

**United Nations Special Rapporteur on the independence of judges and lawyers and  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment**

**Official joint visit to Sri Lanka – 29 April to 7 May 2016**

**Preliminary observations and recommendations of the Special Rapporteur  
on torture and other cruel, inhuman and degrading treatment or  
punishment, Mr. Juan E. Mendez\***

**Colombo, 7 May 2016**

*\*This statement should be read in conjunction with the preliminary observations and recommendations of the Special Rapporteur on the independence of judges and lawyers.*

**Introduction**

At the invitation of the Government, my colleague, Ms. Mónica Pinto - the Special Rapporteur on the independence of judges and lawyers - and I visited Sri Lanka from 29 April to 7 May 2016 to assess the situation and remaining challenges concerning torture and other cruel, inhuman or degrading treatment or punishment and the independence of judges and lawyers. We would like to express our appreciation to the government for extending an invitation to visit the country, for their full cooperation during our visit, and for the efforts displayed, in particular by the Ministry of Foreign Affairs, to facilitate and organize official meetings. In addition, we would like to thank the United Nations Resident Coordinator and the United Nations Office in Sri Lanka for supporting the preparations of the visit.

Sri Lanka is at a crucial moment in its history. While the armed conflict has ended after more than 30 years, much of the structures of a nation at war remain in place as the fabric of Sri Lankan society has been ravaged. Sri Lankan citizens continue to live without minimal guarantees against the power of the State. It is now critical and urgent to replace the legal framework that allowed serious human rights violations to happen and set up sound democratic institutions and legal standards that will give effect to and protect human rights embodied in the constitution of Sri Lanka as well as the international human rights treaties it has voluntarily ratified.

Officials we spoke to identified as the main threats and challenges of the country international terrorism and organized crime, as is the case with most countries in the world today. However, they can never justify the continuation of repressive practices or a normative framework that contributes to violations of fundamental rights and civil liberties.

The elections of January and August 2015 brought an opening in the democratic space and the change in government has led to some promising reforms, such as the re-instatement of the Constitutional Council. Yet, more reforms are expected and necessary before the country can be considered to be on a path to sustainable democratization governed by the rule of law.

There is a need to recover the momentum of reform and accelerate the process of positive change within a comprehensive and inclusive framework.

During my visit I had the opportunity to visit detention facilities and military camps in the Southern Province (Boossa Prison, Boossa TID detention facility, Galle Fort military camp), Western province (Kalutara South Senior Superintendent's Office, Panadura Police Station), North Western Province (Puttalam and Kalpitiya Police Stations), Northern Province (Joint Operational Security Force Headquarters in Vavuniya ("Joseph camp"), Vavuniya Remand Prison, Vavuniya Police Station, Vavuniya TID office, Poonthotam Rehabilitation Centre in Vavuniya) and Eastern Province (Trincomale Naval Base). In Colombo I visited the Criminal Investigation Department and Terrorism Investigation Division facilities (commonly known as the 4th and 6th floor), the Welikada Prison complex and Borella police station.

I also had the opportunity to exchange views with a number of high ranking officials, including representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Law and Order, the Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs, the Ministry of Woman and Child Affairs, the Ministry of Health, the Attorney General's Office, the National Police Commission, the National Human Rights Commission, the Governor of the Eastern Province, as well as representatives of the Sri Lankan civil society, international organizations, victims and their families.

The Special Rapporteur on the Independence of Judges and Lawyers, during her visit, had the opportunity to engage with a variety of stakeholders, including judges, lawyers and civil society organizations, the details of which can be found in her statement.

I will now share some of my preliminary observations and recommendations. I will further develop my assessment in a written report, which I will present to the 34<sup>th</sup> session of the United Nations Human Rights Council in March 2017.

## **Preliminary findings**

### Access to places of detention

My team and I were given unrestricted access to all places of detention and unimpeded access to interview detainees in private. However, I would like to note with concern that some detainees told us they had been informed of our visit in advance and in a few cases had even been told not to speak to us about their treatment while in detention. Some of those interviewed while in custody were evidently reluctant to share with us the details of the treatment received.

### Prevalence of torture and ill-treatment

Article 11 of the Sri Lankan Constitution states no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Through the Torture Act passed in 1994, Sri Lanka has made torture a criminal offense that largely coincides with the international definition in the UN Convention Against Torture (CAT).

After many interviews conducted by my team and myself at random throughout my visit with both detainees and those who have been released, I am persuaded that torture is a common practice carried out in relation to regular criminal investigations in large majority by the Criminal Investigation Department (CID) of the police. In cases where there is a real or perceived threat to national security there is a corresponding increase in acts of torture and ill-treatment during detention and interrogation in Terrorism Investigation Division (TID) facilities.

I have interviewed survivors and examined documentation regarding the practice of torture from previous years as well as its prevalence today. Fewer cases are reported today than during the conflict period and perhaps the methods used by the police forces are at times less severe. But sadly the practice of interrogation under physical and mental coercion still exists and severe forms of torture, albeit probably in less frequent instances, continues to be used.

Both old and new cases continue to be surrounded by total impunity. In addition, procedural norms that entrust the police with investigative powers over all criminal cases and, in the case of the Prevention of Terrorism Act, allow for prolonged arbitrary detention without trial, are still very much in place and open the door to – almost invite – police investigators to use torture and ill-treatment as a routine method of work.

I received many testimonies from victims and detainees who took the risk to speak out, despite concerns either for their own safety or their families. I was able to conduct thorough interviews and forensic examinations in a few cases, with the assistance of a forensic expert that accompanied me during my mission. I found the testimonies truthful and many were substantiated with physical evidence that is conclusive of torture. The forensic expert conducted a number of medical examinations that confirmed physical injuries consistent with the testimonies received. The forensic expert also analysed photographs taken shortly after the alleged torture and ill-treatment, and concluded they are diagnostic of severe physical torture.

The nature of the acts of torture consists mainly of transitory physical injuries caused by blunt instruments (essentially punches, slapping and, occasionally, blows with objects such as batons or cricket bats) which heal by themselves without medical treatment and leave no physical scars. There were also several accounts of brutal methods of torture, including beatings with sticks or wires on the soles of the feet (falanga); suspension for hours while being handcuffed, asphyxiation using plastic bags drenched in kerosene and hanging of the person upside down; application of chili powder to face and eyes; and sexual violations including mutilation of the genital area and rubbing of chili paste or onions on the genital area. While these methods of torture were in some cases of short duration, in other cases torture occurred over a period of days or even weeks during interrogation.

#### Prevention of Terrorism Act (PTA)

A special piece of legislation called the Prevention of Terrorism Act (PTA) applies to investigations into national security-related offences. It provides for detention without trial for prolonged periods of up to 18 months, with judicial supervision. A magistrate must

periodically review the detention order. During my interviews with PTA detainees it appeared that a number of them are transferred around various TID or CID facilities in the country without lawyers or family being informed.

Under Section 28 of the Human Rights Commission Act the detention authorities are bound to inform the National Human Rights Commission (NHRC) within 48 hours of an arrest made under the PTA or other emergency regulations as well as in case of transfer or change of location. I understand that nowadays, with the changes at the NHRC, such arrests and detentions are again communicated, more or less regularly, but this is not the case with transfers or changes of detention facility.

Under Section 15(a) of the PTA, some detainees continue to be detained in TID facilities (as opposed to remand prisons) because the Secretary of Defence considers them a threat to national security. The hearings held before a magistrate, for the purpose of judicial control of the detention, do not amount to meaningful safeguards against either arbitrariness or ill-treatment. The magistrates essentially rubber-stamp detention orders made by the Executive Branch and do not inquire into either conditions of detention or potential ill-treatment in interrogation.

Persons detained under the PTA then go on to be prosecuted at the High Court for security-related offences, most frequently based on charges related to aiding or abetting the LTTE insurgency. These cases have languished in court for years with the defendants remaining in detention. In random interviews, I found several inmates who have spent ten years in remand detention under the PTA, or under charges of ordinary offences, without having been proven guilty of any offence. Some are bailed out by courts, though they continue to be prosecuted. Others are sent to “rehabilitation” in lieu of prosecution, which is supposedly voluntary on their part.

While there were around 24 rehabilitation facilities right after the end of the conflict, rehabilitation now consists of one year in detention (on occasion extended to 15 months) at Poonthotam Rehabilitation Centre in Vavuniya, at the end of which the individual is deemed “rehabilitated” and released. Forty persons (39 male, 1 female) are currently held in Poonthotam Rehabilitation Centre in Vavuniya. I have been informed that they will be released in the course of the following months. My team and I interviewed some of these forty persons, who told us they have been deprived of liberty since 2009 or earlier.

The head of the Poonthotam Rehabilitation Centre in Vavuniya told us that 12,146 detainees have been processed through the PTA system to date. I asked for specific information on how many persons were prosecuted instead of being rehabilitated, how many were convicted, how many acquitted or how many are still held in arbitrary detention under the PTA in remand prisons. I have not yet received these figures. The NHRC has also not been able to obtain these statistics to which they should definitely have access.

Living conditions and other benefits are considerably more humane in rehabilitation than in prison, including the fixed term of detention, periodic home leave of four days' duration and vocational training. However, not all security related prisoners are invited to rehabilitation

and it is unclear what selection criteria are used. Obviously, if after many years of detention the State does not have sufficient evidence to charge a detainee, the latter should be released unconditionally. In addition, from persons who have gone through the rehabilitation process, we have heard credible stories that they are frequently harassed, followed and threatened with further arrests after their release. At least in a few cases a new, post-rehabilitation detention has been documented. Harassment sometimes extends to members of staff of civil society organizations that provide counselling and other services to rehabilitated persons.

It is obvious that rehabilitated persons are not immune from investigation of possible new crimes; but in such cases the authorities should be very transparent on the reasons and evidence on which a detention order rests. The very manner of the arrests of rehabilitated persons alleged as happening recently - by plainclothes agents, after days of being followed and after asking questions to family members, neighbours and associates - raise fears in the respective communities and only add to distrust about the motives for these re-arrests.

Effectiveness against terrorism and organized crime does not require breaking down the minimum guarantees for the protection of life, liberty and personal integrity. On the contrary, practices that are contrary to international principles de-legitimise the State. Perhaps some special measures need to be taken in exceptional cases but these must without exception be taken in the context of full respect for international human rights obligations.

The Government should repeal the current PTA. In the context of any replacing legislation, if at all necessary, a robust and transparent national debate should take place that provides for full participation of civil society. We understand that the Government is contemplating statutes on National Security, surveillance and intelligence services. Under any circumstance, those pieces of legislation should include protections against arbitrary arrest, absolute prohibitions on torture or cruel, inhuman or degrading treatment, provisions for access to legal counsel from the moment of deprivation of liberty, strong judicial controls over law enforcement or security agencies, and protections for the privacy rights of citizens. The Special Rapporteur on Human Rights while Countering Terrorism has produced very useful guidelines to incorporate in legislation of this sort.

#### Arbitrary arrest and detention

I have received allegations of recent so-called “white van abductions” – a reference to practices that in the past led to enforced disappearance of persons. The situation today cannot be compared to the past, but the persistent allegations of white van abductions are a reminder that arrests should be conducted transparently and that senior officers must be accountable for them. I raised this issue with the authorities who have said that all arrests are done by police in uniform using officially marked vehicles. The cases that we looked into seem to have resulted in acknowledgement of the detention of the person. However, I intend to continue to look further at the evidence.

There does not seem to be a clear rule in the law that says that arrests have to be authorized by a judge. In practice the decision to arrest a person is made by a police officer. For that reason, it is important that detentions are made transparent, with proper identification of the

arresting officer, and offering reasons based on objective evidence. Otherwise, distrust of the authorities will persist.

#### Forced confessions: evidence obtained under torture

While there are many reasons that may lead to the practice of torture, there are particulars in the Sri Lankan criminal justice system and investigations practices that somehow may indirectly incentivize its use. The first is the role of confessions of suspects in criminal investigations, which currently seems to be the primary tool of investigation for the police. The need to extract a confession in order to build a case is in itself a powerful incentive to use torture. A second aspect is the practice of conducting the investigation while the suspect is in custody, rather than determining the detention based on preliminary investigations. Authorities have on a regular basis justified prolonged detention on the ground that the investigation was complex, or evidence hard to find, ignoring the fact that, outside of detentions in *flagrante delicto*, the evidence should be procured before the arrest. This access to the detainee for continuous questioning can also be an incentive for torture, aside from other considerations regarding conditions and legality of detention.

The Attorney-General told my delegation that statements made to the police do not form part of the criminal record in ordinary crime cases, though he acknowledged that under PTA statements made to a senior police officer are fully admissible in court. In both cases, however, police routinely extract self-incriminatory statements, so the admissibility or not of the statement does not protect the detainee from possible coercion. In addition, the PTA provision is in direct contradiction with the obligation under CAT to exclude all declarations made under torture. Also in both cases, statements are made before the detainee has access to legal advice or representation.

Supposedly, a confession that is recanted under allegation of being coerced gives rise to a procedure called *voir dire*, described as a “trial within a trial” designed to determine whether coercion was used or not. This is a cumbersome process and it is rarely used. In practice, therefore, the law does not allow for a rigorous application of the exclusionary rule mandated by the Convention, and for the same reason does not reduce the likelihood of torture as a means to obtain a confession.

I understand that with the *voir dire* procedure the burden is on the State (Attorney General) to prove that the statement was not coerced. That is, of course, the proper standard as regards burden of proof; however, at the end of the *voir dire* the admission of confessions as evidence before the court is at the discretion of the judge. Judicial discretion to admit evidence tainted by torture, under any standard, is a violation of the exclusionary rule of CAT, a standard also required by customary law. A better application of the exclusionary rule, based on its primary object of discouraging torture, would be to ban altogether statements against interest that are not made before a judge, after advice of counsel and following a warning regarding the right to remain silent without adverse consequences to the defendant. At the very least extrajudicial statements that are recanted by the declarant when he or she appears before a magistrate must always be excluded. I have been assured by the authorities that confessions alone are not

sufficient evidence for a conviction, as other corroborating evidence is needed. In practice, however, 90 per cent of convictions are based on a confession alone or as the main evidence.

### Access to lawyers

The result of these normative gaps in the rights of a criminal defendant is that the accused provides a statement to the police as a routine practice and is never informed about the right to a lawyer. This amounts to inadequate and meaningless legal protection, which fuels the widespread fear and mistrust of the police system among the population.

It would be important to establish a clear rule that persons must have access to a lawyer from the moment of deprivation of liberty. A current proposal to amend the Criminal Procedure Code that includes access to counsel only after a statement is taken by the police in the initial 24 hours of detention is not appropriate to effective assistance of counsel and would, therefore, violate due process.

### Role of judiciary and prosecutors

A judiciary that is independent and impartial is essential to the fulfilment of the most important obligations regarding torture and cruel, inhuman or degrading treatment or punishment in international law, including to make ex officio inquiries and order the investigation into allegations of torture or coercion and to ensure the safeguards are upheld. They have a dual obligation of prevention and accountability.

In practice, in Sri Lanka, both courts and prosecutors are static and have a passive role of deciding cases based solely on the evidence that is brought to their attention by the parties to the litigation; in criminal cases, that means that they rule almost exclusively on the basis of what the police provides them as evidence.

A modern accusatory system begins with affording more guarantees for the defendant. In it the public prosecutor is first and foremost the guardian of legality. Prosecutors must enforce the law against criminals but should also actively prevent miscarriages of justice by way of torture and manipulation of evidence, and intervene early on in the process. The accusatory system is more conducive than the inquisitorial system for the respect for human rights; but in its modern form it gives a lot of power but also heightened responsibility to prosecutors.

It would be important for judges and prosecutors to take it upon themselves, under a sense of legal obligation to consider bail for lesser and non-violent offences; to order medical examinations by forensic doctors properly trained by The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the Istanbul Protocol) as soon as any suspicion of mistreatment arises; to initiate prosecutions against whomever may be responsible for torture or mistreatment, including the superiors who may have tolerated or condoned that act; and more generally to ensure that all aspects of the chain of criminal justice (investigations, detentions, interrogation, arrest and conditions of incarceration) comply with the rule of law.

### Forensics

The forensic procedures and quality of the forensic medical expertise seem quite acceptable in terms of deaths in custody and forensic autopsies, but there are still some insufficiencies in the clinical forensic examination of living victims. A specific medical report model for the forensic examination of survivors of torture and ill-treatment has been put in place by the official forensic services, but the report model still leaves a large margin for improvement. Specific training in the forensic medical investigation and documentation of torture and ill-treatment is needed.

Judicial Medical Officers (JMOs) undertaking medical examinations need to do so in a timely manner in order for those tests to be meaningful. They should examine both the physical and psychological trauma.

There is a need to improve the legal framework of JMOs, including guarantees for their professional and institutional impartiality and independence in practice. The reports of JMO examinations are not currently given to the person examined, which violates the standards of the Istanbul Protocol. Those reports should be made available to the accused as of right and not place the burden on the accused or his defense counsel to request it through the courts.

In practice, only about 20 per cent of cases that come before a Magistrate have a JMO examining the accused. Such exams should be done routinely at the initial custody hearing, and performed by qualified forensic doctors.

Forensic capacity in the JMOs is reasonable, except for the deficiencies mentioned above. Yet there is a need for more training for judges, prosecutors, lawyers and the police about how to interpret forensic medical examinations.

Custody hearings are an essential guarantee against mistreatment. Their object is to ensure that the person has not been arbitrarily detained, that there are indeed substantial grounds to presume that a crime has been committed and the person is *prima facie* responsible, and to ensure that at the arrest and thereafter there has not been any mistreatment. In practice in Sri Lanka, judicial oversight of police action is superficial at best.

### Conditions of detention

With regard to the treatment of prisoners by staff in penitentiaries and remand prisons, I note with satisfaction that in conducting my interviews I did not receive any serious complaints.

I am deeply concerned, however, about the conditions of life in all prisons, all characterized by very deficient infrastructure and pronounced overcrowding. As a result, there is an acute lack of adequate sleeping accommodation, extreme heat and insufficient ventilation. Overpopulation results as well in limited access to medical treatment, recreational activities or educational opportunities. These combined conditions constitute in themselves a form of cruel, inhuman and degrading treatment.

TID facilities also suffer from excessive heat, absence of ventilation, limited access to daylight and exercise, prolonged or indefinite isolation in some cases, and lack of electricity so that some inmates spend about 12 hours a day in the dark.

I visited the underground detention cells located inside the Trincomale Naval Base, which were discovered in 2015. These cells were presumably used to hold persons who are now counted among the disappeared and are currently under seal as a crime scene. I understand that CID is heading an investigation that has not yet resulted in indictments. Needless to say, the conditions must have been horrific.

### **Overcrowding**

During my visit I observed levels of population exceeding capacity by well over 200 or 300 per cent. Vavuniya Remand Prison offered a striking example of such overcrowding. One of its halls hosted 170 prisoners in what my team and I estimated to measure less than 100 square meters, providing less than 0.6 metres per person. In the same building, other prisoners were forced to sleep on the staircase for lack of space in the detention areas. In addition, we saw cells designed for one person occupied by four or five inmates. The larger prisons in Colombo were built in the mid-19<sup>th</sup> century and walls, roofs and staircases are literally crumbling on the prisoners. The Government has indicated that Welikada prison will be closed and a new prison will be built in Tangelle, but we understand the latter is not even in the planning stages yet. While replacement of old prisons is a good idea, in the meantime it is urgent to conduct maintenance and repair the unsafe conditions that amount to cruel, inhuman and degrading treatment or punishment.

An aggravating factor is that the congested prisons are a direct result of lengthy sentences for non-violent and drug related offences. Suspects are subjected to lengthy remand periods with many being detained for years and some even up to ten to 15 years. We understand that the average delay for State Counsel to bring a criminal case before the High Court after remand ranges from 5 to 7 years. This is a serious violation of due process and the presumption of innocence, and results in what is commonly known as an “anticipated penalty” without trial. It also violates the principle that provisional detention should be the exception and not the rule. I urge Sri Lanka to consider measures to make more non-violent offenses bailable and to experiment with alternatives to incarceration.

### **Family visits**

Family visits take place once a month for convicted, and once a week for remand inmates, but in reality many relatives live far away and therefore visit infrequently. The prison authorities should install phones so that inmates can communicate with their families. Even when longer visit time is officially granted (i.e. one hour) the bureaucratic and security requirements of the visit (body search, security screening, documentation and registry of the visit, etc.) are counted within that allocated period, reducing the actual visit time to a few minutes. For some cases (PTA) extra burden is put on visitors including undressing for highly intrusive and demeaning body searches.

### **Remedies for torture and CIDT**

The Torture Act depends on the discretion of the Attorney-General to file charges under it. Since 1994 there have been only five or six prosecutions, but not a single conviction yet under the Torture Act.

In the prison system there is no formal complaint mechanism available to inmates. With respect to the police, the recently installed Police Commission is a venue for complaints of police misconduct, but the process is still incipient. In practice, the only effective avenues for complaints are through the NHRC, and the possibility of filing a “fundamental rights” case before the Supreme Court.

Fundamental rights applications involve complex litigation and are thus not accessible to all. They are subject also to a 30-day term to file from the occurrence of the violation. In addition, even if successful, they result in compensation as the only remedy. The application is not available, for example, to vacate a court order that has been based on a forced confession, as it does not lie against judicial decisions.

The National Human Rights Commission has been resurrected with a credible composition of its members in 2015, but it needs to be further strengthened and afforded more resources to deal with serious violations and to monitor the conduct of official agencies. Proceedings before the NHRC hold some promise for the victims but they do not seem capable of solving the problem of impunity for serious human rights violations, including disappearances of the past and torture of the past or present. Until serious prosecutions for torture take place, the public will continue to think impunity reigns.

#### Impunity and lack of accountability

Acts of torture that occurred in the past have been well documented. The Government has an obligation to investigate, prosecute and punish every incident of torture and ill-treatment, even if it happened in the past, because under international law prosecution of torture should not be time barred. The State also has the obligation to prevent such occurrences in the present, and the most obvious preventive measure is forceful prosecution of cases reliably reported.

Sri Lanka has a Victim and Witness Protection Act but potential beneficiaries complain that protection is ultimately entrusted to the police which, in most cases, is the agency that they distrust. The Government should consider amending the Act in order to make it more effective and trustworthy.

#### Monitoring of places of detention

The Government must ratify and implement the Optional Protocol to the Convention Against Torture (OPCAT) as a matter of national urgency. Among other things, this will allow a national system of regular prison monitoring by independent experts.

Currently prisons and detention centres are visited by the International Committee of the Red Cross, a Visiting Committee and NHRC, as well as by some very credible non-governmental organizations. But a national preventive mechanism as contemplated in OPCAT would

provide for scheduled and unannounced visits by a national authority as well as by the Subcommittee on the Prevention of Torture (SPT), a very credible and professional international treaty body.

### Women and Gender

We are encouraged to see that an Action Plan for Gender Based Violence is moving forward and scheduled to be presented to Parliament. However, underreporting of gender based violence remains a serious issue.

Relative to the conditions of detention for men, the female wards of Welikada prison and Vavuniya Remand Prison showed conditions that were better and more humane.

### Transitional justice process

Sri Lanka and the international community have agreed to a process to reckon with the legacy of human rights violations left by the long and cruel armed conflict that ended in 2009 (see Human Rights Council resolution 30/1). International standards require that societies approach national reconciliation by conducting truth-seeking and disclosure, justice through criminal prosecutions of perpetrators of serious crimes, reparation to victims and meaningful reform of institutions.

My colleague Pablo de Greiff, Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non Recurrence, has explained these steps in conversations with the Sri Lankan authorities and civil society, stressing the need for a comprehensive transitional justice strategy that takes into account the links between the different mechanisms. Similar recommendations were made by the Working Group on Enforced and Involuntary Disappearances in their preliminary observations at the end of their visit in 2015.

Transitional justice mechanisms are an important aspect of my mandate because, if implemented in good faith, they can fulfil the State's obligations under the CAT, specifically those related to investigation, prosecution and punishment of torture, to provide reparations and to prevent torture in the future.

The mechanisms by which these four steps are accomplished are left, of course, to decisions made by the Sri Lankans themselves. As everywhere else, those decisions should be adopted following consultations with all stakeholders in a transparent and broadly participatory exercise that is just and earns the trust of the population.

A transitional justice agenda needs to be trusted by victims and other stakeholders in order to be effective. Stopping torture altogether will not be enough, but it is a step that is absolutely indispensable. The necessary confidence in the transitional justice system will otherwise not be there.

### Lack of accountability regarding investigations into disappearances

We heard estimates ranging from 16,000 to 22,000 pending cases of missing persons from the time of the conflict and its immediate aftermath. Disappearances need to be resolved.

Experience shows that disappearances are almost always the occasion for torture of the most horrifying kind, and the prolongation of uncertainty about the fate and whereabouts of the disappeared constitutes cruel, inhuman and degrading treatment for their next of kin. That is why we hope to see an operative Office of Missing Persons soon that will conduct serious and profound investigations into each case.

I join my colleagues of the Working Group in encouraging ratification by Sri Lanka of the 2008 Convention on Enforced Disappearances.

### **Concluding remarks**

The current legal framework and the lack of reform within the structures of the armed forces, police, Attorney-General's Office and judiciary perpetuate the real risk that the practice of torture will continue. Sri Lanka needs urgent measures adopted in a comprehensive manner to ensure structural reform in the country's key institutions. A piecemeal approach will not be compatible with the soon-to-be-launched transitional justice process and could undermine it before it really begins.

In closing, I would like to again thank the Government for the invitation and extend my gratitude to the high ranking officials with whom I met. I would also again like to express my sincere gratitude to the representatives of the Sri Lankan civil society, international organizations, victims and their families for sharing their information and insight with me.