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Sri Lanka: Transitional justice mechanisms must overcome the impunity over grave human rights violations in Sri Lanka during its civil war

On September 16, 2015, the UN Office of the High Commissioner for Human Rights (OHCHR) released a report that investigated the alleged human rights violations committed during the civil war in Sri Lanka, revealing both sides – the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam - were engaged in war crimes and crimes against humanity, such as extrajudicial killings, sexual violence, torture, enforced disappearances, attacks on civilians and recruitment of children.¹ Upon the release of the report, UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, urged the establishment of a hybrid court that integrates international investigators, lawyers, prosecutors and judges, with a domestic investigative and prosecuting organ, a witness and victims protection program, and a defense office.² Human Rights Now, a Tokyo-based international human rights organization, supports the findings and recommendations made by the High Commissioner and urges members of Human Rights Council to support the establishment of hybrid court to put an end to the culture of impunity which has prevailed under previous governments.

Human Rights Now welcomes the several positive efforts made by the new Sri Lankan government to promote human rights and address past human rights violations. It is remarkable that the government is co-sponsoring a resolution which draws recommendations from the OHCHR report, as well as agreed to repeal the Prevention of Terrorism Act (PTA), which provides impunity to security forces by allowing the arrest and prolonged detention of individuals without charge, and further, to reform the Witness and Victim Protection Law, which has been criticized for its provisions which undermine the independence and effectiveness of the protection program.

¹ Report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/30/61).

² Report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/30/61).

With the country standing at a critical point in its journey towards facing up to and addressing its history of human rights abuses and war crimes, Human Rights Now stresses the importance of transitional justice processes to ensure fair and impartial justice and accountability.

Human Rights Now stresses that international support, including the assistance of OHCHR and international experts is important to set up the best and most appropriate mechanisms for achieving Sri Lanka's transitional justice. Thus, we support OHCHR's recommendation of a hybrid domestic-international court, which bolsters the transitional justice process with international assistance and expert involvement.³ Such a court will incorporate international humanitarian law and international human rights standards and norms, and it will ensure impartial and independent judicial processes for past grave human rights violations, including decades of war crimes from the internal conflict.⁴

Human Rights Now calls upon the government of Sri Lanka to work with the international community to establish appropriate and effective transitional justice processes for prosecuting past human rights violations and international crimes. It is time to make an effort to ensure justice and accountability for the serious violations of the past. Ending the culture of impunity is essential to reestablish rule of law and the protection of fundamental human rights, and to achieve genuine peace and reconciliation among the people in Sri Lanka.

³ Para 75, Report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/30/61).

⁴ Sri Lanka not part of the Additional Protocol II of the Geneva Convention, the Convention on Enforced Disappearance or the Rome Statute of the International Criminal Court. See Para 77, Report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/30/61)