

**HUMAN RIGHTS COMMISSION OF SRI LANKA
RECOMMENDATIONS TO THE GOVERNMENT ON THE
ESTABLISHMENT OF THE OFFICE ON MISSING PERSONS**



HUMAN RIGHTS COMMISSION OF SRI LANKA

The Human Rights Commission of Sri Lanka welcomes and commends the adoption of Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act (hereinafter OMP). We note, however, that the legal framework of the OMP would have had greater legitimacy if it was enacted after the on-going public consultations process so that the insights and concerns of the affected families could have been incorporated. We reiterate the importance of ensuring future mechanisms incorporate and reflect the concerns and insights of victims and affected persons, and urge the government to undertake a transparent and inclusive process to establish these mechanisms.

While the text of the Act is not yet available with the amendments, the Commission takes this opportunity to reiterate a number of important elements that have to be given serious consideration if the OMP is to be victim-centred and function effectively to provide redress to families of the disappeared.

- There is an urgent need for a public awareness campaign to dispel rumours and counter misleading and inaccurate information being placed in the public domain regarding the OMP. Hence, a concerted effort is required to create understanding and a sense of ownership amongst the public in this regard. Further, the OMP has to reach out to families of the disappeared and provide them information about the institution through multiple means to ensure they are able to access the OMP. Hence, an effective communication strategy in all three languages is essential.
- The effective functioning of the OMP is dependent on financial resources that will allow the Office to build a strong institution and hire competent, qualified and committed staff.
- An important means of ensuring accessibility as well as create public ownership is to establish regional offices of the OMP.
- The membership of the OMP should reflect the pluralistic nature of Sri Lanka, including meaningful gender as well as regional representation. Members should be persons of unimpeachable integrity and competence.
- When establishing the office particular attention has to be paid to the recruitment of staff to ensure they are persons of unimpeachable integrity, have no prior allegations of human rights violations against them, and have the ability to be empathetic to the needs and concerns of victims and the families of the disappeared. In this regard too adequate gender, ethnic, and regional representation should be ensured as well as language proficiency since the ability to serve the various communities in a language they understand is critically important.
- The staff should be provided training in gender sensitivity, since most of the complainants are women, as well as how to deal with victims who have suffered trauma and loss.

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- To ensure transparency the OMP has to formulate and widely publicise information on its methods of operations and procedures to which it adheres, including rules regarding confidentiality, guidance to families on how to approach the OMP and their rights in relation to obtaining information regarding progress of their complaint. Communication with victims should be in a language they understand.
- The OMP should have personnel who are qualified to provide on-site psycho-social support to those who require it, for instance, during or after making statements to the OMP. Every effort should be made to avoid re-traumatisation of the victims.
- Where the issuance of the Certificate of Absence (COA) is concerned, the families have to be made aware of their rights in this regard. Given previous reports of families of the disappeared being coerced to apply for death certificates, it is important to ensure they are in no way subject to any form of coercion to opt for a death certificate instead of a COA. The COA should be valid for a reasonable period of time to allow for the investigation of the disappearance and the person's fate. If investigations are on-going the COA should be valid until investigations conclude. Since both the OMP Act as well as the proposed Registration of Deaths (Temporary Provisions) Bill refer to the COA, it should be ensured the definitions and processes set out in both laws are consistent and provide maximum benefit to families of the disappeared.
- The OMP Act envisages a Victims of Crime and Witness Assistance and Protection Division. When establishing the Division, given limited internal relocation options within the country whether public skepticism that they will receive protection from existing mechanisms, the OMP should find feasible alternatives that foster public trust and ensure protection to victims and witnesses. In order to do this the OMP will require adequate resources as well as support from government authorities at the highest levels.
- The OMP should establish an internal mechanism to address grievances of complainants regarding shortcomings in the functioning of the Office, which will enable the Office to strengthen its methods, functions and service to the public.
- Attention should be paid to archiving and establishing databases to document and preserve the work and records of previous commissions of inquiry as well as from diverse reliable sources after verification of facts to consolidate data on the disappeared and construct a single database. Where data that has never been made public is concerned, the OMP should formulate and strictly adhere to protocols that preserve the integrity of the data and also protect the provider of the information who may be vulnerable to threats, including to physical integrity.



Dr. Deepika Udagama
Chairperson

Human Rights Commission of Sri Lanka

22nd August 2016

Dr. N. D. Udagama
Chairperson

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