

28 April 2016



Ms Manouri Muttetuwegama
Chairperson
Consultation Task Force on Reconciliation Mechanisms
Secretariat for Coordinating Reconciliation Mechanisms
Democratic Socialist Republic of Sri Lanka

By email: contact@scrm.gov.lk

Dear Chairperson,

Submission re the role of documentation in Sri Lanka's transitional justice process

I am writing in response to the call for submissions made on 5 April 2016 by the Consultation Task Force on Reconciliation Measures.

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to contribute to the design of the structures, processes and measures to seek truth and justice, ensure accountability and offer redress following Sri Lanka's civil war. Since 2012, PIAC has been involved in documenting human rights violations allegedly committed by all parties to the war. PIAC is an Australian non-profit law and policy organisation that works independently, without any affiliation or favour shown to anyone – including any of the participants in the civil war.

Overview

This submission explains how documentation of evidence is vital in Sri Lanka's transitional justice process, and the key role that civil society can play in the documentation process.

The submission does not seek to comment in detail on any of the Sri Lankan Government's four proposed transitional justice mechanisms. Rather, it explains how safe and reliable processes for documenting abuse and collecting other relevant data are essential to the smooth and efficient operation of *each* transitional justice mechanism – from supporting judicial processes to contributing to truth-telling and other reconciliation initiatives.

As such, it is critical that the issue of documentation be considered as central to the design of Sri Lanka's transitional justice mechanisms.

Civil society groups that document alleged human rights violations are well placed to assist and contribute to Sri Lanka's transitional justice efforts. However, to do so effectively their efforts need to be coordinated. PIAC recommends that this can best be achieved by establishing a civil-society led documentation centre as part of the reconciliation process.

Background

Since early 2015, the Sri Lankan Government has led a process that will result in the establishment of important transitional justice mechanisms. Its commitment to undertaking a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures, led it to co-sponsor the UN Human Rights Council's October 2015 resolution on Sri Lanka.

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That resolution encouraged the Sri Lankan Government to develop a comprehensive plan and mechanism for preserving all existing records and documentation relating to alleged crimes and human rights violations (see OP 15 in that resolution). Not only will time, resources and specialised knowledge be needed to develop such a mechanism, it will also be necessary to build the confidence of the victims and witnesses whose stories are to be entrusted to it.

As a result, the work of trusted civil society organisations, with a proven track record documenting human rights violations, is crucial.

As other post-conflict settings demonstrate, one of the key roles that civil society actors play in transitional justice processes is that of documentation. Civil society-led documentation centres in numerous contexts, including Cambodia, Syria, the Balkans, Argentina and Burma, have worked to support state efforts towards reconciliation and accountability.

Documentation efforts in Sri Lanka

In Sri Lanka, many civil society organisations, including PIAC, have been working on the ground and internationally to document evidence of international crimes and other human rights violations allegedly committed during the civil war. Not only do these organisations hold large volumes of documentation that could assist Sri Lanka's proposed transitional justice mechanisms, they are also well placed to work with victims and communities to gather the additional documentation required for an effective, and timely, reconciliation process.

However, more needs to be done to coordinate this civil society work to ensure it can support the country's official transitional justice mechanisms. Resource constraints have also meant that standards in the collection, analysis and storage of evidence have varied significantly, and local and international civil society organisations must work together to build capacity in these areas.

To this end, PIAC recommends the establishment of a civil-society led documentation centre as an additional measure to ensure the success of Sri Lanka's reconciliation process.

Key functions of a documentation centre

A documentation centre would bring together key local and international civil society organisations in partnership, building capacity and expertise and supporting the work of Sri Lanka's official transitional justice mechanisms.

One of the documentation centre's key functions would be to build the capacity of civil society actors to meet best practice standards in evidence collection. It is inevitable that the Government's four proposed transitional justice mechanisms will rely to some extent on documentation undertaken by civil society. It is in everyone's interest, therefore, that these groups undertake their work in a way that ensures only high-quality, reliable evidence is collected and adduced in the proposed mechanisms.

By contributing to higher standards in evidence collection, analysis and use, the documentation centre will help ensure that baseless allegations can be dispensed with and those that are true can more readily be proved.

The improved coordination that would be achieved through a documentation centre would also help avoid duplication in the collection of evidence, which can re-traumatise victims and harm investigations.

In addition, a documentation centre would provide a central database and secure repository of information dating back to the beginning of the civil war. This would help ensure the smooth and efficient operation of Sri Lanka's transitional justice mechanisms and would also allow victims' stories and historical records to be preserved for future generations.

Lastly, in other transitional justice settings, civil society-led documentation centres have played a key role in outreach and education programs, helping to ensure that victims and the wider community understand and benefit from the reconciliation process, and can engage with it.

Conclusion

It is imperative that the issue of documentation – and the important role that civil society can play in that field – be addressed in the preliminary discussions on the design of Sri Lanka's transitional justice mechanisms.

Should you or any other member of the Consultation Task Force have any questions arising from this submission, including the documentation initiatives in other transitional justice settings or how the proposed documentation centre can best support the Sri Lankan Government's reconciliation efforts, I would be pleased to provide further information.

Yours sincerely



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