



Statement by the Human Rights Commission of Sri Lanka at the 40th Session of the UN Human Rights Council, 1 March 2019

Report of the Visit to Sri Lanka by the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (A/HRC/40/52/Add.3)

Chairperson, Distinguished Delegates, Friends,

Thank you for this opportunity.

We also thank the Special Rapporteur for his report and for the detailed and useful recommendations made.

Indeed, learning how to counter terrorism the human rights way is a global challenge.

In a public statement dated 22 June, 2016, our Commission called for the abolition of the Prevention of Terrorism Act (PTA) and for any future counter-terrorism law to be compliant with international human rights standards. We have also made public our concerns about the existing public security law framework, and the need for such a framework, at minimum, to be in line with Article 4 of the ICCPR .

As the government presents new counter-terrorism legislation, we underscore the principle that any limitation on rights should adhere to the tests of necessity and

proportionality, and should be subject to judicial review. Those tests are not unique to international law and are to be found in Sri Lanka's constitutional jurisprudence as well.

The Commission is heartened by the positive elements in the recent Counter Terrorism Bill, such as provisions that strengthen due process rights, and seek to prevent ill-treatment, torture and enforced disappearances of detainees. We welcome in particular, the removal of the admission of confessions made to police officers.

However, some provisions in the Bill are of deep concern, in particular, the definition of terrorism, which is overly broad. Powers of arrest and detention, except during a period of lawfully declared emergency, must be strictly confined to normal law enforcement authorities (i.e. the Police). All provisions that permit wide executive authority should be mandatorily subject to judicial review.

In short, counter-terrorism legislation must be fair, human rights compliant and should not cause aggravation of tensions and grievances within the polity. Consultations with the Human Rights Commission during the drafting stage, we believe, would have gone a long way in meeting the necessary standard.

Finally, while the adoption of a human rights compliant counter-terrorism legal framework is of the essence, the most critically important task is for the State to ensure justice for all through the consistent adoption of fair political, economic and social measures and the preservation of the Rule of Law. That, we believe is the key to prevent radicalization and emergence of terrorism.

Thank you.

Chairperson

Human Rights Commission of Sri Lanka