

## **SRI LANKA**

### **Follow-up - State Reporting**

#### **i) Action by Treaty Bodies**

**CAT, A/61/44 (2006)**

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#### **CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS**

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania,

Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

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#### **B. Follow-up reply due May 2006 and November 2006**

State party	Date due	Date reply received	Document symbol number	Further action taken/required
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Sri Lanka	November 2006			
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## CAT, A/62/44 (2007)

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### IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

**Follow up procedure to conclusions and recommendations from May 2003 to May 2007**

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**Thirty fifth session (November 2005)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Sri Lanka	November 2006	23 November 2006 CAT/C/LKA/CO/2/Add.1	Response under review
...			

...

#### **CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS**

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.<sup>3</sup> However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

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3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations  
from May 2003 to May 2008**

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**Thirty-fifth session (November 2005)**

State party	Information due in	Information received	Action taken
...			
Sri Lanka	November 2006	22 November 2006 CAT/C/LKA/CO/2/Add.1	Request for further clarification

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**CAT, A/64/44 (2009)**

#### **IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS**

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

**Follow-up procedure to conclusions and recommendations from May 2003 to May 2009**

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**Thirty-fifth session (November 2005)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Sri Lanka	November 2006	22 November 2006CAT/C/LKA/CO/2/A dd.1	Request for further clarification

...

**Chapter IV. Follow-up to concluding observations on States parties' reports**

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for

improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

#### **Follow-up procedure to concluding observations from May 2003 to May 2010**

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#### **Thirty-fifth session (November 2005)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Sri Lanka	November 2006	22 November 2006CAT/C/LKA/CO/2/A dd.1	Request for further clarifications

...

## **Follow-up - State Reporting**

### **ii) Action by State Party**

**CAT, CAT/C/LKA/CO/2/Add. 1 (2006)**

**Comments by the Government of Sri Lanka\* to the conclusions and recommendations of the Committee against Torture (CAT/C/LKA/CO/2)**

[22 November 2006]

**Response of the Government of Sri Lanka to the conclusions and recommendations of the Committee Against Torture after consideration of the second periodic report at its 671 and 674 meeting held on 10<sup>th</sup> and 11<sup>th</sup> November 2005.**

1. The submissions made hereunder are in addition to the submissions made by the delegation of the Government of Sri Lanka to the Committee against Torture at the time of consideration of its second periodic report, and the submissions made in response to the queries raised by the several members of the Committee against Torture at the said meeting.

2. The Government of Sri Lanka reiterates therefore mentioned submissions and in addition states as follows:

3. The Government of Sri Lanka notes that the Committee against Torture has welcomed the submission of the second periodic report of Sri Lanka and acknowledges the focus made by the said report on the Committee's conclusions and recommendations as well as the recommendations from the Article 20 inquiry visit in the year 2000. The Government of Sri Lanka also notes the Committee's expression of its appreciation for the dialogue with the state party delegation and the Committee's acknowledgement to the extensive responses to the list of issues in written form which facilitated the discussion between the delegation and the committee members. The Government of Sri Lanka also notes the appreciation of the Committee to the responses given to questions raised and concerns expressed during the consideration of the report. The Government of Sri Lanka wishes to thank the Committee for the constructive dialogue with its delegation and reaffirms the commitment of the Government of Sri Lanka to continue and maintain such constructive dialogue and to answer all questions and queries to the best of its ability and to constructively consider adopting all the recommendations made by the committee. Considering that the combined 3<sup>rd</sup> and 4<sup>th</sup> periodic reports are due by the 1<sup>st</sup> February 2007 the government of Sri Lanka will endeavor to meet the deadline and submit a comprehensive report. At this stage the government of Sri Lanka will briefly respond to the conclusions and recommendations of the Committee. With regard to the delay in submitting the second periodic report as stated in the introduction of the conclusions and recommendations the Government of Sri Lanka, while acknowledging such delay wishes to state that upon inquiry it was informed to await a request by the Committee before submitting its report as the committee had a backlog to be cleared before it could consider the second periodic report of Sri Lanka.

4. The Government of Sri Lanka notes and acknowledges the satisfaction of the Committee to the positive aspects and positive developments listed as (a) to (g).

**The Government of Sri Lanka wishes to make the following further submissions.**

5. The Government of Sri Lanka is committed to the ceasefire agreement entered into with the Liberation Tigers of Tamil Eelam in February 2002. However due to the LTTE continuing to provoke and undermining the ceasefire agreement with assassinations, suicide bombings, mine attacks etc. culminating with the closure of the sluice gates in Mavil Aru depriving water to nearly 15,000 innocent and helpless civilians who depended on such water for their livelihood, the Government was compelled to take defensive action in neutralizing the LTTE offensives.

6. The Human Rights Commission and the National Police Commission continue to play a major role in dealing with violations of human rights including torture effectively and promoting human rights. Institutional measures such as the Permanent Inter-Ministerial Standing Committee and the Working Group on Human Rights have been further strengthened by bringing them under the direct control of the newly established Ministry of Human Rights. Such Ministry was formed for the first time as an initiative of HE the President, himself a strong activist and advocate of human rights. Under this Ministry the Honourable Minister in charge has established an advisory group on human rights consisting of leaders of civil society. The said advisory group meets regularly with representatives of key government ministries and institutions including the Army, Navy, Air force, Police, Attorney General Department, and Foreign Ministry. During these meetings the civil society leaders are given an opportunity to receive answers to their queries and to advise the Government through the Ministry of human rights what further steps are required to strengthen existing measures to improve the Human Rights situation in the country. Based on such recommendations of the advisory committee, a committee consisting of members of the civil society and a Deputy Inspector General of Police has been formed to make surprise visits to police stations with a view of ascertaining if any suspect in custody is held illegally or has been subjected to torture. Further on the recommendation of the advisory committee the Minister of Human Rights has taken up the issue of establishing a procedure of recruiting civilian translators to perform the task of translating record statements of the suspects in a language of their choice.

7. A directive was issued by HE the President detailing the steps that should be taken in accordance with the law with regard to any arrestee. This directive was disseminated to all the police stations in Sri Lanka in all three languages to be prominently displayed in all police stations to ensure any arrestee would be aware of his rights. Further steps were taken to give wide publicity to the said directive in the mass media with a view of educating the people of their rights.

8. The Government of Sri Lanka notes the Committee's acknowledgement of the difficult situation arising from the internal armed conflict in Sri Lanka. The Government of Sri Lanka is fully aware that no exceptional circumstances whatsoever maybe invoked as a justification of torture. The fact that the Government of Sri Lanka signed the Convention against Torture at the height of an internal armed conflict further shows the commitment of the Government of Sri Lanka to ensure conformity with such international mechanisms and procedures. The Government of Sri Lanka promptly enacted domestic legislation to give effect to the provisions in the Convention internally and under its domestic legislation specified a mandatory period of

seven years imprisonment and fine for those convicted of the offense of torture. The Attorney General has indicted over 100 police and security personnel against whom there was a prima facie case established.

### **Principal subjects of concern and recommendation as stated in the Committee's conclusion and recommendation.**

9. In this submission the Government of Sri Lanka will first deal with paragraph numbers 5,9,10,13,14,16,17 under the respective subheadings; Definition, Non-refoulement, Universal Jurisdiction, Sexual violence and abuse, Delay of trial and Rehabilitation.

#### **Definition**

10. The Government of Sri Lanka reiterates its position that there is no material difference between the definition in the Convention and in the domestic legislation. However the Government will take steps to refer this matter for the consideration of the Sri Lanka Law Commission to recommend any changes if necessary to bring the domestic legislation in full conformity with the Convention.

#### **Non-refoulement and Universal Jurisdiction**

11. These matters too will be submitted to the Sri Lanka Law Commission for its consideration and recommendations.

#### **Sexual violence and abuse**

12. The Government of Sri Lanka notes the concern expressed by the Committee in this regard. However the Government wishes to submit that there has been a vast decrease in such allegations. However the Government re-affirms its commitment to monitor the behaviour of law enforcement officials and impartially investigate all such allegations with a view to prosecuting those responsible. The Government has taken steps to set up Women's and Children's desks in key police stations and will continue to take all necessary measures to prevent any such acts.

#### **Delay in trials**

13. The Government of Sri Lanka continues to try and reduce delays of trials, especially criminal trials. However delays in trials remain a problem that is faced not only in Sri Lanka but in most other countries in the region as well. The vast number of cases and the inadequate number of judges and courthouses continue to prevent an effective solution to this problem. Preference given to one case over another would only add to the further delay of the other cases. The Government recently introduced legislation giving the Judges power to continue with criminal trials on a day to day basis with an aim to expeditiously conclude criminal trials. The Attorney General has also instructed his officers to give preference to cases coming under the Convention against Torture act.

#### **Rehabilitation**

14. The Law Commission is in the process of finalizing legislation to be presented to parliament with regard to witness protection. This legislation would include provisions for reparation of victims of crime.

15. This submission will now deal with information of its response to the Committee's recommendations contained in paragraphs 6, 7, 8, 11, 12, and 15 under the respective headings Human Rights Commission of Sri Lanka, National Police Commission, Fundamental Safeguards, Systematic Review of all places of detention, Prompt and impartial investigations and Intimidation and threats.

### **Human Rights Commission of Sri Lanka**

16. The Government of Sri Lanka acknowledges the important role played by the Human Rights Commission of Sri Lanka in the promotion and protection of human rights. The Government of Sri Lanka continues to strengthen the Human Rights Commission of Sri Lanka to function effectively. All government institutions have been directed by circular to cooperate fully with the Human Rights Commission and to comply with its recommendations. The Police and the Security Forces have been given adequate training to comply with the provisions with the Human Rights Commission Act, and in particular with the particulars informing the Human Rights Commission of persons detained. All police stations have also been specifically instructed to cooperate fully and give full assistance to the officers of the Human Rights Commission with regard to their mandate of making surprise visits to alleged places of detention.

17. The appointment of the members of the Human Rights Commission when the three year term of office of the existing commissioners ended in March 2006 created some controversy. Under the 17<sup>th</sup> amendment to the Constitution the Constitutional Council had to play a role in the appointment of the commissioners. However, due to the fact that the minority parties represented in parliament could not agree with regard to its nominee for the Constitutional Council, prevented the constituting of the Constitutional Council. Since the Constitutional Council depended on a proper political balance it was imperative that the minority party's representative was included to properly constitute the Constitutional Council. In the absence of a properly constituted Constitutional Council, H.E. the President had to make the appointments of the Commissioners without consultation of the Constitutional Council to prevent legal complications that would have arisen by the absence of a Human Rights Commission. A parliamentary select committee has now been appointed to consider necessary improvements to the seventeenth amendment to the constitution with an aim to rectify flaws that exist and prevent such crisis arising in the future.

### **National Police Commission**

18. The Government of Sri Lanka reiterates its submissions made in the preceding paragraph which also apply to the appointment of commissioners to the National Police Commission.

### **Fundamental Safeguards**

19. The Government of Sri Lanka respectfully denies the statement made by the Committee concerning the non-observance of the fundamental legal safeguards for persons detained by Police, including Habeas Corpus rights. The Government of Sri Lanka submits that a person detained by the police has many rights guaranteed by the Constitution itself. Such remedies include petitioning the Supreme Court by way of a fundamental rights application, writ applications, Habeas Corpus applications and a reference to the Human Rights Commission. Further as referred to above in this communication a directive was issued to all police stations and security establishments reiterating the rights of detainees.

### **Prompt and impartial investigations**

20. The Government of Sri Lanka continues to investigate all allegations of human rights violations including torture. The domestic law requires a police investigation to precede criminal action in a court of law. In addition to such investigations H.E. the President has also appointed a Commission to investigate alleged disappearances. H.E. the President has also appointed a Commission to investigate serious violations of human rights. An Independent International Group of Eminent Persons are also in the process of being appointed to work parallel to the Commission investigating serious violations of human rights. Before making such appointments the Government had a wide ranging dialogue with UN agencies including OHCHR, Governments, members of the civil society and international NGO's .

### **Intimidation and threats**

21. The Government of Sri Lanka through the police have continued to give protection to persons who allege intimidation and threats for reporting acts of torture, whenever such allegations were found to be credible. Even in instances where such allegations were not found to be credible the police have wherever possible granted police protection. Further, as mentioned above in this submission, steps are being taken to present a witness protection bill to parliament in the near future.

22. The Government of Sri Lanka takes note of the serious concerns expressed by the Committee about allegations of continued abductions and military recruitment of child soldiers by the LTTE. In this regard the Government recently invited Mr. Alan Rock a representative of Ms. Radhika Coomaraswamy, the special representative of the UN Secretary General for children in armed conflict to Sri Lanka for a fact finding mission.

23. The Government of Sri Lanka will also give due consideration to the committee's recommendations to the following.

- a) Consider declaration under Article 21 & 22 of the convention.
- b) Consider becoming party to the Optional Protocol of the Convention.
- c) Consider becoming party to the Rome Statute of the International Criminal Court.

## **Conclusion**

24. The Government of Sri Lanka wishes to thank the Committee for its recommendations and wishes to inform the Committee that it intends to give its highest consideration to all such recommendations . The Government of Sri Lanka will consider implementing such recommendations to the best of its ability. The Government of Sri Lanka also wishes to reiterate its commitment to continue a constructive dialogue with the Committee. The Government of Sri Lanka will also endeavor to submit its combined 3<sup>rd</sup> and 4<sup>th</sup> reports by the 1<sup>st</sup> of February 2007 as requested by the Committee.

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.