



Statement by Sri Lanka

delivered by

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**The Permanent Mission of Sri Lanka to the United Nations
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Mr. President,

Anyone unaware of the ground situation in Sri Lanka walking into the Human Rights Council today could not be blamed for thinking that Sri Lanka is the most troubled place on this planet. However, as you are aware, Sri Lanka is clearly not an urgent situation that warrants the Council's continued attention.

Draft resolution HRC/25/L.1/Rev.1 is the third consecutive resolution presented by the US against Sri Lanka in this Council in the past three years. It is presented without the consent of Sri Lanka as the country concerned. It is presented in spite of Sri Lanka's continuous engagement with the UN and the Council as acknowledged by countries across regions. It is presented in spite of continued and tangible progress demonstrated by Sri Lanka on the ground in addressing issues related to the reconciliation process including accountability, within the framework of Sri Lanka's domestic reconciliation process.

Five years since the end of terrorism and the conclusion of the conflict however, unprecedented attention is being paid to Sri Lanka within this Council and on its sidelines. Many countries have questioned and continue to question the real motives and imperatives behind what is clearly politicised action against Sri Lanka in the Council.

It is an established principle of International Law that parties seeking remedy for a perceived grievance must exhaust all possible avenues within the domestic jurisdiction, prior to seeking redress in the

international arena. Therefore, the State where the alleged violation occurred should have an opportunity to redress it by its own means, and exhaust the framework of its domestic system, before recourse to an international mechanism. It is ironic that with extensive domestic mechanisms in place, a resolution has been brought before the Council. This amounts to an infringement of state sovereignty and pre-judgment of the outcome of domestic processes.

Thus, the draft resolution before this Council, if adopted will not only constitute a serious breach of International Law, but create a dangerous precedent in the conduct of international relations within the established global order of sovereign States and could pose a grave threat to the sovereignty and independence of Member States of the United Nations, which is enshrined in the UN Charter.

Mr. President,

The determination and compulsion of the proponents of the draft resolution to consistently act against the interests of the Sri Lankan people despite the Government's demonstration of continued progress in the reconciliation process, as well as its commitment to cooperation with the UN is a matter of serious concern for my Government. Singling out Sri Lanka for disproportionate and undue attention in this Council, where such action is unwarranted, is a violation of the basic principles which guide engagement among states.

Mr. President,

The draft resolution has also shifted the parameters of the current draft from previous resolutions 19/2 and 22/1, to incorporate new issues which essentially remain at the level of general allegations, both unsubstantiated and uncorroborated. This is evident in the change in title itself, which now has the addition of 'human rights', presumably with a view to expanding the scope of the resolution from the past to the present and the future, with no rationale to do so and in order to serve the vested interests of a few. Such arbitrary shifting of parameters is unacceptable.

Mr. President,

In terms of content, the draft resolution is highly intrusive and politicised, and does not give due regard or recognition to significant progress made by Sri Lanka in different aspects of the reconciliation process, or to the domestic mechanisms underway. There is even distortion of specific events, such as the incident in Weliveriya which is projected as an attack against unarmed protestors when the High Commissioner's Report itself projects it differently, and has acknowledged that the protest 'had turned violent'. There is also no basis for the erroneous reference to election-related violence and intimidation in relation to the Northern Provincial Council, given the positive reports on the conduct of the election filed by international election observers. The outcome of the election itself which resulted in

the Tamil National Alliance (TNA) party garnering 80% of the vote is testimony to its democratic conduct.

There are also allegations in the draft to ‘sexual and gender based violence’, reports of intimidation and retaliation of civil society, violence against religious minorities, which are not substantiated by available facts or statistics. Specific factual information refuting such allegations was provided by the Government in its “Comments” to the High Commissioner’s Report, where it was also pointed out that there is no specific information provided in her Report to substantiate such allegations. Sri Lanka has zero tolerance for sexual and gender based violence, and has taken and will continue to take concrete action when complaints are made to law enforcement authorities. Similarly, Sri Lanka has a vibrant civil society as is illustrated by their participation in successive Council sessions in Geneva including the current session. The Council also witnessed their active participation in informal negotiations on the draft resolution. Similarly, in all reported incidents on places of worship of all four religions, the Government has taken prompt action to investigate such incidents and take judicial action. The Government has not condoned any of these incidents or attacks at any point as is demonstrated through evidence.

The proponents of the resolution have chosen not to recognise that the National Plan of Action (NPoA) for the implementation of the recommendations of the LLRC has been formulated to address comprehensively the recommendations contained in the LLRC Report. The NPoA is sufficiently broad in scope, and also flexible in addressing

issues as deemed necessary and relevant. The request to further broaden the scope of the LLRC NPoA to adequately address all elements of the LLRC Report is therefore being made without adequate analysis of the contours of the NPoA.

Mr. President,

The Draft resolution is also partisan in making a special reference to the Northern Provincial Council when in effect the 13th Amendment accords a constitutionally enjoined parity of status to all provincial councils. This Operative Paragraph is also inconsistent with the Preambular Paragraph which reaffirms that all Sri Lankans are entitled to the full enjoyment of their rights regardless of religion, belief or ethnicity, thus highlighting the contradictions inherent to the draft.

Today in Sri Lanka, the elected representatives of the Tamil people have a voice not only at the Centre but also at the provincial level, the TNA being the governing party in the Northern Provincial Council. The very fact that elections have been held in the North and the TNA has gained power demonstrates that Sri Lanka is very much a vibrant, functioning democracy. Just as the TNA, other sections of the Sri Lankan polity, be it Sinhala, Tamil, Muslim or from other communities, also have a voice, although it may be a voice which is not heard in this Council. Such a multiplicity of views is the nature of a truly pluralistic society and a functioning democracy.

The attempt in the draft resolution to coercively introduce alternative parallel processes and mechanisms of truth seeking which remain unclarified and ill defined, will be counter-productive. Most importantly, the allegation of the absence of a credible domestic process to address issues of accountability is not borne out by evidence, given the range of processes under implementation within the framework of the reconciliation process, including the LLRC, of which this Council has been briefed in detail by my delegation. My Minister of External Affairs in his statement to the High Level Segment of the current session elaborated in detail on the reconciliation process with specific reference to processes and mechanisms underway.

Mr. President,

We are also surprised by the procedural anomalies and irregularities committed through this draft resolution, as voiced by many countries cross regionally during informal negotiations on the text, as well as the factual inaccuracies contained therein. The draft if adopted will set a dangerous precedent allowing some states to bypass the established method of work and engagement of the Council, thus bringing the credentials and legitimacy of the Council into question.

The draft resolution in its key Operative Paragraph vests the Office of the High Commissioner for Human Rights with an investigative mandate in violation of the HRC resolution 60/251 and the IB package. In addition to not having the mandate to conduct an investigation, the OHCHR also does not have the capacity or the resources to do so. This

Operative Paragraph also contains lack of clarity in reference to 'relevant experts', thus deceptively opening the door to third party elements in the guise of an investigation by the OHCHR. The reference to an international investigation mechanism is clear though crafted in ambiguous language which could be open to interpretation. The budgetary implications in the implementation of the mechanism envisaged in the draft resolution are also of interest, considering that mandated activities need to be carried out through the regular budget. Specificity of mandated activity is therefore a prerequisite with regard to the budget. Additionally, this Operative Paragraph which requests the OHCHR to conduct an independent investigation is mutually inconsistent with Operative Paragraph 2 which calls upon the Government of Sri Lanka to conduct an independent and credible investigation into alleged violations. This again shows up the inherent contradictions contained in this draft.

Mr. President,

By a deliberate failure to specify a time period in Operative Paragraph 10 (b), the draft resolution may confine its ambit between 2002 and 2009, by adopting a narrower interpretation of the period covered by the LLRC, thus completely excluding the atrocities and violations of international human rights and international humanitarian law committed by the LTTE prior to 2002. Though the mandate of the LLRC refers to a period between 21 February 2002 and 19 May 2009, it may be noted that the Commission in its Report states, that the facts and circumstances which led to the failure of the Cease Fire Agreement operationalized in February 2002, have also been considered in the

preparation of the Report. The Commission recognized in paragraph 1.22 of Chapter 1 of the LLRC Report that the causes underlying the grievances of different communities had its genesis in the period prior to the timeframe referred to in the warrant. The Commission accordingly provided a degree of flexibility to the representers in this regard. In the circumstances, it is contended that Operative Paragraph 10 (b) of the draft resolution as it is presently constituted is structured in such a partisan manner as to exclude the alleged atrocities committed over the entire duration of the conflict.

Mr. President,

This violation of established methods of work of the Council, as well as the deliberate lack of clarity of language in key Operative Paragraphs set a dangerous precedent with wider relevance to all member and observer states of this Council. If the Council is to maintain its credibility, it is incumbent upon all members to take note of such procedural irregularities and halt their continuation through the clear rejection of resolutions such as this.

The trajectory that has emerged with regard to action on Sri Lanka in the Council reflects the preconceived, politicized and prejudicial agenda which has been relentlessly pursued with regard to the country. It may be recalled that just a week following the defeat of terrorism in Sri Lanka, on 26th May 2009, at the 11th Special Session on Sri Lanka, the High Commissioner in the first instance, called for “an independent and

credible international investigation”, which was subsequently reiterated at regular intervals.

Mr. President,

The irony is that measures such as this coercive and non-consensual resolution, wholly ignores the sentiments of those other sections of the Sri Lankan people, and their legitimate aspirations with regard to peace and reconciliation. It is precisely for this reason Mr. President, that the prescriptive solutions advocated in this draft resolution, would be unsustainable and politically untenable.

It is in this context that we are disappointed to observe that a key imperative driving this resolution is not genuine concern for the welfare of the Sri Lankan people but electoral compulsions of some States at the behest of certain extreme elements with links to the LTTE. Such biases and extreme ideologies ignore the ground realities, the legitimate aspirations of the Sri Lankan people, and trivialize the price paid by all Sri Lankans to defeat a 30-year brutal terrorist conflict and consolidate peace.

Before this Council takes a decision on the draft resolution, I wish to appeal to the conscience of the member States. Sri Lanka has embarked upon a painstaking process of reconciliation and nation building, 5 years since the end of the brutal conflict lasting almost 3 decades, waged by the LTTE.

Irrespective of the outcome of today's decision , I wish to categorically state that the democratically elected Government of Sri Lanka, and indeed all peace loving people in my country will never countenance any return of armed conflict or terrorism.

Therefore, Sri Lanka categorically and unreservedly rejects this draft resolution, as it challenges the sovereignty and independence of a Member State of the UN, violates the principles of international law, based on profoundly flawed premises, and is inimical to the interests of the people of Sri Lanka.

I wish to reiterate the Government's firm resolve and commitment to continue its ongoing process of reconciliation and nation building, which is solely based on the best interests of the people of Sri Lanka, and is a home grown process. Let me assure the Council that Sri Lanka will remain steadfast in its consistent position of cooperation with the international community and the United Nations.

Mr. President,

The Government of Sri Lanka therefore wishes to submit that the draft resolution before this Council today erodes the sovereignty of the people of Sri Lanka and the core values of the UN Charter, the Universal Declaration on Human Rights and the basic principles of law that postulate equality among all people. I therefore request members of the Council to reject this resolution by a vote.

Thank you.