



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
18 August 2016

Original: English

Committee on the Elimination of Racial Discrimination Ninetieth session

Summary record of the 2469th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 16 August 2016, at 10 a.m.

Chair: Ms. Crickley

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined tenth to seventeenth periodic reports of Sri Lanka (continued)
(CERD/C/LKA/10-17; HRI/CORE/LKA/2008 and CERD/C/LKA/Q/10-17)

1. *At the invitation of the Chair, the delegation of Sri Lanka took places at the Committee table.*
2. **Mr. Azeez** (Sri Lanka) said that the Government would launch a five-year national human rights action plan in the near future. Consultations were currently being held in that regard with all the relevant stakeholders, including civil society organizations. The Convention and the observations of the Committee members would be taken into account when preparing the final version of the plan. Steps would be taken to ensure that relevant disaggregated data on the human rights situation of minority groups were made available and referred to when planning State interventions.
3. In reply to an earlier question, he said that the members of the Veddah community had the right to safeguard their identity and traditions, enjoyed equal rights under the Constitution and the Citizenship Act, continued to receive land from the State, and benefited from assistance in preserving, promoting and transmitting their culture and improved access to primary and secondary education. They took part in training and intercommunal cultural exchange programmes and played an active role in implementing the National Forest Policy. A National Plan of Action for the Social Development of the Plantation Community had been prepared with the help of the local office of the United Nations Development Programme (UNDP) and would be implemented by the recently created Ministry of Hill Country New Villages, Infrastructure and Community Development.
4. A number of shortcomings relating to policy implementation in that area had been identified, along with certain issues affecting social and economic rights. A nationwide early childcare intervention service would be launched in the near future, as a part of a World Bank-funded project. As to education, measures would be taken to upgrade schools, introduce science programmes, promote the use of mobile laboratory and library facilities and tackle school absenteeism. With regard to health and nutrition, more midwives had been recruited in the public sector. There were plans to map out the network of public health establishments and the distribution of the population and to identify and address any gaps in health coverage. Around 4,000 houses were currently being built for the members of the Plantation community, who also had access to Government housing grants and low-interest loans. The State, working in collaboration with civil society, intended to provide each Plantation community family with a house equipped with running water and sanitation facilities.
5. **Mr. Pulle** (Sri Lanka) said that long-standing customary law systems in the form of Muslim Law, Kandyan Law and Thesavalame Law had been amended through the introduction of more recent legal provisions and continued to be applied under article 16 (1) of the Constitution. Any changes to those legal systems should be introduced only with the consent of the communities concerned, which might view such alterations as a violation of their rights. All Sri Lankan citizens were free to enter into marriage under existing national legislation. Customary laws could be applied only with the consent of the individual concerned and could be amended only following a request in that regard from the relevant community. Members of minority groups had the right to practise their religion and preserve and promote their cultural and linguistic heritage and any amendments to legislation in that regard should take into account the views of the communities concerned.

A committee made up of a former judge and a number of Muslim scholars and religious and community leaders was currently looking into the possibility of overhauling the Muslim Marriage and Divorce Act.

6. As to the implementation of measures to tackle hate speech crimes, the freedoms of thought, conscience and religion were enshrined in article 10 of the Constitution. Article 14 (1) (e) of that instrument provided for the freedom to worship and teach religion in public and in private. Any proposal to amend those articles must enjoy the support of two thirds of national parliamentarians and have been approved through a referendum. Article 12 (2) of the Constitution prohibited discrimination on the grounds of, among others, race, religion, language, caste, sex, political opinion or place of birth. Interfaith meetings were held on a regular basis to promote tolerance. He referred to the information contained in paragraphs 38 to 40 of the State party report concerning the provisions on hate speech and incitement to religious, racial and national hatred contained in the Prevention of Terrorism Act No. 48 of 1979, sections 290 to 292 of the Penal Code and article 3 (1) of the International Covenant on Civil and Political Rights Act No. 56 of 2007. National legislative processes had been aligned as far as possible with the Committee's general comment No. 35 on combating racist hate speech. Prosecutions in that regard could only be brought based on evidence that was beyond reasonable doubt. Persons detained under the Prevention of Terrorism Act had the right to receive visits from family members, legal counsel, magistrates, medical staff, members of the clergy and representatives of the International Committee of the Red Cross and the National Human Rights Commission.

7. With the technical assistance of the United Nations Counter-terrorism Committee, a special committee was currently studying the existing national legal and policy framework relating to counter-terrorism, including the Prevention of Terrorism Act, in response to concerns raised in that regard. As a part of that work, the special committee took into account the human rights obligations and security interests of Sri Lanka. The Emergency Regulations had lapsed in 2011. The National Human Rights Commission had recently issued a number of directives relating to the humane treatment and rights of persons detained under the Prevention of Terrorism Act. Cases of detention under the Act were subject to rigorous review and a process had been put in place to ensure prompt action where continued detention was found to be unwarranted.

8. **Ms. Jayasuriya** (Sri Lanka) acknowledged that the community of Tamils working on tea plantations were referred to by various names. In official government statistics, they were referred to as Indian Tamils, and they numbered some 839,000. The Government had prepared a comprehensive plan covering the period 2016-2020 to address the socioeconomic development of that community. The Constitution established that no distinction should be drawn between citizens of Sri Lanka. Whereas previously the right of citizenship had been granted only to persons whose father had been a citizen at the time of their birth, in 1948 citizenship had been extended to anyone with at least one parent who was a Sri Lanka citizen.

9. While it was true that more attention should be paid to the grievances of the Indian Tamil community, their situation should be examined within the historical context. In the past they had been stateless, but thanks to bilateral agreements with India they had been given the option of either obtaining Sri Lankan citizenship or returning to India, where they were granted Indian citizenship. A special department had been established to register persons of Indian origin and to oversee the implementation of the Citizenship Act. Through awareness-raising campaigns and the enactment of several further amendments to the Act, the long-standing problem of statelessness among that community had been effectively addressed, and the Office of the United Nations High Commissioner for Refugees (UNHCR) had commended the Government of Sri Lanka for its good practices in that regard.

10. **Mr. Aryasinha** (Sri Lanka) said that the Office of National Unity and Reconciliation, headed by former President Chandrika Bandaranaike Kumaratunga, was responsible for formulating and coordinating policies and programmes to build national unity and reconciliation and to ensure a durable peace by building bridges between different communities. The Office had carried out a mapping exercise to identify which of the recommendations set out in the report of the Office of the United Nations High Commissioner for Human Rights fell within its mandate. It had prepared a draft national policy on reconciliation that would attempt to address the root causes of ethnic and religious tension. An inaugural policy workshop had been held in February 2016 to draft the policy with input from key stakeholders.

11. The number of attacks against human rights defenders and journalists had been significantly reduced since the change of Government in January 2015. The Government was proactively engaging with civil society and human rights organizations, both local and international, to address the issue. The attacks did not target only members of minority groups; journalists and human rights defenders from all communities had been affected. The attack on Keith Noyhar and the disappearance of Prageeth Eknaligoda had been thoroughly investigated. In the Prageeth Eknaligoda case, four members of the armed forces had been arrested and were being held in pretrial detention. Those investigations would be concluded as soon as possible. Other attacks against community leaders and journalists were also being investigated.

12. **Mr. Calí Tzay** (Country Rapporteur) said that, even though it was known that thousands of women had been raped during the armed conflict, none of them had submitted complaints. Those women were likely afraid to come forward because of the highly militarized society in which they lived. While a law on the protection of witnesses and victims had been enacted, budgetary constraints had prevented the establishment of a mechanism that could make the law fully operational. He asked what kind of support and care was being provided to Tamil women in the north and east of the country, particularly war widows. He also wished to know what steps were being taken to bring perpetrators of sexual violence to justice.

13. Despite the enactment of legislation on trilingualism, Tamils still suffered discrimination with respect to the ability to use their mother tongue. Most police stations in the north and the east did not have any Tamil-speaking staff, and Tamils were forced to sign statements written in a language that was not their own. He asked what was being done to combat multiple discrimination against women, and against Tamil women in particular.

14. While commending the Government for the legislative measures taken to combat racial hatred and incitement to racial hatred, he asked what measures were being introduced in practice to ensure that such incitement did not occur. He requested statistical data on the number of such cases reported and the resulting prosecutions and convictions. He would appreciate more detailed, statistical data on special measures to overcome discrimination against certain ethnic and religious groups in the fields of education, employment, housing and health care, as well as measures to preserve cultural and linguistic identities.

15. The delegation should provide updated information on the resettlement and reintegration of internally displaced persons and refugees and on the standard of living afforded to those who still lived in camps. He also wished to know how the Government was protecting them from sexual harassment. He further asked whether the human rights training provided to police officers and other security personnel included training on the Convention. He wished to know what was being done to prevent the trafficking of children from minority religious and ethnic groups. The delegation should provide information on efforts to prevent human trafficking, bring the traffickers to justice, and rehabilitate the victims.

16. He asked what was being done to strengthen the judiciary and ensure that it was truly independent. While he commended the legislative efforts to punish racial hatred and the desecration of sacred places of worship, he wished to know what the State party was doing to prevent racial tension from building up in the first place. For example, he asked how the Government was responding to the construction of Buddhist statues in areas inhabited by Tamils and the use of discriminatory language by persons attempting to prevent Tamils from burying their dead in public cemeteries.

17. **The Chair** said she was concerned that the question about general prison conditions had been conflated with the concerns expressed about the Prevention of Terrorism Act. She wished to hear more about that Act and about which groups of people were detained under its provisions. While noting that the Emergency Regulations had lapsed, she asked whether the Government planned to repeal that legislation altogether and thereby create the conditions under which the peace process could be informed by different regulations.

The meeting was suspended at 11.20 a.m. and resumed at 11.30 a.m.

18. **Mr. Aryasinha** (Sri Lanka) said that the detailed statistical information requested would be provided in writing.

19. **Mr. Pulle** (Sri Lanka) said that the Government did not condone any form of hate speech and that it was committed to upholding law and order and ensuring justice for all groups in Sri Lankan society. His Government was engaging in dialogue at various levels to ensure interfaith harmony. Evidence that was beyond reasonable doubt was the standard of evidence required for conviction in the Sri Lankan criminal justice system. In all cases where there was sufficient evidence of hate speech or religious intolerance, the prosecution did bring charges.

20. The judiciary was independent, however, and in a recent case of an attack on a place of worship, the courts had acquitted the accused persons. The Attorney-General had subsequently appealed the decision, and that appeal was currently pending. The Government had put processes in place to eradicate all forms of hate speech by any person of any faith.

21. To secure the independence of the judiciary, the Constitution guaranteed the tenure of Supreme Court judges until the age of 65 and that of judges of the Court of Appeal until the age of 63. The Constitutional Council established by the 19th amendment to the Constitution vetted the procedure for appointment of the Chief Justice, judges of the Supreme Court, the President and judges of the Court of Appeal, and the members of the Judicial Service Commission. Every effort was made to ensure the independence of the judiciary with respect to interpretation of the Constitution and the promotion and protection of citizens' fundamental rights.

22. Relevant agencies were implementing the exhaustive directives issued by the Chairman of the National Human Rights Commission regarding the treatment of detainees under the Prevention of Terrorism Act. As article 12 of the Constitution stated that all persons were equal before the law, no particular group was singled out for prosecution under the Act. The deliberations of the Committee that had been set up to consider certain provisions of the Act were in keeping with international norms and would assist the State in enacting legislation to deal with existing concerns.

23. **Mr. Azeez** (Sri Lanka) said that more than 235,000 families and more than 800,000 individuals had been successfully resettled since the end of the conflict. Only 44,934 internally displaced persons had not yet been resettled. About 5,500 of them resided in welfare centres and the remainder had been accommodated with host families. The Government was endeavouring to provide durable solutions for the recently resettled persons. The national resettlement policy had been revealed and endorsed at a meeting of

the National Steering Committee on Durable Solutions in March 2016 and was expected to be approved by the Cabinet in the near future. The beneficiaries would include not only persons recently affected by the conflict but also older groups of internally displaced persons in the Northern Province.

24. The Government reaffirmed its commitment to a rights-based approach and to international human rights and humanitarian standards. Priority was being given to resettlement in full dignity as a key step towards reconciliation. The national resettlement policy had been developed in consultation with the stakeholder community, and the policy document would be used as a tool for project planning, programming and fundraising on the basis of coherent guidelines and criteria.

25. Since May 2009 approximately 23,658 acres of private land and 34,659 acres of State-owned land had been released in the Northern and Eastern Provinces. Those figures included the 28,259 acres released since January 2015. The process involved demining operations, selection of alternative locations and shifting of military installations. The establishment of a timeline for the identification of land required for the protection of national installations and the release of land was currently being explored. The Government provided financial support for civilians who returned to live on released land, including initial allowances of about 40,000 Sri Lanka rupees (SL Rs) for clearing land, acquiring equipment and constructing temporary accommodation. The Government had also allocated SL Rs 14 billion for development of infrastructure in conflict-affected areas in the Northern and Eastern Provinces. It was planning to build about 10,000 houses with sanitary units and to renovate about 2,400 damaged houses. A livelihood programme for 12,000 families would also be implemented.

26. **Ms. Jayasuriya** (Sri Lanka) said that violence against women was a serious concern that was being addressed by the Government and law enforcement agencies. Sri Lanka had submitted its eighth periodic report to the Committee on the Elimination of Discrimination against Women in 2015.

27. Services provided by the National Counselling Unit of the Ministry of Social Services for single motherhood included preventive counselling, treatment counselling and capacity-building. There was a counselling programme on domestic violence, and action had been taken to reduce school dropout rates for girls and younger children. As of January 2014, a total of 70,891 individuals in the Northern Province and 32,230 individuals in the Eastern Province had benefited from the services. Two hundred counsellors had been employed by the National Counselling Unit and 700 by other government institutions. NGOs had also been actively involved. As single mothers needed to earn a livelihood, several income-generating projects had been launched since the end of the conflict. A multi-stakeholder approach had been adopted. Several ministries had developed a Single-parent Family Development Programme, which provided self-employment and micro-enterprise assistance. However, a great deal remained to be done. The current Government was endeavouring through its reconciliation programme to deliver a peace dividend to all citizens, especially women and children, and to demonstrate its commitment to ending sexual violence. It had endorsed the United Nations Declaration of Commitment to End Sexual Violence in Conflict.

28. **Ms. Shepherd**, welcoming the National Plan of Action on behalf of plantation Tamils, expressed surprise that line houses still existed. She gathered that there was no timeline for completion of the housing programme for vulnerable groups. However, she enquired about the allocation criteria and asked who would be given priority.

29. While some progress had been made towards granting Indian Tamils the right to citizenship, NGOs had informed the Committee that many obstacles still impeded the ending of statelessness. While she commended plans to increase access to education and the

number of schools, including for plantation Tamil communities, she asked whether the curricula included human rights courses and subject matter that would help to eliminate stereotypes, such as the history of how each ethnic group had entered the State party. She also enquired about the access of plantation Tamils to tertiary education so that they could acquire the qualifications required for high-level professions.

30. **Mr. Avtonomov** said that the report mentioned Kandyan law and Thesavalame law but failed to mention Mukkuwa law. He would also like additional information regarding the Burgher ethnic group. As it was numerically small, he feared that its members might be vulnerable.

31. **Mr. Marugán** noted that the Government wished to consult civil society organizations and the diverse communities on incorporation of freedom of the press and the right to work in the human rights plan. The Constitution prohibited discrimination on both grounds but he was unaware of any legislative measures taken to support such fundamental issues. He asked whether any institution had been mandated to prevent racial discrimination in the area of employment.

32. With regard to hate speech, he asked whether the Government had condemned cases of incitement to hatred and violence. He requested data concerning the number of prosecutions and convictions and the ethnic groups that had been targeted.

33. Many members of the Tamil community had abandoned the country over the past 50 years. He asked whether there were any plans to facilitate their return and whether the diaspora enjoyed the right to vote and other rights. He welcomed the National Plan of Action on behalf of plantation Tamils but no information on the Plan was provided in the report. He requested socioeconomic data concerning its implementation, as well as disaggregated data concerning the situation of human rights defenders, including legislative initiatives.

34. **Mr. Pulle** (Sri Lanka), replying to questions, noted that members of the Burgher community had served as eminent lawyers, Supreme Court judges and Attorneys General. Article 14 (1) (i) of the Constitution guaranteed the freedom of every citizen to return to Sri Lanka and he said that Mukkuwa law would be dealt with in the next periodic report.

35. **Mr. Azeez** (Sri Lanka) said that the plantation community had hitherto been unable to join the mainstream of national development. The implementation of the National Plan of Action therefore presented the Government with a major challenge. The Plan had been developed through a multi-stakeholder approach and it had been published following submission of the periodic report. The Ministry of Plantation Infrastructure Development had been created with a view to its implementation. It was a uniquely conscientious step forward on behalf of the plantation community. The Government and other stakeholders would jointly engage in the mobilization of resources.

36. **Ms. Jayasuriya** (Sri Lanka), replying to a question on the rights of foreign migrant workers, said that Sri Lanka was predominantly a labour-exporting country. At present, the Government therefore mainly focused on improving the welfare, safety and dignity of Sri Lankans working abroad, especially those in the domestic worker sector. However, the Government was mindful of the Committee's concerns and would review its policies and programmes on foreign migrant workers in due course in order to harmonize domestic law with relevant international instruments.

37. The Government cooperated with the United Nations Resident Coordinator's Office and the United Nations Country Team in Sri Lanka in efforts to raise public awareness of international human rights instruments. Media broadcasts on matters relating to discrimination attracted considerable public attention, which helped create awareness of the Convention as an important anti-discrimination tool. The Education and Special

Programmes Division of the Human Rights Commission of Sri Lanka was responsible for providing human rights education to the public in order to strengthen a universal culture of human rights and make people understand the value of respecting different cultural identities and values. The Commission implemented a range of activities, including training modules and manuals. Additional information could be provided in writing.

38. In order to guarantee refugees' and migrants' right to return, legislation had been amended to facilitate dual citizenship for Sri Lankans who had emigrated and wished to return.

39. **Mr. Yeung Sik Yuen**, referring to the reported mass rape by the military, noted that 17 out of the 21 military units in action in the Northern and Eastern provinces during the armed conflict were still there seven years after the conflict had ended. In some former conflict areas, one out of five persons belonged to the military. He asked whether the Government intended to withdraw some of those units, or replace them with some of the newly recruited Tamil soldiers.

40. He expressed doubt about the usefulness of applying the common law concept of "proof beyond reasonable doubt" if that could mean that some perpetrators of acts of discrimination were not punished, as had been stated by the delegation.

41. **Mr. Amir** expressed regret at the absence of information on the implementation of the Convention itself; it appeared that the State party was mostly concerned with the implementation of the Sri Lankan Constitution. The Committee was mandated, however, to examine the implementation of the Convention, whose validity the State party had recognized by ratifying the instrument and, in its responses, the delegation should therefore focus on measures taken to enforce the rights set forth in the Convention.

42. **Ms. Mohamed** expressed concern over the continued application of customary laws in the context of marriage and divorce. She asked whether there was a mechanism to which persons governed by the Muslim Marriage and Divorce Act could take recourse in the event of marital conflict, and whether that mechanism was competent to impose criminal sanctions where applicable. She also requested data on unemployment and women in civil service jobs.

43. **Mr. Murillo Martínez** enquired about the social climate prevailing in Sri Lanka, in the light of the reported clashes between Sinhalese and Tamils on the occasion of demonstrations. He also wished to learn more about the fate of Sri Lankan refugees abroad, especially in India, and asked whether there were any concrete plans for their return.

44. **Mr. Kut**, recalling that the Committee's working methods had changed since its previous dialogue with the State party, said that the Committee now attached great importance to follow-up. The State party would be requested to provide information, within one year of the adoption of the Committee's concluding observations, on its follow-up to a number of recommendations identified as a priority.

45. **Mr. Pulle** (Sri Lanka) said that the minimum age of marriage in Sri Lanka was 18 years, but that rule did not extend to persons governed by the Muslim Marriage and Divorce Act, given the traditional customs and values specific to that community. Bigamy was a punishable offence and could be prosecuted under criminal law. Additional information on customary law would be provided in writing.

46. **Mr. Azeez** (Sri Lanka) said that women were increasingly well represented in the civil service and made up over 50 per cent of Foreign Service staff. Specific data on gender representation in the civil service would be provided in writing.

47. **Mr. Aryasinha** (Sri Lanka), replying to the question about the social climate in his country, said that the large number of demonstrations were partly due to the fact that

rights to freedom of movement, association and expression had been extended. However, that development also implied that persons holding extreme views could make their voices heard. The Government was currently developing a policy to control public disorder while guaranteeing due respect for the rights set forth in international and domestic legislation.

48. His delegation would provide information about the return of Sri Lankan Tamils in writing. He welcomed the proposal to submit an interim report within one year, which would enable the Sri Lankan authorities to measure the country's progress.

49. **Ms. Jayasuriya** (Sri Lanka) said that trafficking in persons had been criminalized. Other measures aimed at combating trafficking in persons included the establishment of the multi-stakeholder National Anti-Human Trafficking Task Force; the recent approval by the Cabinet of Ministers of the National Strategic Plan to Monitor and Combat Human Trafficking 2015-2019; and the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

50. **The Chair**, speaking in her capacity as a member of the Committee, requested information about the percentage of women from groups vulnerable to racial discrimination employed in the civil service, and their grade. With regard to labour market statistics, the Committee would welcome data disaggregated by ethnicity and gender. The absence of complaints of discrimination was in no way an indication that there were none; she therefore wished to know what measures had been taken to ensure that victims of discrimination, especially those belonging to ethnic minorities, felt confident about lodging complaints. She requested data disaggregated by ethnicity and gender, among other categories, on persons detained under the Prevention of Terrorism Act, and on the length of their imprisonment. The requested information could be provided in writing. When considering options for legislating on matters of public order, the State party should bear in mind that a vibrant civil society was crucial to the shaping of democracy.

51. **Mr. Calí Tzay** thanked the State party for resuming its dialogue with the Committee, for its openness and sincerity, and for its commitment to peace. In that context, close attention must be paid to racial discrimination, which had reportedly been at the root of the armed conflict. While looking to the future, it was important to remember the past in order to avoid repeating mistakes. By committing to non-repetition, the Government could help heal the wounds of history. With regard to the implementation of the Convention, a number of issues remained of concern, namely: the situation of refugees and internally displaced persons; women widowed by the armed conflict; cases brought in court; inter-ethnic violence; guarantees of non-repetition and reconciliation; the Prevention of Terrorism Act; education for peace and reconciliation; the failure to invoke the Convention in court; and general measures to prevent and combat racial discrimination.

52. **Mr. Aryasinha** (Sri Lanka) said that the dialogue had been very useful for gaining greater insight into the Committee's concerns. It had enabled his delegation to report on the situation in his country and the efforts made and, with the Committee's assistance, understand where those efforts were falling short. The Committee's questions and observations would be fully taken on board, including in the preparation of the national human rights action plan 2017.

The meeting rose at 1 p.m.