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இலங்கை தேசிய சமாதானப் பேரவை  
National Peace Council of Sri Lanka

# Paths To Peace

July 2016

## NPC Submits Proposals To Consultation Task Force

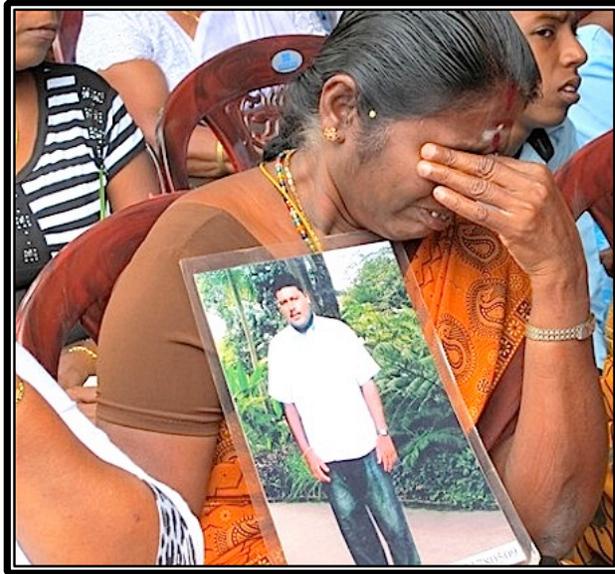
Through its work at the grass roots level, NPC was able to gather opinions from religious and community leaders, civil society and the public on what sort of transitional justice mechanisms they felt would be best for Sri Lanka to adopt in its quest for reconciliation and a lasting peace.

These views, along with NPC's own analysis, were compiled and presented to the Consultation Task Force on Truth Seeking and Institutional Reform.

**Truth Seeking:** An option for the government would be to consider the establishment of a Truth Seeking Commission with a mandate to look into the entire phase of armed conflict. Unlike the South African version, the government has stated that its variant will not be for the purpose of amnesty, but rather to facilitate the healing and reconciliation process of the victims. If the commission has no amnesty provision, the perpetrator has very little incentive to confess the truth.

We believe that the Sri Lankan ethos is not conducive to a process such as the South African Truth and Reconciliation Commission in which victims and perpetrators confronted each other. Our preference is for a truth seeking approach by providing an environment whereby a formal inquiry can take place within a safe space, in which victims in particular can express themselves freely and with a sense of security rather than to utilise an inquisitorial and confrontational approach.

**Accountability, Reparations and Missing Persons:** Most people said that the government had yet to take this message clearly to the masses of people. They agreed that the truth about the past needed to be ascertained. Most agreed that those who committed crimes outside of their duties should be punished, and once it was explained to them, close to half of them had no objection to a special court with international participation.



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What was encouraging was the willingness of the participants to appreciate the need for a lasting political solution to the problem of the Sri Lankan state with the ethnic and religious minorities.

During discussions with civil society groups, two key messages get highlighted. The first is the limited information available to the general population regarding these issues. There is an absence of strong and systematic messaging by the government. Second, the message from the Tamil-speaking participants from the North and East is their scepticism about the ultimate outcome of the on going transitional justice process. This highlights the need for greater inclusion of such groups into the process and for trust building with them. The role of civil society in these circumstances in taking the message to the people and in ensuring a sense of participation is extremely important.

*How a nation interacts with its past creates the foundation upon which its future is built. Sri Lanka's 30-year civil war is characterized by grave human rights violations that have been left unaddressed. Transitional justice mechanisms can help form new bonds between people, and between citizens and their government. Transitional justice can be effective tool for reconciliation, political stability and reform.*

**Institutional Reform:** During consultations with civil society to ascertain what people think are necessary Constitutional reforms, various amendments were suggested including:

- The necessity to fully implement the 13th amendment so that the rights of the minorities would be ensured. Provincial Councils should be given police powers in keeping with the aspirations of the Tamil people, who wanted to manage their own affairs.
- Since some of the Sinhala people did not fully understand the concept of devolution, it was suggested that religious leaders get involved in the explaining it to the public. If Sinhala people in the South accepted the concept of devolution for their own provinces, as they have, it was felt that the rest of the majority community could be brought around to devolving power to the provinces.
- The Constitution should have provisions to safeguard the independence of institutions that were now very politicized. With constitutional changes, first thing must be a change in the structure and composition of the judiciary to allow Tamil people to get their rights. Sinhala people must know that Tamil people's rights must be addressed. Judiciary must be independent.
- A new Constitution must establish minority rights. The Constitution should have a provision to address demographic imbalances that are created artificially to affect the number of a certain ethnic minority in a certain area through resettlement, and which affects their representation in Parliament.
- Article 126 of the Constitution needs to be amended to make it easier for people to access the courts to vindicate their fundamental rights. The right to invoke courts where there is interference by the Executive with the independence of the Judiciary and a clause included in the Constitution that all orders must be given writing which must be kept of record by the writer and the recipient. Orders not given in writing should not be carried out if they are unethical or unfair in any way to any person
- As far as the process of people's participation in the constitutional reform process goes, it was pointed out that ordinary people were excluded because they did not have access to email, text or fax and were unable or unwilling to attend public hearings.

# NPC's Projects Take Transitional Justice To Grassroots

Nine monthly meetings and three workshops on Transitional Justice (TJ) were held under NPC's Reconciling Inter Religious and Inter Ethnic Differences (RIID) project Phase II in the districts of Ampara, Batticaloa, Galle, Jaffna, Kandy, Mannar, Matara, Nuwara Eliya and Puttalam.



A key objective of the project is to strengthen civil society activists to support the transitional justice process. It facilitates religious clergy belonging to the four religions to identify war victims from each of their faiths and get them to share their stories to the larger gathering.

In Puttalam, the workshop on TJ, Good Governance and Democracy, organised in collaboration with NPC's partner WODEPT, was attended by 37 local politicians and civil society leaders. The objective was to enhance knowledge on these issues and get engagement in the TJ process.

Seven monthly meetings were also held under NPC's Initiating Multi-level Partnership Action for Conflict Transformation (IMPACT) project supported by Misereor, in the districts of Anuradhapura, Badulla, Hambantota, Kalutara, Kurunegala, Polonnaruwa and Ratnapura. The meetings focussed on capacity building of partners and on explaining the concept of TJ.

*"Although the government is taking actions to implement some of the recommendations for reconciliation, we did not know what Transitional Justice is and its relevance to reconciliation. This is an good opportunity for us to learn how to apply it in Sri Lanka."*

**Local Political Leader , Puttalam**

The meeting in Anuradhapura developed an action plan for the District Inter Religious Committee (DIRC) with its members. Religious leaders and civil society leaders were among the participants. They identified issues that could lead to future conflicts in the district and discussed possible solutions.

Members of the Anuradhapura DIRC and partners also met the Bishop of Anuradhapura Dr. Norbert Andradi and Ven. Aluvihare Wimalaratne Nayaka Thero to explain their work towards building unity and reconciliation. A book of success stories from the DIRC was presented to the religious leaders.

"I think what NPC is doing has a significant social impact. There is a real need for increasing awareness on Transitional Justice among ordinary people. The general public does not know what is happening in the country so they need to know the truth," Reverend Dr. Andradi said.

"It is always better to create spaces for the people from different faith and ethnic groups to come together. This helps to restore trust and understanding among different faith and ethnic groups. I think it is our role to share the truth with the general public to support the reconciliation process," said Ven. Aluvihare Wimalaratne Nayaka Thero.

# Sri Lanka Raises Women's Concerns At CEDAW Committee in Geneva

Sri Lanka submitted a State report and a shadow report to the committee of the Convention on the Elimination on all forms of Discrimination Against Women (CEDAW). The 66th Pre-Sessional Working Group committee (PSWG) meeting for the CEDAW was held in July at the United Nations in Geneva.



Shadow reporting is a tool that civil society uses to bring the attention of UN Treaty bodies to issues that are not raised by governments. The shadow report submitted by Sri Lanka was led by FOKUS WOMEN's Sri Lanka office with inputs from NPC.

Civil Society members from their respective countries were given 10 minutes each to submit statements to urge the committee to pressure their governments to ensure that the state promotes and protects its duties to the convention.

Participants highlighted concerns relating to girl children, women and transgender women to the committee to urge governments to implement their obligations to women citizens. As governments will be reporting to the committee early next year, the issues raised will formulate the committee's questions and concerns to governments.

Dr. Shyamala Gomez, Country Director of FOKUS WOMEN, and Lakmini Jayathilake, NPC's Project Coordinator, represented Sri Lankan civil society. This was the first time that NPC played an active role in the CEDAW Shadow Report process.

At the PSWG meeting, Sri Lanka submitted three statements to the Committee highlighting shortcomings and concerns related to Female Heads of Households, LGBTIQ community, marital rape, abortion, disability, personal law (Quazi and Thesawalamay), migrant workers and sex workers. The statements were submitted by FOKUS WOMEN, Equal Ground and Network of Sri Lankan Citizens for Implementation of CEDAW.

The committee asked the Sri Lankan delegates how constitutional reforms addressed issues related to personal law that affect women. Dr. Gomez said that although constitutional reform was taking place, there was resistance from the government to change personal laws. The government's solution was to tell the community to come to a consensus and make recommendations. But the community itself was divided, she added. For example, under the Muslim system, the age of marriage for a girl child was 12 years. Some in the community wanted to change this but others did not so a consensus could not be reached.

Sri Lankan civil society was hopeful that the CEDAW Committee would raise the issues highlighted in its shadow report and statements made at the meeting to ensure the rights of its women citizens were promoted and protected.

# More Public Engagement On Reforms Necessary

Sri Lanka is on the agenda for discussion at the ongoing 32nd session of the UN Human Rights Council in Geneva. The UN High Commissioner for Human Rights will be submitting a report on Sri Lanka's implementation of the resolution of the 30th session in October 2015, which was co-sponsored by the Sri Lankan government.

The government is currently in the process of establishing the transitional justice mechanisms it agreed to at the October 2015 session. As a first public step, the draft legislation for an Office of Missing Persons has been released.

The government is also fast tracking a process of constitutional reform with a draft document expected before the budget in November. It has restored law and order and improved the sense of security of the ethnic and religious minorities.

On the other hand, the government has yet to deliver on many commitments, including repeal of the Prevention of Terrorism Act, restoration to people of land taken over by the military, the significant reduction of military presence in the North and East and, most controversially within the country and internationally, the involvement of foreign judges and legal personnel in a Sri Lankan judicial mechanism.

The National Peace Council emphasises the importance of winning the confidence and support of the general public for these reform efforts.

The strength of Sri Lanka's present reform processes is that they have the concurrence of the political leaderships of the major political parties.

However, the outcome of the Brexit referendum in the UK shows that the majority of people must not be made to feel alienated by processes they are either ignorant of, or over which they feel they have no control.

The government has enlisted civil society organisations to conduct public consultations on the proposed transitional justice mechanism with a limited time frame having done the same with regard to constitutional reforms earlier in the year.

*The outcome of the Brexit referendum in the UK shows that the majority of people must not be made to feel alienated by processes they are either ignorant of, or over which they feel they have no control. The government has enlisted civil society organisations to conduct public consultations on the proposed transitional justice mechanism with a limited time frame having done the same with regard to constitutional reforms earlier in the year. We call for an expanded process of public engagement so that viable reforms that have the people's understanding and acceptance are developed especially if there is to be a referendum to implement constitutional change.*

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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.*

*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.*

## Students Clashes Need To Be Handled With Sensitivity

The student clash between Tamil and Sinhalese at the University of Jaffna has received wide attention within the country. There have been concerns expressed about a return to extremism. Social media comments show ethnic polarization. However, the proximate reason for the clash was demand by the Sinhalese students that their cultural markers be included in a student cultural event to welcome an incoming batch of students and the unscheduled inclusion of a Kandyan dance troupe in welcoming the students. We note that Jaffna University academics and the Tamil National Alliance have condemned the incident and pledged their commitment to keeping the universities as multi-cultural spaces and urged the Sinhalese students to return.

We also note that the Northern Provincial Council has issued a bipartisan statement signed by the Chief Minister and Opposition Leader welcoming the appointment of a Committee of Inquiry in this regard by the university authorities with a request that such incidents should not be viewed from a purely criminal law standpoint but must be aimed at identifying the underlying causes that led to their violent behavior. They have identified as background factors the demographic pattern of the North and East after the war as being consciously changed and students from other provinces being admitted in large numbers into Jaffna University.

The clash in Jaffna was preceded in March this year by a clash between Tamil and Sinhalese university students in the Trincomalee campus over an incident of ragging. The high proportion of Sinhalese amounting to between 60 to 80 percent of the student body in some of the university faculties in the North and East has caused a feeling of being under pressure by the influx of Sinhalese students in traditionally Tamil (and Muslim) areas. The changed ethnic composition of the student body is invariably accompanied by a change in the administrative composition of the university system. Both these factors may be viewed with anxiety by the Tamil and Muslim communities in the North and East who are seeking to protect their identity not least in the areas in which they are a majority.

The National Peace Council is of the view that the reasons for the frustration of the students need to be understood and the causes dealt with. While the government, Tamil parties and liberal academics are having a positive rapport at the highest levels, this relationship of trust and cooperation has yet to permeate the student consciousness. This problem is likely to exist at the larger community level also. There is a need for a more concerted effort to be made for people-to-people engagement to develop greater understanding and sensitivity to the concerns of each ethnic and religious community. It is also necessary for the government and university administration to keep reasonable ethnic ratios in mind when allocating places for students to universities in different parts of the country.

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