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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION**

**Note verbale dated 26 March 2004 from the Permanent Mission of
Sri Lanka to the United Nations Office at Geneva addressed to
the secretariat of the Commission on Human Rights**

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the secretariat of the Commission on Human Rights and wishes to refer to document E/CN.4/2004/NGO/129 circulated by the South Asian Human Rights Documentation Centre, under agenda item 11 (a).

The Permanent Mission of Sri Lanka wishes to attach herewith the observations* received from the Government of Sri Lanka to the contents of the above-mentioned communication.

The Permanent Mission of Sri Lanka requests the secretariat of the Commission on Human Rights to circulate the observations of the Government of Sri Lanka as an official document of the Commission on Human Rights under the same agenda item.

* Reproduced as received, in the language of submission only.

Annex

The Observations of the Government of Sri Lanka to the Communication submitted by the South Asia Human Rights Documentation Centre (SAHRDC), a non-governmental organisation, under Item 11(a)

The Government of Sri Lanka appreciates the SAHRDC's acknowledgment in its communication that '*some positive steps have been taken by the government of Sri Lanka in recent years*'. At the same time the communication of SAHRDC contains some misleading statements and factual inaccuracies. The Government of Sri Lanka (GOSL) wishes, therefore, to respond to both the allegations and recommendations of SAHRDC in the said communication.

The Prevention of Terrorism Act (PTA)

The SAHRDC communication fails to point out that as a condition laid out in the Memorandum of Understanding (MOU) between the GOSL and the Liberation Tigers of Tamil Eelam (LTTE), signed in February 2002, there is a moratorium on arrests under the PTA. In fact, over 1000 detainees previously held under the PTA have been released subsequent to the signing of the MOU. A repeal of the PTA could only be considered as confidence in peace accrues.

The GOSL categorically denies the allegation of torture being systematically practised by law enforcement officials and members of the armed forces. Recent statistics indicate that there is a marked reduction of the number of allegations of torture largely due to the peace process and other positive steps taken by the GOSL.

Accountability

The Attorney General's Department is a completely independent institution devoid of any connection or affiliation with the Police Department. The Prosecution of Torture Perpetrators Unit (PTP) has been set up in the Attorney General's Department to expedite action on torture allegations.

The GOSL has taken a number of positive steps to set up several agencies to monitor and promote human rights.

- **Establishment of the Special Investigation Unit (SIU)**

The SIU is a branch of the Sri Lanka Police with officers specially trained to investigate allegations of torture.

- **Establishment of the Inter Ministerial Committee on Human Rights Issues**

The Inter Ministerial Committee on Human Rights Issues which consists of officers from all the important government departments meet fortnightly to pursue the progress of such investigations up to the point that the matter is referred to a judicial forum for determination. The Committee Against Torture welcomed this as a very important step in the right direction.

- **Establishment of a National Police Commission (NPC)**

The National Police Commission (NPC) is an independent Commission established under the Constitution. The NPC is vested with the powers of appointment, promotion, transfer, disciplinary control and dismissal of police officers other than the Inspector General of Police. The NPC shall exercise its powers in consultation with the Inspector General of Police. The NPC is in the process of establishing a public complaints system where the public can directly complain to the NPC against actions of any police officer.

- **National Human Rights Commission (HRC)**

Most recently the Human Rights Commission has implemented a special program for monitoring and investigating allegations of torture through the establishment of a hot line for complaints from the public, surprise checks at police stations, and awareness programmes for all security officers in conducting their duties in conformity with internationally recognised human rights norms.

The HRC is an independent body comprising of eminent persons well recognised nationally and internationally and is chaired by the former UN Special Rapporteur on Violence Against Women. The HRC has played a significant role in promoting and protecting human rights. The HRC, while receiving funds from the State, is also empowered to receive funds from foreign governments and non-governmental organisations which have been forthcoming.

Amendments to the Constitution

The SAHRDC communication itself compliments the decision in Kalabadu Durage Sriyan Silva v. OIC Payagala Police and others where the Supreme Court, by its judicial pronouncements, has expanded the scope of fundamental rights by allowing a close relative of a victim (if deceased), to make a fundamental rights claim on behalf of the victim. This is not the first occasion where the Supreme Court has, by liberal judicial interpretations, expanded the scope of fundamental rights. Even in relation to the one month rule referred to in the communication, the Supreme Court has interpreted such time to commence only after a person is released from hospital or custody. Such liberal judicial interpretations by the Supreme Court would negate any need for constitutional amendments as recommended in the SAHRDC communication.
