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Mr. Ambassador,

In my capacity as Rapporteur for follow-up on Conclusions and Recommendations of the United Nations Committee Against Torture (CAT), I would like to thank you for your response of November 22, 2006 (CAT/C/LKA/CO/2/Add.1) providing comments by the Government of Sri Lanka to the Conclusions and Recommendations of CAT (CAT/C/LKA/CO/2).

As I explained, the Committee's follow-up procedure focuses on issues that are serious, that can be accomplished by the State party in a one year period, and that are protective. After receiving your reply, I have reviewed it with care. As Rapporteur on follow-up, I would be grateful for clarification on the following items requested in paragraph 21 of the Conclusions and Recommendations and/or referenced in your response, with regard to the implementation of the Convention in Sri Lanka, and where sufficient information is not yet provided.

Sri Lanka's reporting obligations

In your letter, you reference a reported oral response by someone (who is unnamed) at the Office of the High Commissioner of Human Rights to your Government's inquiry to the Committee regarding a backlog to be cleared before consideration of the next periodic report from Sri Lanka. Given that Sri Lanka's second periodic report was five years late when presented in 2005, the Committee urges you to remain on schedule and to file the third and fourth report as soon as possible, since they were, in fact, due in February 2007. Under the terms of the Convention, we urge you to take these dates very seriously, as the Committee itself does.

The Human Rights Commission

The Committee appreciates the additional information about the various human rights bodies, including the Ministry of Human Rights, its advisory group, and the problems affecting the appointment of members of

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the Human Rights and Police Commissions, as set out in Amendment 17 of the Constitution and mentioned in paragraph 6 of the Government of Sri Lanka's reply to the Committee and other parts of the response.

As you know, the Committee requested follow-up information on its recommendations concerning the Human Rights Commission (paragraph 6 of the Committee's own conclusions). Paragraph 17 of the Government's response references the difficulties that arose after the term of the current Human Rights Commission members ended in March 2006, concerning the inability of the minority parties to agree regarding their nominee to the Constitutional Council. The Government's response notes that the President "had to make the appointments of the Commissioners without consultation of the Constitutional Council to prevent legal complications" and that a Parliamentary Select Committee has been appointed to look into this matter to "rectify flaws and prevent such a crisis arising in the future." Since these appointments were made unilaterally by the President, please explain the impact of the appointment of new commissioners by the President? In particular, how does the Government now ensure the independence and impartiality of the members of the Human Rights Commission?

To this end, please clarify what topics the members of the Human Rights Commission have investigated since April 2006, and what has been published by them regarding those investigations. Also, please clarify why it was necessary to appoint (as outlined in paragraph 20) additional official commissions to investigate "alleged disappearances," and "serious violations of human rights" and also to appoint an Independent International Group of Experts (IIGEP) to "work parallel to the Commission." Has the Human Rights Commission investigated and made public any findings on issues of torture and disappearances? Is it permitted to examine the cases of disappearances assigned to the Commission of Inquiry (COI)? As there appears to be considerable overlap between the work of the Human Rights Commission and the newly appointed ad hoc commissions cited in paragraph 20 of your report, and, in view of the June 2007 statement by the IIGEP noting that the COI and the IIGEP should not be used as substitute for national and international monitoring, your clarification of this matter would be most important.

Additionally, it is our understanding that a number of recommendations regarding the Commission were made in the course of an evaluation conducted by UNDP; has the Human Rights Commission examined those recommendations and if so, what measures will it take to respond to or implement them? Furthermore, would you update us on the results, if any, to date of the Parliamentary select committee addressing the issues highlighted in your response.

Fundamental safeguards

In paragraph 7 of the Government's reply, a directive is noted whereby the rights of detainees, in all three languages in Sri Lanka, are to be prominently displayed in police stations and, according to paragraph 19, sent to security establishments as well. What means have been devised to monitor the effectiveness of this directive? How have the Human Rights Commission and the various advisory bodies pursued this issue? What means are in place to monitor the implementation of the right of detainees to habeas corpus, the right to inform a relative, access to a lawyer and a doctor of their own choice, and the right to receive information about their rights? Please clarify whether a central registry of detainees has been established covering the entire country, and the impact of such registries.

Systematic review of detention

As requested in its recommendation in paragraph 6, the Committee would appreciate receiving more detailed information on the operation of the Human Rights Commission's 24-hour torture hotline and improving the system of inspections. We note the formation of the advisory committee serving under the newly-established Ministry of Human Rights, consisting of members of civil society and a Deputy Inspector General of Police, and would welcome reports and further comments regarding its planned surprise visits to police stations with an aim of ascertaining if suspects were held illegally or subject to torture. What means are available for suspects in custody or their representatives to make complaints?

Prompt and impartial investigations

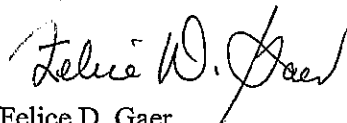
The Committee acknowledges the difficult situation arising from the internal armed conflict in Sri Lanka and the Government's efforts to comply with the Convention against Torture. The Government notes that the Attorney General has indicted over 100 police and security personnel against whom a prima facie case of torture was established. The Committee would appreciate receiving a more detailed report that provides information that would enable us to evaluate progress of these cases, the nature of the offense, the status of the victims, including information on any convictions, sanctions or punishments meted out. In accord with the Committee's recommendation in paragraph 12(a), have persons accused of such acts been suspended or reassigned, and if so, please provide details.

Regarding paragraph 19 of the Government's reply, the Committee reiterates its concerns regarding the fundamental rights of detainees, and notes that the issuance of directives to police stations and security establishments outlining the rights of detainees, while welcome, is in itself insufficient to establish the degree of protection required to comply with the Convention. A variety of other measures could improve protection, such as surprise visits by independent inspectors, systematic monitoring, ensuring complaints procedures, the existence of cases of disciplining or prosecution of law-enforcement officials for violation of the rights of detainees, which will occur in any system, no matter how perfectly established. Please clarify if any of the above have been provided and with what specific results.

In paragraph 20, the Government states that the President has appointed a Commission to investigate alleged disappearances, and also an Independent International Group of Eminent Persons to work in parallel to the Commission. What specific progress has been made by these bodies in investigating alleged disappearances and other serious human rights violations? Please explain whether these bodies have the authority and capacity to investigate the role of all relevant governmental actors, from ordinary police to the Attorney General. In view of reports that the Colombo magistrate has already refused to cooperate regarding records requested (on the assassination of foreign minister L. Kadirgawar), please clarify how they will conduct their work in a manner that will be effective and promote public confidence? How will the COI's independence to investigate into the 16 prominent past cases be ensured? Please provide additional specific information on their work, particularly to clarify how they will carry out their mandate and advance international human rights norms. Additionally, as concern has been expressed by the Committee about intimidation of those wishing to provide testimony about torture, what progress has been made in drafting a witness protection bill?

The Committee looks forward to pursuing the constructive dialogue started with the authorities of Sri Lanka on the implementation of the Convention. In this context, the Committee seeks to receive your written response to this request for further clarifications.

Accept, Mr. Ambassador, the assurances of my highest consideration.



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