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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

**LESSONS LEARNT DURING THE HUMAN RIGHTS
SCREENING OF PERSONNEL NOMINATED FOR
SERVICE IN THE UNITED NATIONS**

December 2024

Background

The 2012 United Nations (UN) Policy on Human Rights Screening of UN Personnel requires member states to screen their nationals prior to nominating them for deployment within the UN. Member states are also required to ensure that these personnel meet the highest standards of integrity, including respect for and commitment to human rights. Member states who submit personnel to serve in the UN are also requested to certify that they have not committed, nor are alleged to have committed, criminal offenses or violations of international human rights law (IHRL) or international humanitarian law (IHL). To meet these requirements, the UN Secretary-General requested that procedures be established to strengthen the independence of pre-deployment screening by member states.

According to the 2012 Policy on Human Rights Screening of UN Personnel, ‘Member States have primary responsibility for screening individuals from their country before nominating them for service with the United Nations...’ The Policy requires each nominated candidate to provide a self-attestation that they have ‘not committed, been convicted of, nor prosecuted for, any criminal offence’ and that they ‘have not been involved, by act or omission, in the commission of any violation of [IHRL or IHL].’ Separately, the UN also requires the Permanent Mission of the relevant member state to provide a certification that ‘none of the nominated candidates has been convicted of, or is currently under investigation or being prosecuted for, any criminal or disciplinary offence, or any violations of [IHRL or IHL]’...and that the government ‘is not aware of any allegations against the nominated candidates that they have committed or been involved, by act or omission, in the commission of any acts that may amount to violations of [IHRL or IHL].’ Under such a conventional domestic screening process, the relevant submitting entity conducts its own screening of personnel prior to nominating them for deployment and the UN accepts this process as adequate alongside the abovementioned individual attestations and official certifications. The Government of Sri Lanka continues to be primarily responsible for implementing such a screening process.

In addition to a conventional domestic screening process, a *special* screening process was proposed in the case of Sri Lanka due to allegations that Sri Lankan armed forces and police personnel had been involved in IHRL or IHL violations. In this context, while the Sri Lankan government is expected to continue to implement a conventional domestic screening process, whereby the submitting entity screens personnel prior to nominating them and individual attestations and official certifications are submitted in accordance with the 2012 Policy, such a process was deemed inadequate for Sri Lanka.

In 2016, the Human Rights Commission of Sri Lanka (HRCSL), following a request made by the Ministry of Foreign Affairs, agreed to carry out domestic human rights screening of armed forces and police personnel nominated to be deployed in the UN. This special request to the HRCSL came within a broader context in which Sri Lanka had, in September 2015, co-sponsored Human Rights Council Resolution 30/1, in which it committed to:

Introduce effective security sector reforms as part of its transitional justice process, which will help to enhance the reputation and professionalism of the military and include ensuring that no scope exists for retention in or recruitment into the security forces of anyone credibly implicated through a fair administrative process in serious crimes involving human rights

violations or abuses or violations of international humanitarian law, including members of the security and intelligence units.

The HRCSL was viewed as an independent institution that can serve as a special domestic human rights screening entity during an interim period where security sector reforms are successfully implemented. The accreditation of the HRCSL with ‘A Status’ by the Global Alliance of National Human Rights Institutions (subsequently lost in 2022 and regained in May 2024) also presented a rational basis for the selection of the HRCSL.

The initial screening process was governed by a set of standard operating procedures developed by the HRCSL in consultation with the UN in February 2017 (see Annex 1). The early phase of the screening process encountered significant challenges, leading to the suspension of the process. For instance, on 2 February 2017, Sri Lanka Army submitted the documents of 200 army personnel who wished to be deployed for a UN Peacekeeping Mission in Mali. However, while the HRCSL was in the process of screening the personnel, Sri Lanka Army informed the HRCSL that they had already received clearance from the UN. Due to this confusion, the HRCSL suspended the screening process. Then, on 21 December 2017, after the screening process had been resumed, the HRCSL received 204 applications from Sri Lanka Army personnel to be deployed in Lebanon for peacekeeping operations. However, the screening process was halted once again due to the fact that a contingent constituting 49 personnel who had not obtained clearance from the HRCSL were deployed to UN peacekeeping operations in Lebanon.

Following the request of the HRCSL, the UN’s Department of Peace Operations (DPO), the Office of the High Commissioner for Human Rights (OHCHR) and the UN Resident Coordinator’s Office initiated a round table discussion in Colombo in June 2018 to address challenges and develop a standard operating procedure for the special domestic screening process. Relevant stakeholders, including the DPO, OHCHR, HRCSL, Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, Sri Lanka Police, the Ministry of Defence and the Ministry of Foreign Affairs participated in the round table discussion. All stakeholders agreed to suspend the screening process until a standard operating procedure was formulated. Then, following the formulation of the Standard Operating Procedure for the Domestic Human Rights Screening of Individuals and Units Nominated by the Government of Sri Lanka for Service with the United Nations’ (SOP) (see Annex 2), the screening process was resumed on 20 December 2018 (i.e., nearly six months later). Accordingly, this special domestic screening process is governed by the said SOP. According to the SOP, ‘only individuals who have been cleared by the HRCSL will be nominated for service by the [Government of Sri Lanka] and considered by the UN’. Notably, the process also envisaged a role to be played by OHCHR in screening candidates. The SOP provided that ‘irrespective of whether an individual has been cleared by the HRCSL, the UN reserves the right to reject nominations based on its own due diligence and reputational risk assessments...’

The UN supported eight consultants (formerly UN Volunteers), initially by the United Nations Peacebuilding Fund from October 2019 to December 2020 and, between January and July 2021, seven consultants by bilateral donor countries under the Joint Programme for Peace. The DPO thereafter provided additional funding to enable the continuation of seven consultants until 31 July 2023 before this number was progressively reduced to three and then to two consultants for the last quarter of 2024.

This was the first time that the UN worked jointly with national stakeholders to establish a domestic mechanism led by a national human rights institution (NHRI) for the purposes of human rights screening of individuals considered for nomination for service in the UN. The HRCSL undertook this task amidst severe human and financial resource constraints. It also encountered frequent pressure and criticism from state officials when time was taken over screening decisions, or when decisions were taken to not clear an applicant for deployment. To date, none of the personnel screened by the HRCSL and recommended for deployment have been either repatriated or involved in any violation during their service within the UN.

Since 2017, a total number of 3,373 applicants were screened during the period of the screening process. The table below provides disaggregated data on the applicants:

Table 1

Submitting Entity	Number of Applicants	Number of Applicants Not Cleared
Sri Lanka Army	2,316	34
Sri Lanka Navy	6	00
Sri Lanka Air Force	988	04
Sri Lanka Police	63	12 +1 (pending information from OHCHR)

Decision to Phase Out

In June 2024, more than seven years since being invited to screen armed forces and police personnel, the HRCSL decided to phase out its involvement in the special domestic screening process. The decision was communicated to the DPO, the UN Resident Coordinator in Colombo, and OHCHR. Thereafter, on 6 August 2024, the HRCSL informed the relevant entities in Sri Lanka of its decision, i.e., Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, Sri Lanka Police, the Ministry of Defence and the Ministry of Foreign Affairs. The relevant entities were informed that the HRCSL would continue to process pending applications for deployment but would not accept any new applications. It is, however, acknowledged that there was no established or agreed process through which a decision to phase out could be taken or implemented under the SOP.

The HRCSL's decision to phase out the process was based on three primary considerations.

First, the screening of armed forces and police personnel for the purpose of deployment in overseas missions clearly falls outside the HRCSL's statutory mandate. Therefore, this screening process was considered a special, temporary project undertaken by the HRCSL in special, context-specific, timebound circumstances. The functions of the HRCSL are stipulated in section 10 of the HRCSL Act, No. 21 of 1996. The HRCSL is dutybound to prioritise and allocate its human resources towards fulfilling these core functions. The past seven years in which the HRCSL has implemented this screening process has impacted its ability to allocate its time, energy, and resources into its core functions, thereby creating a notable and unsustainable opportunity cost. For example, the process was managed by a senior level officer whose expertise was required for core functions, including conducting inquiries. In this context, the HRCSL formed the view that it was necessary

to phase out the screening process to divert experienced staff members back into its core functions, such as efficiently and expeditiously conducting inquiries based on complaints from the public.

Second, on a number of occasions, the HRCSL encountered unwarranted pressure to expedite screening applications. On some occasions, it also encountered pressure to reconsider its decisions to not clear particular applicants. While on no occasion did the HRCSL succumb to such pressure, this experience did affect the HRCSL's ability to carry out its functions without interference or fear of reprisal.

Third, the team that was tasked with screening each application comprised consultants recruited and remunerated by the UN. During the final two years of the screening process the contracts of these consultants were extended only for short periods at a time, thereby causing significant job uncertainty among the consultants. The number of consultants within the team also steadily declined over the years due to the decision to reduce funding allocations. It was clarified by UN officials, however, that such allocations were reduced in consequence of reduced screening needs. Moreover, on a number of occasions during the final two years of the process, UN officials intimated to the HRCSL that there was an expectation that the screening process would be undertaken by the HRCSL at its own cost or through alternative means. In this context, the HRCSL was confronted with uncertainty with respect to how the screening process would be resourced.

Lessons Learnt

The HRCSL appreciates that the human rights screening process it undertook was the first of its kind. In this context, it wishes to present the following key lessons learnt, both as a form of documenting its experience and as a frame of reference for future similar processes elsewhere in the world. The recommendations contained at the end of each section are directed at the relevant UN and state entities that may design a special domestic screening process. Each of the recommendations should be considered jointly by such entities and integrated into the design of such a process.

1. Standard Operating Procedure

The submitting entities (i.e., Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, and Sri Lanka Police) had inadequate awareness of the SOP. Even certain senior officers of the submitting entities were not adequately aware of the contents of the SOP, and the HRCSL was constantly compelled to clarify such matters to avoid conflicts and confusion.

As per the SOP, only the list of names of cleared personnel is communicated to the submitting entities. Therefore, there is no formal communication pertaining to those who are not cleared, and this approach paved the way for confusion among the submitting entities and the affected personnel. On a number of occasions, personnel who were not cleared submitted requests for information on the status or outcome of their applications under the Right to Information Act, No. 12 of 2016. Moreover, certain Sri Lanka Police personnel filed a writ application against the HRCSL for not providing their screening results. Prior to filing the writ application, the personnel also sent a letter in the nature of a letter of demand to the HRCSL, which notified the UN of the

same. The HRCSL was compelled to invest a significant amount of time and effort to respond to the accusations of the personnel before the Court of Appeal of Sri Lanka. This petition was eventually withdrawn by the personnel.

Recommendations

Ensure that submitting entities are made adequately aware of the contents of the SOP to avoid unnecessary conflict and confusion. Submitting entities should provide clear guidance to all applicants with respect to the screening process.

Ensure greater transparency with respect to the outcome of the screening process whereby each applicant is informed of the outcome of the process, i.e., whether they are cleared or not cleared.

Ensure that the SOP provides for a clear process through which a decision to discontinue or phase out a special screening process may be taken.

2. Methodology

As per the SOP, the main threshold for screening personnel was as follows:

[T]hat there is no information available that the individual has been involved in crimes and/or misconduct, including sexual exploitation and abuse; and that there are no reasonable grounds to believe that the individual may have been involved, either directly by act or by omission (as a superior or commander), in the commission of a violation of international human rights or international humanitarian law.

In 2019, OHCHR and the HRCSL finalised a ‘Statement of Methodology’ clarifying the working methodology for the screening process. This confidential document was developed to ensure alignment in screening methodology between the HRCSL and the UN in particular, as both entities would work together based on an agreed division of labour to address the backlog of individuals and units awaiting deployment or rotation. In recognition of the fact that OHCHR and HRCSL may have access to different confidential information and to make full use of all information available, including that which is confidential, in addressing the backlog, each institution conducted screening of the individuals as per the agreed division of labour and further reviewed the applications screened by the other entity. There were occasions on which an applicant initially cleared by the HRCSL based on publicly available information was later not cleared by OHCHR. While the precise reasons for such decisions were not communicated, it was always presumed that such decisions were based on confidential information at the disposal of OHCHR. It is reiterated that the SOP was clear that ‘irrespective of whether an individual has been cleared by the HRCSL, the UN reserves the right to reject nominations based on its own due diligence and reputational risk assessments...’

There are two observations that may be made with respect to the overall methodology used for screening in terms of assessing IHL or IHL violations. First, as explained in the next section, the main sources of information relied upon by the HRCSL were publicly available sources of

information. These sources are not always adequate to arrive at a fair assessment of an applicant's involvement in IHRL or IHL violations. It is the HRCSL's understanding that OHCHR possesses a much larger repository of verifiable information on IHRL or IHL violations pertaining to Sri Lanka. It is also understood that sharing such information with any entity, including the HRCSL, may not be possible. Therefore, OHCHR's involvement in screening applications from Sri Lanka remains important.

Second, while geographical areas that had recorded IHRL or IHL violations during the armed conflict in Sri Lanka was considered in the screening process, the same principle was not extended to patterns of violations in other contexts. For instance, an applicant from Sri Lanka Army who served in an operational capacity in a geographical area that recorded IHRL or IHL violations during the armed conflict was unlikely to be cleared on the basis that there were reasonable grounds to believe that the applicant may have been involved in such violations. By contrast, the methodology did not require assessment of whether a particular police division or police station had a record of alleged fundamental rights violations when determining the track record of an applicant who served in the said police division or police station.

Recommendations

Co-create the methodology adopted for the screening process with the involvement of relevant UN agencies and the domestic entity tasked with screening.

Annually review the methodology to accommodate new contexts and information.

Regularly consult the relevant NHRI in the country to ensure that new developments with regard to the human rights situation in the country are considered when reviewing the methodology.

3. Database and Sources of Information

The main tool used for the screening process was a database containing information on IHRL or IHL violations allegedly committed by the Sri Lankan armed forces and police personnel. The database was designed with the support of relevant technology experts, including HURIDOCS, who assisted the HRCSL to build a secure, user-friendly, open-source database. The database comprised only publicly available information gathered from UN reports, reports compiled by past commissions of inquiry in Sri Lanka, government reports, reports of international non-governmental organisations, reports prepared by local non-governmental organisations, official websites of the submitting entities, and media reports. Therefore, the information found in the database did not include confidential verifiable information at the disposal of UN entities such as OHCHR.

The database was not updated frequently after being initially constructed. The HRCSL acknowledges that there was room for improvement in terms of updating the database. The practical reality was that feeding new information into an already constructed database with a somewhat rigid template made the retrieval of information difficult and time-consuming leading

to inefficiency and, occasionally, less accuracy. The HRCSL did not possess the resources to establish a customised database and server in which all information could be stored and updated.

The screening process ensured that the screening team also independently reviewed information outside the database, such as Supreme Court judgments and HRCSL case records, to ensure a more thorough review. However, challenges were encountered with respect to reviewing HRCSL case records, as only recent case records are digitised, and most of the records are in Sinhala. For instance, the screening team manually reviewed dozens of case records prior to clearing applicants from Sri Lanka Police. Therefore, a considerable amount of time was taken to ensure a more thorough review of each application from Sri Lanka Police. Given the volume of cases, it may, however, not be feasible in the short-term to digitise all past case records. The HRCSL also notes that the capacity of regular scanners to digitise records was inadequate, and scanners with more enhanced capabilities were required.

The HRCSL was satisfied with the level of data protection and security adopted with respect to the database. However, no independent evaluation of data protection and security protocols was conducted during the screening process to assess whether safeguards were adequate. It is noted that some of the information that was publicly available at the time of constructing the database, such as information found on military websites, including information on organisational structure and placement of military personnel during the armed conflict, is no longer available. Therefore, it is crucial that such information is properly mirrored and archived.

Recommendations

Allocate adequate funds to establish a secure, user-friendly, customised database with all publicly available information on IHRL and IHL violations, and which can be regularly updated without risks to data integrity.

Ensure adequate resources, including scanners with enhanced capabilities, for the digitisation of physical case records of key institutions, so that such information can be added to the database.

Conduct regular evaluations of data protection and security safeguards to ensure that they are up-to-date and capable of withstanding new forms of cyber-attacks.

Regularly mirror and archive publicly available sources of information that may be removed in the future.

Clearly define ownership of data and access protocols.

4. Verification Process

The HRCSL was compelled to invest a significant amount of time and effort to verify all information provided by the applicant and to request additional information or clarifications when the information provided did not appear to be accurate or complete.

The HRCSL did not always have the means and resources to verify the authenticity of the information provided by the submitting entities. As mentioned above, it primarily relied on a database comprising information gathered from publicly available sources. This database, although satisfactory in terms of publicly available information, cannot be considered an adequate basis for verifying all details in an application. Yet the HRCSL was compelled to rely on this database, on other information it could independently gather, and on the affidavits and attestations submitted by senior officials of the submitting agencies.

On some occasions, when additional information was requested, submitting entities refused to provide such information citing national security concerns.

With respect to some applications from Sri Lanka Army, the HRCSL observed that personnel who were attached to the same battalion were apparently placed in different locations during the same period. It was also observed that, on occasion, the supervisors of applicants were listed as the same officer regardless of the fact that the applicants were stationed in different locations. When a clarification in that regard was requested, the Sri Lanka Army often stated that the applicant was transferred from their battalion due to ‘operational requirements’. On some occasions, the name of the supervisor was changed when the HRCSL sought a clarification.

The HRCSL did not clear applicants who had provided significantly different information from time to time and treated such contradictions as a deliberate alteration of information. In 2023, the HRCSL took a formal policy decision not to clear applicants who had provided contradictory information with no reasonable explanation.

The process whereby either the HRCSL or the UN screened applications assigned to them, and the other entity conducted a review of the same applications to check the outcome based on any different information available to it, was useful. This process ensured that applications were also screened in terms of data and information held by OHCHR directly, including based on its Investigation on Sri Lanka. The HRCSL is of the view that publicly available information on an applicant is inadequate to form a fair assessment of whether an applicant may have been involved in violations of IHRL or IHL. In this context, information at the disposal of OHCHR, comprising witness testimonials and verified confidential reports, may often provide a fairer basis for assessing the track record of an applicant. The HRCSL is only in a position to verify information gathered during inquiries, investigations, and fact-finding missions it conducts under its formal mandate. It is unable to verify all information and allegations found in the public domain. On occasion, however, the HRCSL had access to confidential information on an applicant due to a specific complaint against such an individual. For instance, the HRCSL did not clear an applicant from Sri Lanka Police who was initially cleared by OHCHR due to the fact that there was a complaint against the applicant (before the HRCSL) regarding alleged torture.

On one occasion in 2024, the HRCSL referred a case to OHCHR requesting that the applicant be screened in terms of further information held by OHCHR. The HRCSL requested more information to determine whether there were reasonable grounds to believe that the applicant was involved in IHRL or IHL violations.

Recommendations

Ensure that the SOP used for any screening process explicitly stipulates that any applicants who, without reasonable excuse, submit contradictory information or refuse to provide further information when requested should not be cleared.

Where relevant, utilise non-public verifiable information held by OHCHR as an additional basis for verifying information provided by applicants and specify this process in the SOP.

Develop clear protocols and standards within the SOP with respect to those who supply false information.

5. Communication

Communication between the DPO, OHCHR and HRCSL was generally satisfactory and a healthy working relationship between the DPO, OHCHR and HRCSL was fostered during the screening process. More recently, the Resident Coordinator in Colombo alongside Senior Human Rights Advisors serving in Colombo played an important role as interlocutors.

Some avoidable communication lapses were, however, noted. For example, the DPO shared certain communications directly with Sri Lanka's Permanent Mission to the UN in New York or the relevant UN Mission without copying the HRCSL. On occasion, prior to the finalisation of screening by the HRCSL, individual applicants were issued with visas with the intervention of the relevant UN Mission without the knowledge of the HRCSL. Such practices led to conflicts and misunderstandings between the HRCSL and submitting entities and contributed towards the inaccurate impression that the UN was willing to deploy these applicants and it was the HRCSL that was blocking the deployment.

Recommendations

Establish a clear communication protocol within the SOP by which the domestic screening entity is kept informed of all communication between the UN and state entities on all matters pertaining to the screening of personnel for deployment in the UN.

6. Undue Pressure

The HRCSL took certain precautions to ensure the safety of staff and UN consultants involved in the process, including by ensuring that all communication and documentation were coded to maintain anonymity.

There were some instances in which the HRCSL encountered undue pressure from state officials. For example, on one occasion, the then Minister of Public Security paid a visit to the HRCSL and exerted pressure on the HRCSL to provide human rights clearance to certain applicants from Sri Lanka Police. On other occasions, state officials exerted undue pressure on the HRCSL with

respect to the screening process. For instance, since Sri Lanka Police personnel undergo SAAT examination, the results of which are valid for a period of only two years, some of the applicants from Sri Lanka Police exerted undue pressure on the HRCSL demanding that the screening of their applications be expedited.

Separately, in 2019, the HRCSL encountered a disinformation campaign in the media, whereby false information on the role of the HRCSL in the screening process, and particularly that the HRCSL was blocking opportunities for UN deployment, was disseminated. This campaign was firmly rebuked by the HRCSL in an official media statement. Since 2019, the HRCSL has not observed similar disinformation campaigns regarding the screening process.

The HRCSL did not succumb to undue pressure at any point during the screening process. It is, however, acknowledged that, at the time, there was no formal communication between the HRCSL and the UN on the occurrence of undue pressure. It is noted that a formal regular meeting between the HRCSL and the UN to periodically evaluate progress and discuss challenges may have presented an opportunity to discuss such matters.

Recommendations

Enforce strict protocols on submitting agencies to respect the independence of the domestic screening entity and institute safeguards to protect individual officers involved in the screening process.

Raise awareness among decision-makers within submitting agencies on the specifics of the screening process and the above protection protocols.

Convene regular meetings with the domestic screening entity and conduct periodic evaluations to assess whether the domestic screening entity is undergoing undue pressure from state officials.

7. Human Resources

The HRCSL staff and UN consultants on the screening team were not provided any additional training or knowledge on how to conduct human rights screening. This process was carried out primarily on the basis of trial and error, whereby the HRCSL had to build the capacity of the staff and the consultants. In fact, none of the members of the team underwent any formal capacity building training throughout the screening process.

Additionally, the HRCSL acknowledges that the team did not always receive regular guidance on how to approach specific challenges and assess applications. Although the HRCSL commissioners overseeing the screening process were approachable to discuss matters pertaining to screening and to obtain guidance, the guidance was not systematised in the form of fixed monthly or quarterly team meetings to review the performance and procedures of the team.

Recommendations

Provide regular capacity building for personnel involved in the screening process. Capacity building should include training on international best practices in screening armed forces and police personnel, knowledge on IHRL and IHL standards, statistics and database management, and digital skills development.

Establish a review and guidance process where regular periodic meetings are held between the screening team and supervising officers to review performance and procedures, and to recommend course correction.

8. Security Sector Reforms

The HRCSL recalls the specific context in which this *special* human rights screening process was instituted. It is understood that the UN conventionally accepts the domestic screening conducted by the submitting entities along with individual attestations and official certifications. It only introduced this special screening process for Sri Lanka because of the presence of allegations of IHRL or IHL violations on the one hand and the government's formal commitment to effective security sector reforms on the other. Prior to 2016, the Government of Sri Lanka had in fact formally committed itself to effective security sector reforms to address institutional challenges within the sector and to ensure that personnel involved in IHRL or IHL violations are not retained within the sector.

It is reiterated that the HRCSL was viewed as an independent institution that can, during an interim period where security sector reforms are successfully carried out, implement a special human rights screening process. Yet, by no means was the HRCSL meant to be a permanent alternative to a conventional domestic screening process envisaged by the 2012 UN Policy on Human Rights Screening of UN Personnel.

The HRCSL has repeatedly raised concerns with the submitting entities, including Sri Lanka Police, on the need for meaningful institutional reform and has offered its advice and support in this regard. For instance, it regularly delivers capacity building programmes and education and awareness-raising programmes to some of these submitting entities with a view to strengthen institutional respect for human rights. It has also issued general guidelines and recommendations on key human rights issues including deaths in police custody.

The HRCSL believes that a holistic strategy on effective security sector reform is required to ensure that all submitting entities have clarity in terms of what milestones need to be achieved for the UN to revert to a conventional domestic screening process.

Recommendations

Periodically review progress achieved on effective security sector reform with a view to guiding decisionmakers on whether the continuation of a *special* human rights screening mechanism is necessary.

Support the development of a security sector reform strategy that sets out clear and achievable milestones for submitting entities with a view to enabling the UN to credibly revert to a conventional domestic screening process.

Human Rights Commission of Sri Lanka

STANDARD OPERATING PROCEDURES

**HUMAN RIGHTS VETTING OF MILITARY & POLICE PERSONNEL DEPLOYED FOR
UN PEACEKEEPING OPERATIONS
FEBRUARY 2017**

I. The administrative process

1. MOD liaison officer sends the list of personnel to be deployed and their profiles, including division/unit, places stationed during military service, to the HRC liaison officer.
2. HRC liaison officer informs Chairperson & Commissioner in-charge of the vetting process of the receipt of names and profiles.

II. The principles that form the basis of the vetting process

1. The vetting process is purely administrative and not punitive.
2. The said process is neither judicial nor quasi-judicial
3. Being chosen for UN peacekeeping deployment is not a right/entitlement.
4. Material scope of vetting- i.e. credible suspicion of conduct that is the basis for disqualification- human rights violations and crimes under international law and acts criminalised under domestic law.

III. Guidelines to vet each application

1. The individual's date of recruitment will first be examined- those who were recruited post- May 2009 will be considered to prima facie qualify unless a credible suspicion/s against them arises.
2. Those who have held non-combat positions will also be considered to prima facie qualify unless a credible suspicion/s against them arises.
3. Where those who are recruited before May 2009 are concerned in order to ascertain the existence of credible suspicion the following matters may be taken into account:
 - a. Credible material on direct/indirect involvement in human rights violations, crimes under international law and domestic law.

Human Rights Commission of Sri Lanka

- b. Reasonable suspicion of direct/indirect involvement in the aforesaid which could involve inter alia membership of certain units/brigades and divisions at times and places when the aforesaid occurred.

4. Those who were:

- a. not stationed at a place where violations of human rights, such as mass disappearances and massacres, took place during the period of violation;
- b. held non-combat positions; and
- c. recruited post- May 2009

will be subject to further vetting to ascertain if a credible suspicion/s against them arise.

5. The following sources of information may form the basis for decision-making:

- a. Human Rights Commission of Sri Lanka's recommendations, case records, reports and other relevant documents.
- b. Judicial decisions
- c. Commissions of Inquiry reports- national and international.
- d. NGO reports or press reports which have a reputation for accurate and impartial reporting and reported information that demonstrates reliability.
- e. It is preferred though not necessary that the information should be corroborated by multiple sources- depends on the quality of the source/information.
- f. Any other relevant documents.

IV. Output

- 1. Each researcher will be allocated a number of files that will be decided at the time depending on the number of total applications to be vetted.

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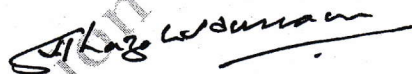
2. Each researcher shall provide a signed and dated report with his/her conclusion of whether the applicant is eligible or not, setting out the required analysis, based on the guidelines set out above in section III, to support the conclusion.
3. The reports prepared by the researchers shall be reviewed by the Commission, based on the guidelines set out above in section III, for final determination regarding eligibility of the applicants for deployment for UN peacekeeping operations.
4. The report of the Commission shall be sent to the Secretary, Ministry of Defence with copies to the Secretary, Ministry of Foreign Affairs. The Secretary, Ministry of Foreign Affairs shall be requested to share same with the UN Department of Peacekeeping Operations.



Dr. Deepika Udagama
Chairperson

Dr. N. D. Udagama
Chairperson

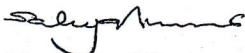
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Mr. Saliya Pieris
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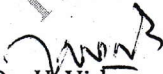
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REFERENCE: DPKO/OUSG/2018/0536

The Secretariat of the United Nations presents its compliments to the Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations and has the honour to refer to note verbale DPKO/OUSG/2018/0439 dated 17 August 2018 and to note verbale DPKO/OUSG/2018/0455 dated 27 August 2018 on the agreement for the standard operating procedure (SOP) for the domestic human rights screening of Sri Lankan personnel nominated for service with the United Nations.

Further to the e-mail communication received from the Permanent Mission dated 1 October 2018, the Secretariat hereby transmits a final version of the SOP for approval by the Government of Sri Lanka and the Human Rights Commission of Sri Lanka (HRCSL). This version also clarifies that the Commission shall share with the United Nations the information received in connection with a screening process, when necessary for the purpose of screening of personnel by the United Nations.

The Secretariat further requests confirmation from the Government of Sri Lanka, by 31 October 2018, that both the Government and the Human Rights Commission have agreed to the SOP. The Secretariat will otherwise not be able to ensure further Sri Lankan rotations and will need to reassess the deployment of Sri Lankan personnel to United Nations peacekeeping operations. The Secretariat also wishes to inform the Government that resources that the United Nations had identified to support the national Human Rights Commission of Sri Lanka in screening the backlog of personnel for rotations will, regrettably, no longer be available after this date.

As previously agreed, the Government of Sri Lanka is to transmit all communications regarding the domestic screening process to the HRCSL. The Secretariat therefore requests that this final version of the standard operating procedure be formally transmitted to the HRCSL. The Secretariat has transmitted a digital copy to the HRCSL to facilitate timely approval of this final version of the SOP and the resumption of the screening process.

The Secretariat of the United Nations avails itself of this opportunity to renew to the Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations the assurances of its highest consideration.

OCT 15 2018

Standard Operating Procedure for the domestic human rights screening of individuals and units nominated by the Government of Sri Lanka for service with the United Nations

INTRODUCTION

The Policy on Human Rights Screening of United Nations Personnel (HRSP) places on Member States the primary responsibility for screening their nationals before nominating them for service with the United Nations, and for ensuring that these individuals meet the highest standards of integrity, including respect for and commitment to human rights. Member States who nominate or provide personnel to serve with the United Nations are also requested to certify that they have not committed, nor are they alleged to have committed, criminal offences and/or violations of international human rights law and international humanitarian law. To this end, the United Nations Secretary-General has requested that procedures be established to strengthen pre-deployment screening by Member States.

This Standard Operating Procedure establishes a domestic screening process in Sri Lanka aimed at ensuring Sri Lanka's compliance with its responsibilities under the HRSP.

In order to ensure the integrity of the domestic human rights screening process, the process includes a **civilian component**, notably the **Human Rights Commission of Sri Lanka (HRCSL)**, in view of its independent nature and mandate, in full compliance with the Paris Principles, as well as its technical competence.

PURPOSE

The Domestic Screening Process should ensure that no individual from Sri Lanka nominated for service to the United Nations (UN) has been involved in violations of international human rights or international humanitarian law, including criminal offences and misconduct during prior UN service, which would preclude the individual from meeting the highest standards of efficiency, competence and integrity required by the UN.

SCOPE

This Standard Operating Procedure (SOP) sets out the procedures to be followed by (i) any entity nominating personnel for service with the UN, including but not limited to the Sri Lankan Army, Navy, Air Force and Police (hereinafter the "Submitting Entity

or Entities”); (ii) the Human Rights Commission of Sri Lanka (hereinafter “the Commission or “the HRCSL”); and (iii) the different Ministries overseeing the troop, police and civilian-contributing entities). The procedures apply to all individuals nominated by the Government of Sri Lanka (GoSL) for service with the United Nations Secretariat, including government provided personnel (GPP) and civilians, other than civilians who apply directly to the UN for recruitment as staff members, etc.

This SOP is a stand-alone agreement involving the entities and institutions above. It co-exists with and is complementary to other related procedures, such as the “Vetting Procedure of Sri Lanka military personnel to be deployed in UN missions”. Wherever there is a conflict between this and other procedures, this SOP shall prevail, and such other related procedures should be amended as necessary, to ensure consistency with this SOP.

The screening by the HRCSL is only for the purpose of deployment to the UN. Clearance or rejection does not constitute an attribution of responsibility or exoneration for the purposes of criminal investigations, disciplinary action, visa requests, or any other purpose.

Under this SOP, “clearance” by the HRCSL should be understood as non-objection to the nomination of an individual for service in the UN, based on an assessment of information available at the time of the screening and consistent with the threshold set out in this SOP.

Whenever information related to acts that may constitute crimes, misconduct, sexual exploitation and abuse, and/or violations of international human rights and humanitarian law comes to light through the screening process, the entity or institution holding such information has the responsibility and the right to make it available to the relevant national judicial, prosecutorial and/or other competent national authorities.

The screening process identified in the present SOP shall not replace, substitute or in any way minimise the obligations of the State to ensure judicial accountability for criminal acts, including violations of international human rights law and international humanitarian law, through investigation, prosecution and judicial adjudication, as relevant.

CERTIFICATION

Only individuals who have been cleared by the HRCSL will be nominated for service by the GoSL and considered by the United Nations.

The Government will provide Member State Certification under the HRSP only upon completion of the domestic human rights screening, and based on the recommendation of the HRCSL. The GoSL Certification will be signed by the Defence Secretary, the Secretary of the Ministry of Law and Order, or the Secretary of the Ministry of Foreign Affairs, as applicable.

UN PREROGATIVES

Irrespective of whether an individual has been cleared by the HRCSL, the UN reserves the right to reject nominations based on its own due diligence and reputational risk assessments, as provided in the HRSP and other relevant rules and regulations.

THRESHOLD

The threshold for nominating an individual must be that **there is no information available** that the individual has been involved in **crimes and/or misconduct**, including sexual exploitation and abuse; and that there are **no reasonable grounds to believe** that the individual may have been involved, either directly by act or by omission (as a superior or commander), in the commission of a violation of international human rights or international humanitarian law.

METHODOLOGY

The HRCSL will develop modalities and systems to carry out the screening, in consultation with the United Nations.

The screening will draw on the broadest possible information and sources.

The Commission will communicate the outcome of the screening to the relevant Submitting Entity in writing, with copy to the relevant Ministry for the Entity in question (Ministry of Defence or Ministry of Law and Order, as applicable) and to the Ministry of Foreign Affairs.

1. General undertakings of the HRCSL

- a. The HRCSL shall provide to each Submitting Entity (i) the application form (Annex A) to be completed by candidates being put forward for service to the UN; and (ii) guidelines on how to complete the application form. The Commission may, when required, update the application form and circulate the updated form to Submitting Entities.
- b. When submitting application forms, the Submitting Entity shall explain any discrepancies in the information submitted for verification purposes,

such as discrepancies in places of service, units, operations, service minutes and salary slips.

- c. The HRCSL will review each application and, if necessary, request from the Submitting Entity additional information or clarifications. It is understood that this process may cause a delay in concluding the review. The Submitting Entity shall ensure that it responds promptly to any request for additional information, on the understanding that the screening of the candidate/s will be put on hold until the required additional information is received.
- d. For a large contingent or group submissions, the Commission will communicate screening results, or request any necessary clarifications to the Submitting Entity, in smaller batches, so that already-cleared candidates are not delayed until the entire group has been screened.
- e. Any cleared candidates who are not deployed will be placed on a roster of screened candidates, whose certification is valid for future deployments. Clearance is valid for a period of two years, unless new information comes to light with respect to the candidate. When making future applications, the candidate will attach the previous clearance as part of the documentation.
- f. Other than as provided in paragraph (i) below, the Commission shall safeguard, on its premises, all information received in connection with a screening process, shall treat all such information as strictly confidential and shall not disclose any such information to any third party¹.
- g. In gathering information relevant to human rights screening and in communicating the results of the screening process, the HRCSL shall ensure the protection of the information and its sources, particularly witnesses and victims of violations.
- h. Submitting Entities provide information to the HRCSL solely for the purpose of screening. Once the Commission concludes the screening of applications it will inform the Submitting Entity, in writing, of the screening outcome and will not be obliged to provide detailed reasons for its decision.
- i. Notwithstanding the above, if information related to the possible commission of acts that may constitute crimes or violations of international human rights law or humanitarian law comes to light/is uncovered through the screening process, the Commission has the right

¹ The Commission shall share this information with the United Nations when necessary for the purpose of screening of personnel by the United Nations.

to make such information available to the relevant judicial, prosecutorial and/or other competent national authorities.

- j. Information on the outcome of the screening by the HRCSL will be transmitted to the submitting entity, with copy to its respective Ministry and the Ministry of Foreign Affairs². Correspondence will only include a list of individuals cleared. The following wording will be included in the communication from the HRCSL: "Based on information available to the Human Rights Commission of Sri Lanka on (date) and information provided by the Government of Sri Lanka on candidates on (date), the following candidates are cleared for deployment, on the basis of the threshold agreed on by the parties".

2. General undertakings of the Submitting Entity and of the Government of Sri Lanka

- a. The GoSL will ensure the protection of all those involved in the screening process, and take prompt and effective action to prevent and address reprisals by any actor.
- b. The Submitting Entity shall compile and submit to the HRCSL applications duly completed by the applicants, along with all requested information.
- c. The Submitting Entity must conduct its own thorough screening of the candidate as per previously-agreed process (e.g. for military a 3-tier process: battalion and regimental level, and Headquarters level and national level vetting by law enforcement authorities) prior to submitting the applications to the HRCSL for human rights screening.
- d. A senior official in the Submitting Entity, who must be senior to the candidate, shall certify that the Submitting entity has conducted its own thorough screening of the candidate and that all information provided by the candidate in the application form submitted to the HRCSL is correct.
- e. When a Submitting Entity needs to put forward applications on a priority basis, it must consult the HRCSL about timelines, and should put forward, if applicable, supporting documentation from the concerned UN recruiting entity on the new priority.
- f. If the HRCSL requires the Submitting Entity to provide clarifications in person, the Entity shall dispatch a senior officer or officers who have the knowledge to provide the requested information, to the HRCSL at the stipulated date and time.

² When the foreseen deployment is to a UN peace operation or DPKO, DPKO and OHCHR will also receive copies of the outcome.

- g. To ensure that the HRCSL is able to plan its screening priorities, the Submitting Entity should regularly provide to the HRCSL the projected/expected timelines of the rotation cycles of contingents/individual officers to peacekeeping operations.
- h. Each Entity submitting applications to the HRCSL should do so at least 7 months in advance of the deadline for nomination to the UN for contingents (i.e. 8 months before deployment) and at least 2 months in advance of the deadline for nomination to the UN for individuals (i.e. 5 months before deployment).³
- i. In their submission for contingents, each Submitting Entity should include the name of the Unit and the UN Mission where it is expected to deploy. For individuals, the title of the post and the Mission to which they will be deployed should be specified.
- j. In the event that there is a medical or other emergency repatriation, or when the United Nations requests a replacement, Submitting Entities may exceptionally request that the HRCSL conduct screening of contingent members or individuals outside of the timelines set out in (g).
- k. An Entity submitting an exceptional screening as per para. 2(j) above accepts that previous applications by the same entity already in the screening pipeline will be delayed in order to accommodate the new request.

FINAL PROVISIONS

Any disagreements regarding the implementation of this standard operating procedure that could affect the effectiveness or integrity of the process should be brought to the attention of the United Nations Secretariat by the Government or the HRCSL.

This SOP has been consulted with and agreed on by all institutions concerned, as set out under Scope (first paragraph), and is considered effective from 1 November 2018.

³ Standard deadlines for the transmission of screening results by the HRCSL will be agreed upon between the GoSL and the HRCSL to ensure that the deadlines for nomination of personnel to the UN can be met.