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இலங்கை தேசிய சமாதானப் பேரவை  
National Peace Council of Sri Lanka

# Paths To Peace

June  
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## Enforcing Tesawalamai Law

Jaffna is governed under one of three remaining customary laws used in Sri Lanka: Tesawalamai law or Tamil law, the other two laws being Muslim law and Kandyan law. In the North, Tesawalai law became authoritative in the 18th century after a revision by a group of prominent Tamils.

During a training programme on protecting civic space under NPC's Legal Action Worldwide (LAW) project, the issues of land occupation by the military and access to land ownership for women were discussed.

One participant said that people in the North felt that the government was enforcing a Buddhist colonial system in the region. The general practice was to ask approval from the neighbours before selling land. This was not the case for the Thaiyiddy Buddhist temple, which was built on public land occupied by the military that was governed by Tesawalamai law. The military built the temple without authorisation of the land owners therefore the people were demanding that the temple be dismantled and the land given back to them.

They also wanted compensation for government occupation of their land. According to Tesawalamai law, land can only be taken by the government for economic development and not for cultural or religious purposes. "Tesawalamai law is there to protect us and our culture", a participant observed.

Tesawalamai law applying to land treated women and men unequally, participants noted. A woman had to get written consent from her husband to sell her own land. Participants said that ownership of land for woman was not regulated and that the law did not address current issues.



# Policymakers and CSO collaborate on Religious Coexistence

NPC, with the assistance of its partner organizations, conducted networking meetings in the districts of Ampara, Matara, Badulla, Kandy, Rakwana, Negombo, Trincomalee and Vavuniya.

The way sub-national NGOs interacted with multiple religious leaders at the meeting revealed gaps in their pluralism capacity. For example, they gave more attention and respect to the majority religious leaders in comparison to minority religious leaders.

Based on this observable gap in pluralism, NPC will be organizing a residential training on pluralism and the rule of law for 40 subnational NGOs from 14 districts.

In Trincomalee, Ampara, Vavuniya, Bandarawela, and Rakwana districts, NPC discussed with policymakers including community based organizations, state officials, community police and religious leaders how they could engage with NGOs at the sub-national level on resolving religious conflicts before they escalated.

Policymakers highlighted concerns of the Malay Muslim community in the Ampara district. The community faces discrimination from the Muslim, Tamil and Sinhalese communities because they were destitute; they are also excluded from owning land. Land owners are mainly from the majority communities and are reluctant to sell land to the Malay community. They are not able to access high paying jobs while business owners were experiencing religious discrimination when it came to employment.

NPC stated that its Local Inter Religious Committee (LIRC) in Ampara had intervened to find solutions to the plight faced by the Malay community in Ampara. However, the issue persists and will be followed up by the LIRC, which will continue to monitor the situation closely.



Policymakers brought up internal religious issues. In the Badulla District the LIRC noted that female Buddhist monks were deprived of their civil and political rights such as the right to vote. One female monk was unable to vote because the relevant documents had not been provided by senior monks. This issue will be taken up by Kandy LIRC and reported to the relevant authorities. The meetings provided a connection between the Chief Prelates of the Malwatta and Asgiri chapters who play a crucial role in the governance of Buddhism.

NPC invited sub-national NGOs to become stakeholders in the mediation and intervention process conducted by LIRCs because they will provide visibility and community engagement on issues of religious coexistence.

## Peace March in Jaffna

The Jaffna District Inter Religious Committee (DIRC) with the guidance of its partner organization SOND organised a peace march followed by a media conference. These were to highlight the growth in religious tension, request restraint on the part of all religions and to urge the government to prevent escalation.

At a time when the government is discouraging public protests the Jaffna DIRC was willing to take to the streets to protest against the increased instigation of religious disharmony in which the government is widely seen in the North as siding with one religion. The government has been using archaeological regulations to take over privately owned lands.

NPC through its capacitation and mentoring activities has been building the capacity of DIRCs to act collectively with the participation of religious clergy and lay people of all four religions. The DIRC invited NPC to join in the peace march and media conference. They believed this would give the events a larger national significance. The DIRC also wanted NPC to be present alongside it for reasons of north-south solidarity.

During the media conference a question raised by a journalist was whether there was any understanding of the position of Tamil people who found their lands being suddenly taken away from them and fenced off on the grounds that there was an ancient Buddhist monument present there. It was pointed out that the president himself has spoken in opposition to this type of arbitrary take over and insisted that the legal process would be followed.





# Families of the Missing: Differences in North and East

When asked whether he thought the Office on Missing Persons (OMP) had done anything constructive for victim families or if it would do so, a former senior OMP replied, “No”.

The official was attending one of the six review meetings held in Mannar, Batticaloa and Jaffna under the Canada Fund for Local Initiatives (CLFI)/OMP project at a regional level to assess the effectiveness and efficiency of OMP services received by the families of victims.

With the focus of identifying the needs and expectations of victim families, the gaps in the process and procedures followed by OMP in serving them, families showed the same dissatisfaction and frustration across Sri Lanka.

The majority of participants from the North and East had no faith in the government’s reconciliation process due to their past experiences with similar commissions established that ended in giving unkept promises. They did not expect a productive outcome with OMP either and were skeptical about whether the government had a genuine interest to find the answers they expected. Even written complaints submitted to the OMP with concrete evidence sufficient to carry out an investigation were not acted upon. When OMP was established, they were told that it had a lot of power and would investigate incidents to see that justice was done. Some of the families had visited the OMP office in Colombo and handed over details with documentation to officials who accepted those with the assurance that they would follow up but nothing had happened so there was no trust, no expectations and no confidence.

In the North and East, victim families have been demanding truth and justice for a long time. Due to government’s inaction and insincere intentions for uncovering truth, there had been no one brought to justice so the families were losing hope. Most of them continued to prioritise truth and justice seeking over reparations. Participants in the South said their focus was on reparations.

Participants requested that the renewal of the Certificate of Absence should be done without providing additional information.



# Course on Improving Public Service Delivery Begins at Ruhuna University

The Advanced Certificate Course sustainable peace through pluralism and inclusive service delivery was launched at the University of Ruhuna. As part of the Freedom House project, the course will introduce a new dimension to the university in supporting the public sector to improve the effectiveness and efficiency.

The inauguration ceremony was attended virtually by the Vice Chancellor, Deputy Vice Chancellor, Head of the Distance and Continuous Course units, Head of the Sociology Department and Executive Director of NPC Dr. Jehan Perera. NPC played an integral part in facilitating the development of the course modules as well as in assisting to offer the course through the university system.

During the orientation programme for the selected applicants, students were briefed about the course contents, university procedures and regulations, teaching methodology. Classroom sessions will begin in July.

Many participants have high academic qualifications A Divisional Secretary said that although she has a Master's degree, she wanted to learn how to improve service delivery in her work.

## Farewell to Saman Seneviratne

Saman Seneviratne, NPC's Project Manager, is leaving the organization after two decades of dedicated and tireless service to the grassroots communities that NPC is engaged with.

"NPC has come a long way since I accompanied Saman who was taking the lead to set up District Inter Religious Committees in places and towns I had never been to before. Some of those meetings were small with disempowered participants who did not know us and we did not know them. I saw the enormity of the challenge. Today when we go to those areas we are well recognised and those who attend our programmes are more empowered," said NPC's Executive Director Dr. Jehan Perera.

"Over the past two decades Saman has shown vision and determination in our common goal of a Sri Lanka for all its citizens to belong equally and be treated with justice and dignity. It is my hope and wish that our work will be complementary as we continue the journey towards the same goal. I wish Saman the best in his future work," he said.



# Do Not Go Down the Path of Suppression of Media Freedom

The International Covenant on Civil and Political Rights (ICCPR) is the world's standard bearer on civil and political rights. It was incorporated into Sri Lankan law in a manner that has permitted successive governments to misuse it. The arrest and detention of comedian Natasha Edirisooriya under the ICCPR Act has become another unfortunate example of the misuse of a law meant to protect human rights by the government. Previous targets have included poets and novelists who have addressed social and political controversies.

Ms Edirisooriya is accused of having violated the provisions in the ICCPR in Section 3(1) that forbids hate speech. In one of her stand-up shows, she had given the example of Lord Buddha's abilities as a child and compared them to life in today's social milieu where children are slower off in developing themselves. The use of religious founders and teachers to make worldly arguments may be offensive and disturbing to adherents of those teachings. However, the depiction of this art form as being the equivalent of hate speech is unfair and unjust and so is the artiste's imprisonment for over a week.

Section 3(1) of the ICCPR Act prohibits advocacy of hatred that constitutes incitement to discrimination, violence or hostility. The international human rights watchdog, Amnesty International, has pointed out that in the case of Ms Edirisooriya that for speech to be illegal on the grounds of being hate speech it requires "a clear showing of intent to incite others to discriminate, be hostile towards or commit violence against the group in question." Amnesty International also notes that "When the expression fails to meet the test, even if it is shocking, offensive or disturbing, it should be protected by the state."

Ironically, in the past there have been many instances of ethnic and religious minorities being targeted hatefully in this manner, but successive governments have been inactive in protecting them or their reputation. Such targeting has taken place, often for political purposes in the context of elections, to mobilise sections of the population through appeals to narrow nationalism and fear of the other. The country's political and governmental leaders who claim to be guided by the tenets of religion and do not fail to make public displays of their religiosity, need to be mindful of the multi ethnic, multi religious and plural nature of Sri Lankan society and give priority to the building of sustainable pluralistic relationships based on trust, justice and fair play.

The National Peace Council urges the government to desist from utilising the ICCPR Act against those who make social and political critiques that are outside the domain of hate speech. We note that this law against hate speech has been, and is being used, to target political opponents of the government and to shut down the space for freedom of expression and media freedom in general. The arrest of the owner of SL-Vlogs, a social media media site, under the ICCPR Act for having put up her show on their web site is an indication of this larger and more concerning phenomenon.

The crackdown on the space for free expression and critical comment is unacceptable in a democratic polity, especially one as troubled as Sri Lanka, in which the economy has collapsed and caused much suffering to the people and the call to hold elections has been growing. NPC appeals to the government not to go down this path and welcomes the intervention of the Human Rights Commission which has called on the Inspector General of Police to submit a report on the arrest and its rationale.

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*Our Vision: A just and peaceful Sri Lanka, in which the freedom, human rights and democratic rights of all peoples are assured.*

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*Our Mission: To work in partnership with different target groups with an aim to educate, mobilize and advocate the building of a rights conscious society of people that work towards a political solution to the ethnic conflict, reconciliation and equal opportunities for all.*

## Ensure Law is Applied Equally Regardless of Ethnicity or Religion

The arrest of Jaffna parliamentarian and leader of the Tamil National People's Front Gajendrakumar Ponnambalam is another incident that feeds into the sense of unequal treatment of individuals and communities in the country. The parliamentarian was accused of obstructing police officers from performing their duties. The incident arose when MP Ponnambalam challenged two persons in civvies who came in unannounced at a meeting he was having with his constituents in a public park who declined to divulge their identity. This incident has revived sentiments within the Tamil community that they are treated differently and less favourably than others.

The surveillance of political and civil society activities in the north and east of the country is a common practice which the people in those parts find offensive and intimidating. There is a sense of helplessness of people in the face of a large presence of uniformed personnel armed with guns, cameras and legal authority even fourteen years after the end of the war which is indicative of the need win their hearts and minds to ensure national security, if that is the government's concern. The National Peace Council calls on the government to treat the people of the north and east no differently from those in the rest of the country as equal citizens entitled to the same human rights.

The fact that a political leader from the minority Tamil community was arrested when his counterparts in parliament have been treated with deference despite their misbehaviours brings in the ethnic dimension which has been a long term and fatal flaw in the Sri Lankan body politic. The arrest of parliamentarian Ponnambalam is indicative of the unequal application of the law and begs the question, one country one law or one country two laws. This is a phenomenon that is seen increasingly in the government's use and misuse of the ICCPR Act (meant to give effect to the world's foremost human rights instrument—the International Covenant on Civil and Political Rights) to prosecute those who offend the sensibilities of the majority community, and ruling politicians, but not the reverse.

We urge the government to establish an equality and pluralism commission in keeping with the 21st Amendment to ensure that there is equal treatment and non-discrimination in all walks of life. We also urge the holding of the long postponed provincial council elections and full implementation of the 13th Amendment so that police and land powers may be assigned as per the constitution and to train government officials including the police in the values of pluralism and inclusive service delivery to minimize the possibility of high-handed behavior of state officials based on ethnicity and religion. Such an institutional arrangement can increase the trust between the state and the people and also represent the values of the country beyond our shores.

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