

Civil Society Raises Concerns with the Office for Reparations Bill

The undersigned civil society activists and groups in Sri Lanka express our deep concern with aspects of the draft Bill titled 'Office for Reparations' (the Bill) gazetted on 25th June 2018. While the undersigned have several concerns with the process and content of the draft Bill, two issues regarding the powers and functions of the proposed Office stand out as the most pressing concerns. If these are not addressed forthwith, further engagement with the process will be moot. Therefore, we request amendments to the draft Bill to address these issues. We also urge any future action to be preceded by meaningful consultations on the content of the draft Bill allowing civil society and other stakeholders to make further submissions regarding other outstanding concerns.

Paramount concerns regarding the draft Bill are as follows:

- 1) The proposed Office has no decisional power with respect to policies and guidelines on reparations. In fact, policies and guidelines formulated by the proposed Office will only be adopted upon approval by the Cabinet of Ministers (clause 11(1)(g)). This unnecessary requirement of designating the Cabinet of Ministers as the key decision-maker on the adoption of reparations policies and guidelines is hugely problematic as the latter may delay or even refuse approving the recommended policies on reparations. It can also lead to cabinet approving policies and guidelines in an ad hoc manner, as done in the past, potentially undermining the coherence of the scheme proposed by the Office.
- 2) Furthermore, according to the draft Bill, policies and guidelines approved by the Cabinet of Ministers and authorizing the disbursement of funds must be placed before Parliament for its approval (clause 22(4)). This procedural requirement is unnecessary and redundant given that the proposed Office has its own Fund for the carrying out of its mandate. Therefore, this adds another unnecessary layer of Parliamentary oversight and thereby further dilutes the Office's input on reparations policies and guidelines.

These two clauses are cause for grave concern as they take away any decision-making power from the proposed Office regarding the adoption of reparations policies and guidelines. In essence, the inclusion of such problematic clauses reduces the proposed Office to a another bureaucratic layer in the adoption of policies, a far cry from what the proposed Office was meant to be in terms of defining and implementing reparations policies and programmes.

Reparations are a critical component to rebuild the lives of those whose rights have been violated. As such, if properly implemented, reparations will have a significant impact across Sri Lanka. However, for reparations to be transformative, they must be prompt, effective, and inclusive and the process must be transparent. Thus, an independent Office, free from political interference and vested with powers to define and implement reparations is essential. It is in this context that we call on the government to use this opportunity to fulfil their commitments made in 2015, taking note of the findings of the Consultations Task Force (CTF) and enact legislation establishing a mechanism that can fully address the needs of victims across Sri Lanka.