

## **Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence**

### **Follow up report on country visits**

#### **Concept Note**

Since the establishment of the mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, in Resolution 18/7 of the Human Rights Council, country visits have been undertaken at the invitation of States to examine the transitional justice measures that have been taken to address gross violations of human rights and serious violations of international humanitarian law, to identify gaps and challenges, and to make recommendations thereon.

Through an upcoming follow-up report to be presented at the 48<sup>th</sup> session of the Human Rights Council in September 2021, the Special Rapporteur will study the extent to which recommendations made pursuant to selected country visits have been implemented, and consider any other developments connected to the promotion of truth, justice, reparation and guarantees of non-recurrence that may have taken place since the visit.

Six country visits have been selected, based on the following considerations:

- A reasonable amount of time has elapsed since the visit to allow steps to be taken to implement recommendations made
- Existing or continuing concerns connected to the promotion of truth, justice, reparation or and guarantees of non-recurrence
- Communications sent by the Special Rapporteur, either alone or together with other mandate holders related to the mandate
- Exceptional events with implications for the promotion of truth, justice, reparation and guarantees of non-recurrence for gross violations of human rights and humanitarian law taken place in the country

The mandate holder has prepared questionnaires for States and other relevant actors, including UN agencies, funds and programmes and international and national human rights organizations, to gather inputs to inform the report.

The follow-up report aims at shedding a broad light on country visits undertaken by the mandate, enabling conclusions to be drawn about the impact of those visits as well as the manner in which the recommendations made by the Special Rapporteur have been taken up by stakeholders, and implemented by authorities and other relevant actors. A further aim is to reopen dialogue with relevant actors within the selected countries for the purpose of further promoting the adoption of a comprehensive transitional justice process in compliance with international standards.

**Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence**

**Follow up report on country visits**

**Questionnaire**

**Sri Lanka**

The follow up questionnaire refers exclusively to those recommendations in the country visit report ([A/HRC/45/45/Add.1](#)) which had already been formulated in the [end of mission statement](#) of October 2017 to ensure sufficient time has been allowed for their implementation.

Has the Government developed a comprehensive transitional justice strategy that includes a clear timeline for the establishment of the different transitional justice mechanisms, identifies needs regarding budget, staff and required expertise and outlines the links between the different elements of the strategy? Has the Government allowed the public to engage in consultations in the development of the strategy and seek, in particular, the views of women, given the differential impact that violations and the conflict have had on them and children?

(See: A/HRC/45/45/Add.1 para 86 a))

Limit: 1,000 words

Has the Government taken advantage of the report of the Consultation Task Force on Reconciliation Mechanisms, in which the Task Force provided information that could be invaluable to the Government's efforts to align its intentions with the needs of victims? Has the Government used the network that the Task Force put in place in 2016 for continuing the dialogue and holding consultations on the design and implementation of reconciliation mechanisms?

(See: A/HRC/45/45/Add.1 para 86 b))

Limit: 750 words

Has the Government taken advantage of the expertise that could be provided by the OHCHR in the design and/or implementation of transitional justice measures?

(See: A/HRC/45/45/Add.1 para 86 c))

Limit: 500 words

Has the Government repealed the Prevention of Terrorism Act and replaced it with new counter-terrorism legislation that adheres to international best practices?  
Has the Government dealt with long-standing cases pending under the Act and put in place a procedure to review convictions handed down under the Act that were based solely on the confession of the accused?

(See: A/HRC/45/45/Add.1 para 87 a))

Limit: 750 words

Has the Government ceased the continued harassment and surveillance by security and intelligence personnel of human rights defenders and other social actors, especially women?

(See: A/HRC/45/45/Add.1 para 87 b))

Limit: 750 words

Has the Government carried out a comprehensive mapping of land occupied by the military and land recently released? Has the Government produced a strategy with deadlines for restitution and plans for compensating former landowners whose land will not be returned? Has the Government considered establishing a procedure that does not make the armed forces the sole voice in deciding this question?

(See: A/HRC/45/45/Add.1 para 87 c))

Limit: 750 words

Has the Government moved to terminate military involvement in commercial activities and reduce military presence in those areas, such as the North and East?

(See: A/HRC/45/45/Add.1 para 87 d))

Limit: 500 words

Given continued apprehensions about surveillance and security, has the Government ensured that the transitional justice process incorporates witness and victim protection instruments and strengthens the existing (but incipient) witness and victim protection scheme?

(See: A/HRC/45/45/Add.1 para 87 e))

Limit: 750 words

Has the Government published all reports of previous commissions and made their records and archives available to any future transitional justice mechanism?

(See: A/HRC/45/45/Add.1 para 88)

Limit: 500 words

Concerning the Office on Missing Persons, has the government,

- (a) Ensured that the Office can establish its presence at the provincial and district levels, to facilitate access by victims and their families, as planned?
- (b) Required all State institutions to collaborate with the Office?
- (c) Enabled the Office to strengthen its capacity on crucial skills, including forensic investigations, through training provided by national, regional and international experts?
- (d) Supported the Office's plan to incorporate psychosocial support for victims to avoid re-traumatization?

(See: A/HRC/45/45/Add.1 para 89)

Limit: 1500 words

Concerning the establishment of a truth commission, has the Government:

- (a) Ensured that such a truth commission can act as a crucial tool to establish patterns of violations and abuses over many cycles of violence, demonstrating that all communities have victims, and to uncover the root causes of discriminatory practices leading to conflict? Has the commission been given a broad temporal scope? Has legislation establishing a truth commission been adopted with adequate consultation with civil society?
- (b) Ensured the independence of its commissioners and ensured that victims are adequately represented among the commissioners and the commission's staff?
- (c) Ensured support to victims in terms of security and psychosocial services?

(See: A/HRC/45/45/Add.1 para 90)

Limit: 1500 words

Concerning criminal justice, has the Government:

(a) Addressed the lack of tangible progress on emblematic cases, which points to the serious limitations of the current justice system in addressing human rights violations?

(b) Strengthened the accountability system, including in respect of police investigations, forensics, and the articulation of prosecutorial strategies to improve current and future justice initiatives?

(d) Focused the discussions about accountability on the means and preconditions for the establishment of credible procedures that guarantee the rights of victims and the accused?

(e) Preserved records, information documenting violations and the results of mapping out the existing archives of previous relevant mechanisms?

(See: A/HRC/45/45/Add.1 para 91)

Limit: 1500 words

Concerning reparations, has the Government:

(e) Acknowledged responsibility when making reparations?

(f) Made sure that all aspects of the design of a programme on reparations are gender-sensitive and respond to the special needs of women, in particular those who are heads of households, who should be consulted at each step of the process?

(See: A/HRC/45/45/Add.1 para 92)

Limit: 1500 words

Concerning land restitution, has the Government:

(a) Carried out a comprehensive mapping of occupied land and, on the basis of its findings, defined a strategy with deadlines for the release of land?

(b) Ensured that the Armed Forces retain only land that is strictly necessary for security purposes (narrowly and objectively interpreted)?

(c) Ensured that decisions to retain land should not be within the sole purview of the military? To this end, has the government set up a body or procedure to broaden the scope of stakeholders and decision-makers on this issue?

(d) Considered establishing a land commission as a specialized entity able to address the issue of military-occupied private and public land and the multiple conflicting claims over land by communities displaced at different times?

(e) Strengthened its resettlement policy, as there continue to be camps where internally displaced persons have lived for almost 30 years and in conditions that do not benefit a middle-income country?

(f) Consulted beneficiaries on issues regarding new housing programmes to avoid future problems, including questions about suitability and indebtedness, in particular among vulnerable communities?

(See: A/HRC/45/45/Add.1 para 93)

Limit: 1500 words

Concerning memorialization measures, has the Government supported memorialization efforts, provided that they are even-handed and not used by anybody as part of a zero-sum game in which the basic aim is to reaffirm a single-sided narrative?

(See: A/HRC/45/45/Add.1 para 94)

Limit: 750 words

Concerning guarantees of non-recurrence,

(b) Does the constitutional framework include:

(i) The separation of the investigatory and prosecutorial roles from the State advocacy roles of the Office of the Attorney General and the establishment, for example, of an independent prosecutorial authority?

(ii) Strengthened provisions on the independence of the judiciary?

(iii) The articulation of a bill of rights for all Sri Lankans?

(iv) The delimitation of functions of the different parts of the security system (armed forces, police and intelligence services) and establish multilayered civilian oversight systems?

(See: A/HRC/45/45/Add.1 para 95.b)

Limit: 1500 words

Have any further laws, regulations, policies, administrative decisions or other measures affecting the promotion of truth, justice, reparation and guarantees of non-recurrence been implemented following the Special Rapporteur's visit?

Limit: 1,000 words

Is there any relevant additional information you would wish to add?

Limit: 1000 words