

Statement by Hon. Mohan Peiris, Attorney-General of Sri Lanka exercising the Right of Reply during the general debate under Item 4 of the 15th Session of the UN Human Rights Council,

17 September 2010

Mr. President,

It might be opportune to remind some of the members of this Council that reconciliation and recompense are inherent characteristics, which find their roots in our rich and cultural heritage, which have spanned over two thousand five hundred years of our history. This has bred in us the singular resilience to withstand several invasions of alien cultures.

It is pertinent to remember that in the past 30 years we never engaged in a war against our people but in a war, which had the singular aim of eliminating terrorism. You can be assured that we will not inherit the scars of a war that have now been consigned to the events of the past. We will not look over our shoulders but will relentlessly pursue a policy of national reconciliation of one people, one Sri Lanka and of one Sri Lankan nationality.

I would therefore earnestly and sincerely request those who are overly anxious of our future to leave us to our age-old values based upon love and reconciliation, which surpass all other alien mechanisms whatever hue they may take and leave our Lessons Learnt and Reconciliation Commission to take its course without any intervention of whatever nature

It is unfortunate that the EU thinks it fit to observe that the issue of national reconciliation merits attention of the Council. This position ignores the sovereign responsibility vested with the government of Sri Lanka in this regard. At no point, has the Government of Sri Lanka abdicated its responsibilities to its people. It is in this very context that the President of Sri Lanka appointed the Lessons Learnt and Reconciliation Commission with emphasis on restorative justice, which this Commission is focusing on, among others, determining responsibility regarding past events in question related to the conflict, which I briefed this Council on 13th September. It is unfortunate that the EU has chosen to ignore this important step taken towards our process of national reconciliation and thereby called for attention to this factor by the HRC. It may be recalled that I also enumerated a number of steps taken to improve the human rights situation in Sri Lanka. It is hoped that member States would not seek to prematurely conclude that there have been human rights violations during the final stages of the conflict since this is one of the aspects that the Lessons Learnt and Reconciliation Commission is seeking to ascertain through its hearings.

The passage of the Amendment is an entirely internal matter that moreover took place in full accord with the provisions of the Constitution and in total compliance with a unanimous decision of the Supreme Court, with an overwhelming majority of 161 Members of Parliament of a total of 225, voting in favour.

It would be pertinent also to note in this regard that the Amendment was presented after careful consideration. A situation had arisen of attempts covering successive administrations and spanning a period of several years, to operationalize under the provisions of the 17th Amendment several key institutions of governance, having palpably failed. There were additionally well founded apprehensions that the provisions of the 17th Amendment

whatever the intent behind their introduction, could lead to the practical situation of depriving the executive arm of government of the authority and disciplinary control, essential to meet the constitutional obligation of managing the machinery of state.

The 18th Amendment resolves this situation, by introducing the necessary constitutional clarity. It revives the functioning of the Commissions sought to be covered by the 17th Amendment through a Parliamentary Council which importantly provides by the inclusion of Members of Parliament, for the salutary principle of accountability to the people.

The removal of term limits by the 18th Amendment will serve to prevent any potential for the political authority of the Head of State and Government being eroded during the course of a second term, due to an arbitrarily imposed time limitation of service to the nation. In fact the 18th Amendment re-establishes the will of the people as the sole factor, which should correctly determine the continuity of tenure.

Mr. President, you will therefore appreciate that the 18th amendment simplifies the appointment of Commissions unlike the 17th amendment, which due to no fault its technicalities stood in the way of appointments being made to the independent Commissions. The 17th Amendment to put it in simple words never got off the ground. On the contrary, the 18th amendment provides a simple workable arrangement within the legislature for the President to seek its observations of the nominations made by the President to the independent commissions. The 18th amendment therefore establishes an extremely workable parliamentary council, which will make available its observations to the President with regard to the appointments to high office including the Commissions, which will be established having due to the Paris principles. It is most unfortunate that we have to at this stage as a famous jurist once observed as chasing phantom dragons into the scheme of our constitution. Let me assure the members Mr. President that we will deliver and to take comfort in that established expression that all good things come to those who learn to wait.