terrorism Act (PTA), this law is to be replaced by another - the Counter Terrorism Act - which, based on the drafts in circulation, appears to be far wider in scope and even more repressive than the existing law. Such laws suspend ordinary due process, curb safeguards for detainees and create the environment in which systemic torture and sexual violence takes place.

We recommend that the Human Rights Council passes a further resolution on Sri Lanka which:

- Affirms the government of Sri Lanka’s commitment to implementing its outstanding pledges under Resolution 30/1 (October 2015), including

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<sup>8</sup> Final Report of the Consultation Task Force on Reconciliation Mechanisms, January 2017, Section VIII, CTJ Conclusions and Observations, paragraphs 1.13 & 1.15, page 428; and Annual report of the UN High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, Promoting reconciliation, accountability and human rights in Sri Lanka, 28 June 2016, UN Doc. A/HRC/32/CRP.4.

<sup>9</sup> There are at least three ministries directly dealing with reconciliation including of Ministry of National Integration and Reconciliation and Ministry of National Languages and Social Integration. The Government also established two new institutions the Office of National Unity and Reconciliation (ONUR) and the Secretariat for Coordinating Reconciliation Mechanisms (SCRM).

<sup>10</sup> Report of the Officer of the United Nations High Commissioner for Human Rights on Sri Lanka, 10 February 2017, UN Doc. A/HRC/34.20.

the establishment of all four mechanisms and other specific measures;

- Welcomes the government's creation of the CTF, the extensive national consultations, and the successful completion of its report, and encourage the government to present a process for reviewing and identifying an implementation strategy on recommendations;
- Urges the government to deliver immediate and measurable confidence building measures in implementing transitional justice mechanisms, security sector reform, land returns, and the ending of military involvement in civilian activities.
- Urges that an implementation timetable be presented which responds to recommendations contained in both the High Commissioner's report and the CTF report and ensures continued international scrutiny until the Sri Lankan government fully delivers on its commitments.

We urge your delegation to support the inclusion of these elements in the resolution.

In addition, we would like to draw attention to the issue of sexual violence, including of men, and wish to highlight the lack of recognition of the issue and the serious gaps in the legal and institutional responses to the needs and rights of victims of sexual violence. As such measures taken by the government in terms of design of transitional justice mechanisms, legal reform, redress through existing justice systems and health and other support systems must ensure that they enable appropriate responses and support for all victims of sexual violence including men, and that specific, proactive measures are taken in accordance with international best practice, to create a safe and conducive environment for survivors and their families to seek redress, justice and reparation.

Sincerely,



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