

## Tamil Civil Society Forum

### Victim Consultation Process: Questions, Concerns and Expectations

#### Discussion Note Circulated at a meeting between the Foreign Minister and Civil Society Organisations on 29 October 2015.

- 1. Clarity as to aims of the Transitional Justice Programme:** Prior to the victim consultation process (VCP) the Government should make its stance clear as to their understanding and approach to the UNHRC Resolution. The Government is sending various mixed signals, which aim at downplaying the importance of the need for involvement of foreign judges, prosecutors and investigators in OP6 of the resolution i.e the setting up of a hybrid mechanism. Some sections of the Government are also dismissive of the need for a criminal justice process in its entirety. One cannot have a process of truth and reconciliation without being honest and truthful about the objectives and aims of the process. Hence clarity from the Government as to its approach is an essential prerequisite of a VCP.
- 2. What is the consultation going to be about?:** The Government seems to have a plan of its own (a TRC with a compassionate council, a special court, Missing Persons Office etc). Is the Government going to present a detailed programme on the judicial and non judicial measures it is contemplating and seek the victims view on this or is it going to have a more open process – where the victims can be more assertive about their expectations as opposed to commenting on an existing draft plan? We think that a balance between the two is necessary.

3. **Security concerns:** The sittings of the Presidential Commission on Missing Persons (Paranagama Commission) laid bare the key issues with regard to victim protection. What is the Government going to do to prevent the interference of the armed forces, police and their intelligence in the VCP? The larger question is as to how a transparent and open VCP could be conducted with the overwhelming presence of the military in the North-East? If the Government accepts this as a concern how does it hope to tackle this issue?
  
4. **Who will be consulted?** How does the Government propose to identify the victims? Will the consultations be held thematically (victims of sexual violence, disappearances, torture, etc)? Does the government also hope to consult civil society groups that work with victims as part of the VCP? How does the Government propose to conduct the VCP among those victims not living in the country?
  
5. **Who will conduct the VCP?:** Which arm of Government would be involved? How does the Government hope to ensure independence and credibility?
  
6. **How will the outcome of the VCP documented and fed into the Transitional Justice Programme that will be finalized?** Mere tokenistic consultation will be far from adequate. There has to be a participatory process that guarantees that the views of the victims are systematically drawn into the design of the TJ programme. How does the Government proposed to do this? We are of the view that there should be victim representation on any mechanism that is tasked with finalizing this programme. We also think that there has to be constant involvement of victims in the whole of the process – implementation and its monitoring.