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Press Release

Sri Lanka will not help legitimize a flawed process that could set dangerous precedent by cooperating with the OHCHR investigation

Responding to the 'Oral Update' on Sri Lanka by the High Commissioner for Human Rights at the Human Rights Council (HRC) in Geneva today (25 September 2014), Sri Lanka's Permanent Representative to the United Nations in Geneva, Ambassador Ravinatha Aryasinha said "the Government of Sri Lanka does not wish to help legitimize a flawed process and have a detrimental precedents established", and hence "has to respectfully refuse those who urge that Sri Lanka cooperate with the OHCHR investigation."

He said this position has been taken after much consideration and represents not only the will of the Sri Lankan people as reflected in the motion recently adopted in the Parliament with an overwhelming majority, but also the majority within the Human Rights Council, who refused to support Operational Paragraph 10 of HRC resolution 25/1 which created an OHCHR investigation on Sri Lanka in March 2014.

Ambassador Aryasinha said "with all the calamities and afflictions around us today, Sri Lanka is clearly not a situation that requires the urgent and immediate attention of this Council. Sri Lanka is continuing on a transformative journey in the interest of all the people of Sri Lanka. What Sri Lanka needs at this juncture is to be encouraged, and not impeded."

He pointed out that "GOSL's principled opposition to the OHCHR investigation stems from several well founded concerns: its politically motivated agenda; it challenges the sovereignty and independence of a member state of the UN; it violates a fundamental principle of international law, which requires that national remedies have to be exhausted before resorting to international mechanisms; and though pretending to help, the actions of the HRC has in effect impeded the reconciliation in Sri Lanka.

Besides these issues of principle, he said for over the past 6 months, "the operationalization of this resolution has clearly violated both the letter and spirit of the said resolution: it had gone beyond the original timeframe, had expanded the scope and subject of the discussion; it had increased the number of Special Procedure Mandate holders from three to six, in contravention of the allocated budget (PBI); had decided to appoint three high level individuals instead of two, again in contravention of the allocated budget; and by the appointment of high level international figures, who are by no means "technical experts relevant to the investigation" it seems that the OHCHR has sought to tacitly elevate the level of the OHCHR investigation to mimic an international COI." He also said "despite the proponents of resolution 25/1, as well as the OHCHR, repeatedly emphasizing the transparency of this process relating to Sri Lanka, the names of all but one of the

'investigation team' continue to remain secret, which is in clear contravention to the principles of natural justice. "

The Ambassador also reminded the Council that "in recent weeks many countries in the HRC had expressed concern about the increasing trend to assign the Office of the High Commissioner with extensive investigative roles, which it is neither mandated to undertake nor equipped for, demonstrating a clear departure from UNGA Resolution 48/141", adding that "such arbitrary and selective action, especially with respect to what clearly is a politically motivated and highly polarized issue in the Council, giving disproportionate and unwarranted attention to Sri Lanka, not only calls into question the credibility of the functioning of the OHCHR and OHCHR led processes, but also creates dangerous precedents, if left unchecked. Deviation from the established mandates and processes does not bode well for countries like mine that continue to seek a path to cooperate, but have to face obstacles at every turn."

Earlier in his statement, Ambassador Aryasinha reiterated that "notwithstanding Sri Lanka rejection of the resolution 25/1 and the OHCHR investigation, GOSL continues to engage with the regular mechanisms of the Council, with the OHCHR and the High Commissioner. GOSL is also continuing its own domestic process of accountability, justice, reconciliation and nation building with utmost dedication, the results which were detailed in Sri Lanka's comprehensive statement earlier this session, including on the COI on Missing Persons."

The GoSL statement emphasized that "addressing accountability issues has to be based on available evidence properly sourced and verified. In order that any appropriate accountability measures can be devised and be meaningful the following key factors must be addressed in evaluating the evidence; LTTE's use of the population in their terrorist campaign, analyse evidence of attacks on the basis of principles of distinction, necessity and proportionality, the manner in which GOSL treated persons after the conflict and to accurately establish civilian deaths counting as civilians only non-combatants and also taking into account civilians killed by the LTTE."

Pointing out that "the oral update is replete with accusations and unsubstantiated statistics", he noted that "whenever details of statistics have been requested from the OHCHR on claims made in their comments and reports to this Council, such information has not been forthcoming. This was true with respect to the previous High Commissioner's Oral Update to HRC 24 and Comprehensive Report to HRC 25. "

The GoSL statement today also addressed several issues raised to in the High Commissioner's oral update, with respect to the deportation of a number of refugees and asylum seekers, GOSL's listing of some Tamil organizations and individuals pursuant to UNSC 1373 and issues raised on Weliveriya, Vavuniya and Welikada prisons and mass graves. The Ambassador also observed that "Sri Lanka rejects assertions regarding threats leveled against the human rights community. Sri Lanka will treat all such persons equally before the law guaranteeing to them and upholding the full gamut of constitutional rights available." He also said Sri Lanka expressly rejects all acts of violence against any religious or ethnic communities, and is committed to bring the perpetrators of such actions to justice.

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