

Statement by Civil Society on Proposed Truth-Telling Mechanism

We the undersigned organisations are writing to express our deep concern about the Government's proposal to establish the National Unity and Reconciliation Commission (NURC). While we do believe that truth seeking is an important part of addressing past violations and suffering endured by communities, especially in the areas of the country most affected by the war, we are unable to support this proposed mechanism for the following reasons.

The victim community has no confidence in any local commission or tribunal created by the Sri Lankan state. These commissions have in fact revealed the intentions of successive governments to scuttle truth-seeking and the victims' quest for accountability. Leading functionaries and politicians have time and again declared publicly that the government will not betray the war heroes and patriotic forces.

The NURC is being introduced in the absence of a judicial mechanism: in 2015 the Government committed itself to establishing 4 transitional justice structures, including a judicial mechanism with a Special Counsel but more than 8 years later this has yet to be implemented. The failure to do so has denied victims the opportunity to seek justice through a credible mechanism as they have lost faith in the domestic justice system. The lack of accountability for past crimes has deepened the culture of impunity.

The NURC is one among a series of commissions established by different governments over the last 30 years. Many of these structures that operated like some form of truth commissions produced reports with a broad range of recommendations. Many of these recommendations remain unimplemented. So what guarantees are there that the recommendations from the NURC will be implemented?

In such a context is it fair to call on victims to appear before yet another commission, when victims risk being re-traumatised and face security threats for speaking out?

There have been talks about involvement of foreign experts in the NURC. In the past the Sri Lankan government called for foreign expertise. For example the International Independent Group of Eminent Persons, headed by India's former chief justice PN Bhagwati and including the leading Japanese professor Yozo Yokota. But the eminent-persons group quit in disappointment in March 2008, due to government interference and the conflict of interest on the part of the Attorney General's Department Counsel who were in charge of leading the evidence of witnesses before the commission.

When people appeared before the Consultation Task Force on Reconciliation Mechanisms in 2016 they spoke of their exhaustion of appearing before previous commissions and their loss of trust and confidence as they had appeared before so many commissions but with little changes on the ground.

Discovery of mass graves have become a daily phenomenon in Sri Lanka however the government has no intention to hold credible investigation into the matter. Instead of assisting the process of investigation by appointing expert team and sufficient funds to continue the process, the government officials have always obstructed the processes.

We call upon the Government and the international community, especially countries like South Africa who have been trying to advocate for this mechanism, disregarding our lived experience to these concerns.

We also want to place on record that the civil society, victims and witnesses who came forward to make complaints and engage with the state, including the Office of Missing Persons have been

intimidated, threatened and to date are under heavy surveillance. Their work and voice on finding the truth have been silenced deliberately by various arms of state intelligence and other structures.

If the Government is interested in winning the public's trust it should take following steps:

- review the existing recommendations from previous commissions and develop a plan to implement them with a time frame.
- compile existing material and evidence presented to previous commissions and other state institutions to avoid victims having to repeat their testimonies again
- create a climate for reconciliation including through the release of lands held by the military and ensuring equitable distribution thereof, withdrawal of oversized military deployed in the north and immediate release of prisoners accused under PTA who have either served their sentence or not been charged, stop the harassment of activists and victims, and ensure that minority land is not seized by state authorities and majority religious institutions.
- review the NURC legislation, incorporate the recommendations made before the Consultation Task Force.
- take steps to expedite the court cases that are already dragged on for over decades on disappearance and mass graves.
- Repeal PTA and have victim consultations on any draft laws specially laws that have largely framed minorities and dissenters as terrorists.

If the Government goes ahead with the NURC without taking note of and co-opting these concerns, we will not be in a position to cooperate with the NURC process. We also see this as an effort by the government to nullify the ongoing Sri Lanka Accountability Project as part of the UNHRC resolution 46/1. South Africa should not in any way initiate a process that will have a negative impact on a long fought international accountability process by the victims. It is unfair on the victims to put them through another painful experience of truth telling when there is no commitment from the govt to actively listen to them, identify corrective steps and to implement long overdue meaningful reforms.

Endorsed by:

Women's Action Network (WAN)

Centre for Human Rights Development (CHRD)

Mannar Women's Development Federation

Human Elevation Organisation

Ampara District Alliance for Land Rights

Eastern Social Development Foundation

Trincomalee District Women Network

Institute of Social Development

Law and Human Rights Centre (Jaffna)

Affected Women's Forum

Muslim Women Development Federation

Jaffna Civil Society for Equality

Samathai Feminist Friends Group - Batticaloa

Puttalam District Women's Self Employment and Reconciliation Forum

Vallamai- Movement for Social Change