

## **Joint Statement**

### Opportunity to Revive the Constitutional Council and Ensure Good Governance

Today the ravages of the ethnic conflict are taking centre stage in the country, and the absence of good governance in general is marked. In this context, the agreement among the three relevant smaller political parties, the JVP, TNA and JHU, to fill the vacancy in the Constitutional Council is a positive development. The Organization of Professional Associations had recently recommended the retired Auditor General Mr S C Mayadunne as the nominee since he has general acceptance among the public as well as the large majority of parliamentarians. We, the undersigned civil society organizations note that the Speaker of Parliament W J M Lokubandara has already submitted the names to President Mahinda Rajapaksa, and call on him to make the appointment that would re-activate this important national institution without delay.

The people require any government to act justly. This means it must maintain the Rule of Law and respect human rights and fundamental freedoms recognized in the Constitution. All citizens have an equal right to be considered for public employment whichever political party they voted for. After appointment the high officials in charge in the public service, the judicial service and the superior courts should be guaranteed freedom to exercise their discretion objectively and honestly upholding truth and justice. They must not be directed or influenced by the personal opinions of the President or the Cabinet of Ministers. It is to provide for such conditions that appointments, promotions, transfers and discipline of high officers are vested in independent organizations, independent of the current politicians holding office for a limited period.

In order to provide a buffer between the political Executive and the Administration of Law and Justice the powers of appointment, transfer, promotion and discipline have been made subject to the approval or recommendation of independent organizations like the Public Service Commission, the National Police Commission and similar bodies. The 17th Amendment to the Constitution which was passed unanimously in Parliament provided for a Constitutional Council drawn from several parties under the Chairmanship of the Speaker which would appoint the members of such Commissions which would then carry out these functions and provide a buffer between the President and the Cabinet of Ministers who would have to act only on the recommendations of these independent Commissions.

Unfortunately, for the past two years, the President has not appointed the Constitutional Council and has exercised these powers at his discretion. He has proffered the reason for his failure to appoint the Constitutional Council as the lack of consensus among the three relevant smaller political parties in Parliament to select one nominee allotted to them jointly. The President has also exercised his powers to make appointments to key national institutions at his discretion alone which has impaired the credibility and legitimacy of those appointments. As a result public and international confidence in some of these institutions, including the National Human Rights Commission is at a low ebb. However, the consensus that has emerged on the appointment of Mr Mayadunne now permits the Constitutional Council to be constituted and to begin to function. We also call for the reconstitution of all public institutions that come under the purview of the Constitutional Council as soon as this body is constituted, as this would pave the way for practices of good governance to re-emerge.

### **Signatories**

Association of War Affected Women

Centre for Communication Training

Centre on Housing Rights and Evictions

Centre for Society and Religion

Centre for Women and Development, Jaffna

Eastern Self Reliant Community Awakening Organisation, Batticaloa

Foundation for Co-Existence

Free Media Movement

Gampaha District Human Rights Citizens Committee

INFORM

Janawaboda Kendraya

Law & Society Trust

Marga Institute

Mannar Women for Human Rights and Democracy

Mothers and Daughters of Lanka

Muslim Information Centre - Sri Lanka

Muslim Women's Research and Action Forum

Neelan Tiruchelvam Trust

National Peace Council

People's Movement for National Resurgence

Prayathna, the People's Movement

Social Scientists Association

SWEEDF, Batticaloa

Women and Media Collective