



Rule of Law, Democracy and Governance

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

Approx. 120 words noting recommendations made to Sri Lanka on the relevant theme in the first and second cycle .

UPR Info will provide the language for this sector to each factsheet.

NATIONAL FRAMEWORK

Sri Lankan Constitution guarantees equality before law & other fundamental rights.

Penal code of Sri Lanka, adopted in 1883, is the basic legislation on criminal law. This contains archaic laws without being amended. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act was passed in 1994 in an attempt to comply with international law against torture.

In May 2015 the 19th amendment to the Constitution was passed. This was an attempt to restore independent commissions such as the Police Commission, Human rights commission, Judicial Service Commission and the commission to prevent bribery and corruption.

The amendment also re-established the Constitutional Council which plays a key role in appointments of heads and members of

the said commissions. Appointment of judges and the members of independent commission was previously done by president alone, as the Constitutional Council was defunct under the 18th Amendment to the Constitution.

Since 2015 the GOSL has embarked on a constitutional reform process. The Public Representations Committee (PRC) conducted island wide consultations and submitted its report in May 2016.

Critical to the reform agenda is the issue of devolution power, expanding the fundamental rights chapter including justiciability for socio economic rights and ensuring the supremacy of the Constitution by amending/ repealing Article 16(1), which saves regressive laws from fundamental rights review.

CHALLENGES

Out-dated criminal investigation methods

Lack of sufficient funds for witness and victim protection

IMPACT

Outdated techniques & technology for criminal investigations lead to torture. The Police force do not have proper training for modern investigation techniques. Lower conviction rate in criminal prosecution is also a result of this phenomenon. Creating loopholes in prosecution in lower courts leading to acquittal of suspects.

The victim and witness protection law though enacted is still not operative due to lack of sufficient fund allocations by the government.



CHALLENGES

IMPACT

Impunity of violators of human rights

Impunity is a serious concern as GOSL has failed to address (prosecute or take disciplinary action) on cases of human rights abuses, torture, corruption or abuse of power and officials against whom there are complaints continue to serve within the machinery of the state. Attorney General's Department has abandoned prosecution on cases of torture against Police officers, as required by the Act against torture.

Political pressure preventing law enforcement

In October 2016, the present President made a public statement criticizing prosecutions against military officials in response to a case involving former Defence Secretary Gotabhaya Rajapaksa and three former Navy Commanders on allegations of bribery and corruption. The chairman of the Bribery commission subsequently resigned. The Inspector General of Police himself was found assuring a politician that the Police would not arrest a criminal suspect.

Militarization of police force, and deploying the military in civilian areas.

During the civil war, the police force in general, was deployed in war-zone. Special group of policemen named Special Task Force was established with only military training. These policemen are now deployed in police stations without proper transitional training for dealing with civilians. This has resulted in non-adherence to legal rules and rights of civilians. In the North and East, military is engaged in civilian matters with the Police'

RECOMMENDATIONS

1. Introduce modern criminal investigation techniques to the Police, and train police officers to use modern investigative equipment and methods.
2. Initiate a training for the police force who were formerly deployed in war zone and the members of police special task force, to orientate them for better engagement with civilians.
3. Initiate investigations and prosecute against police officers who are alleged to have involved in torture and other grave human rights violations.
4. Stop political interference with functions of the police and Independent commissions.
5. Allocate sufficient funds for witness and victim protection in the budget in December 2017.