

FREEDOM OF ASSOCIATION

CHALLENGED IN SRI LANKA



RIGHT TO LIFE HUMAN RIGHTS CENTER

Freedom of Association Challenged in Sri Lanka

Study report on the challenges faced by civil society and
non-governmental organizations in Sri Lanka and proposals for
amendments to the Act



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Forward

No official record is found on the exact number of civil society organizations available in Sri Lanka. Records say that more than 44,000 organizations are registered in the Divisional Secretariats, District Secretariats and the NGO Secretariat alone. In addition, it has not been possible to ascertain the exact number of organizations registered under the Companies Act, Societies Ordinance, Trade Unions Ordinance, Co-operative Societies Ordinance, Special Acts of Parliament and as trusts and foundations.

The number of organizations that are not registered in any structure is much higher than the number of organizations registered in any structure of the government. However, the activities carried out by these organizations are varied and the services provided by many of them are also at a very high level. Thus, many of these organizations have received significant public support and approval, which has been a great support for the existence of these organizations so far.

These organizations operating at the national and regional levels can be divided into two main groups, foreign-funded and non-funded organizations. Today, non-governmental organizations (NGOs) are commonly referred to in the category of foreign-funded organizations.

Often the scope of these foreign-funded non-governmental organizations is equal to the scope of other international organizations, including the United Nations. They too address the topics of special attention from the international community such as international charters or conventions.

Sometimes the Sri Lanka government has also ratified those charters and conventions, but they do not pay much attention to their implementation.

NGOs are active in the fields of civil and political rights including human rights, environment, economic and cultural rights. Their work areas especially cover human rights violations including illegal killings, disappearances, torture, false prosecutions, rights of minority communities, and problems faced by communities such as fishermen, farmers, and plantation workers.

Since many non-governmental organizations address the above-mentioned issues which are either abandoned or ignored by the governments, their revelations and advocacy lead to various influences on the government from the international community. As a result, confusion or conflict is created between the governments and these organizations.

We have a lot of experience with various attempts to misrepresent these organizations or bring them under control. During the times of some regimes, actions such as making false statements against the organizations working in these fields, exerting various pressures by the state security agencies, influencing the registration in the state structures, and after the registration, interfering through various administrative procedures were very common.

Due to this, recently the organizations registered in the District and Divisional Secretariats and under the Voluntary Social Service Organizations (Registration and Supervision) Act, No. 31 of 1980 faced many difficulties. The main problems

they faced were having to get annual approval for the activities of those organizations, new registration being very difficult, bank account monitoring and accounting work being restricted, and having to get special approval to work outside their geographical area. In addition, many local organizations were under various pressures due to frequent investigations, constant inquiries, and intimidating behaviour by the security forces.

The NGOs who have endured all these difficulties are currently facing another problem. That is because the Cabinet has approved amending the Voluntary Social Service Organizations (Registration and Supervision) Act, No. 31 of 1980, and the Legal Draughtsman's Department is drafting a new Act.

The new amendment is not at all likely to be favourable to the activities of civil organizations. The new amendment proposes all organizations be registered under one law, through which they will be subjected to constant government supervision and surveillance. Also, efforts will be made to control the activities of some organizations under this new law.

To face this situation, all non-governmental organizations should be educated and joined to work together with one goal. Before new laws are drafted, the representatives of civil organizations should also be consulted and their views obtained. Also, the new laws should secure the fundamental rights established by the Constitution, including freedom of association, freedom of speech and expression, and other civil and political rights protected by international conventions.

The formation of the National Collective of Civil Society and Non-Governmental Organizations by networking with the organizations that are actively operating in Sri Lanka can be considered a certain achievement. On January 12, 2023, representatives

of 400 organizations participated in the national conference and discussed in depth the problems faced by civil and non-governmental organizations. They reached a basic agreement on the principles and established the National Executive Council representing the 25 districts.

According to the agreement reached at the above conference, the declarations containing civil society policies and principles were officially handed over to the Director General of the National Secretariat of Non-Governmental Organizations on January 31, 2023, to be handed over to the Minister in charge of the subject Mr. Tiran Alas,

It is reported that the draft prepared considering those suggestions has now been forwarded to the Legal Draughtsman's Department and reportedly, the department will submit this new Act to the Minister. The Minister will submit it to the Cabinet, and after receiving its approval, this new Act will be tabled in the Parliament.

If this bill is drafted against our policies and principles, we must take the necessary steps to express our objection and resort to legal measures. Also, we must conduct advocacy to seek support to defeat such a bill in Parliament. If those measures are not successful, a long-term national advocacy plan should be conducted to change the context.

I would like to thank my staff including Dinithi Supekshala and Rashmika Wijesinghe of the Right to Life Human Rights Center, for the assistance provided in the preparation of this report and the coordinators of the Human Rights First Aid Centers for convening the diverse civil society organization scattered around the country to discuss the problems.

Philip Dissanayake
Executive Director
Right to Life Human Rights Center

1 History of the Civil Society Organizations

In parallel with the global civil society movement, the Sri Lankan civil society also developed through a very long history. According to Prof. Jayadeva Uyangoda, the temperance movement of 1912-1915 is the oldest civil society movement in Sri Lanka. This was followed by the Sarvodaya Movement, the Civil Rights Movement (CRM) formed after the 1971 uprising, the Movement for Inter-Racial Justice and Equality (MIRJE), the Movement for Defense of Democratic Rights (MDDR), the Movement for Land and Agrarian Reform (MOLNAR), the Organization of the Parent and Child of the Disappeared, Platform for Freedom (PFF) and National Movement for Social Justice (NMSJ) that can be mentioned as such civil society organizations.

A significant number of civil organizations are operating throughout Sri Lanka for civil, political, socio-economic, and cultural rights. Numerous organizations are operating for the environmental rights, rights of the farmers and fishermen, funeral assistance, rural development, women's and youth rights, credit unions, and some organizations work based on the various needs of rural and urban communities.

All these organizations that operate outside the government structure fall under the category of non-governmental organizations. Reportedly, more than 44,000 non-governmental organizations are currently registered with the government. Some 1730 organizations are registered in the NGO Secretariat while 982 organizations are registered in District Secretariats and 41,000 are registered in the District Secretariats by January 2023. They

are not subject to any authority or supervision of the government and function under their own objectives. The number of organizations that are not yet registered with any government structure may be much higher.

If these civil organizations do not operate in Sri Lanka, people's knowledge, attitudes, and skills of human rights including the fundamental rights of the people, criminal and civil laws, women's and children's rights, and the rights of minority communities, rights of the farmers and fishermen, environmental rights, free and fair elections could have been much less.

These civic organizations became popular among people because their activists worked with great dedication and enthusiasm amid various challenges. The new knowledge and cultures of the world were brought to the people by this activism. In some cases, due to the political situation in the country, some civil society activists who acted in this way had to pay the price even with their lives.

During the 1988-89 terror period, some of the activists who represented the rights of the missing persons and their relatives, who worked to forward the information to organizations such as the International Committee Red Cross and Amnesty International, were caught by the government at that time and suppressed. Chandradasa Ranasinghe of Matara went missing while fetching information about missing persons in the Matara district. He is an example of many such persons who sacrificed their lives for human rights. The reports collected by them by sacrificing their lives were taken

to the UN Human Rights Council in Geneva by opposition MPs like Mahinda Rajapaksa and Vasudeva Nanayakkara. Rajapaksa became President later and Nanayakkara was a leading Minister in his cabinet. The government had to relax repression due to international pressure and because of that, a considerable number of lives of young people were saved. Some of them later held leading political and state positions.

These kinds of highly important and even very risky actions were carried out by the representatives of these civil organizations. Civil groups that were engaged in election monitoring in the early times of advocacy for free and fair elections had to face severe repression. Few election monitors were disabled due to the attacks. Thanks to the activities and sacrifices made by the predecessors, civil society organizations have achieved recognition, goodwill, and considerable popularity among people.

However, the governments who claimed to be patriots at that time, as well as some elements who represented the opposition planned to change this situation. They wanted to silence the civil society organizations that worked for peace, reconciliation, transitional justice, human rights, and freedoms of association, speech, and expression.

With that aim, massive slanderous and hateful campaigns were carried out by the then governments and the opposition parties who supported them, targeting civil society organizations. A considerable amount of support was provided by the government and some private media channels. They also propagated that NGOs in Sri Lanka are corrupt and that some have links with extremist groups. Even though they have been repeating these allegations for more than a decade, we have not yet heard of any law enforcement or at least any investigation against anyone in this regard.

2 History of the Attempts to Control Civil Society Organizations

Many governments have made various attempts to control civil society organizations and NGOs. Reporting wrong information about the country to the United Nations and other organizations under the guise of working to protect democracy and human rights, misusing foreign funds, and some organizations trying to destabilize or overthrow governments are the strongest accusations leveled against non-governmental organizations.

With the civil war in Sri Lanka and the Easter Sunday attack, another allegation was also added and that is the threatening national security, sovereignty of the unitary state, independence, and territorial integrity.

In addition to this, the government says that there is a lot of corruption, fraud, and irregularities in the functioning of NGOs, and that there is no transparency or accountability.

These accusations against civil society organizations are very serious, and if such charges can be raised against any organization, we also consider it as a very serious situation. For that, actions must be taken under the existing laws and we do not see any need to enact new laws for that.

Fraud, corruption, irregularities, aiding and abetting terrorist activities can be dealt with the Penal Code, the Suppression of Terrorist Financing Act No. 25 of 2005, the Financial Transactions Reporting Act No. 6 of 2006, and the Prevention of Money Laundering Act No. 5 of 2006. The Criminal Investigation Department, the Financial Crime Investigation Division, the Terrorism Investigation Division, and the Financial Intelligence Unit of the Central Bank can take necessary legal measures using state intelligence services.

Also, if there is any other civil or administrative problem or if any damage, compensation, or relief is required for any person, there are sufficient remedies in civil law. Therefore, new legislation for civil organizations cannot be justified at all.

Also, if a new law is drafted, it should be based on the principles of our Constitution and the International Covenant on Civil and Political Rights. Civil society organizations must be consulted and their views and concerns must be considered when drafting any new law regarding civil society organizations.

3 Parliamentary Attempts to Regulate Civil Society Organizations

Parliamentary Special Committee - 2005 (Nandana Gunathilake/ Vijitha Herath Report)

A 23-member Parliamentary Special Committee was appointed on August 30, 2005, to investigate the activities and influence of non-governmental organizations under the chairmanship of the then Janatha Vimukti Peramuna (JVP) Member of Parliament Mr. Nandana Gunathilaka. Later, Nandana Gunathilaka resigned from the chairmanship of the committee due to personal reasons, and the same party's Member of Parliament Mr. Vijitha Herath was appointed for that purpose.

This committee investigated the activities of non-governmental organizations that receive foreign funds for operations in Sri Lanka and the transparency of the financial affairs of those non-governmental organizations and identified how the activities of those non-governmental organizations affected the sovereignty and national security of Sri Lanka. A special committee was formed to submit a full report to the Parliament about the ways the government should deal with these non-governmental organizations so that the parliament can make the necessary recommendations.

Given below are the recommendations made by the committee.

01. Streamlining and introducing an orderly legal system to increase transparency and accountability of non-governmental organizations and repeal the Social Service Organizations (Registration and Supervision) Act No. 31 of 1980 and draft and enact a new Act.
02. Appointment of a Commission with all powers to prepare legal provisions for the supervision of NGOs and since there is no formal definition of NGOs in Sri Lanka and the definition in the existing Act is inadequate, NGOs must be registered under this Commission.
03. The report also defines voluntary social organizations or NGOs as 'all organizations formed by an individual or a group of individuals without a government contract for non-profit voluntary service with a constitution and management system consistent with local legal and policy framework and values and with the aim of social security, welfare and development with domestic and foreign assistance'.
04. The functions and powers of the commission, policies related to the registration of non-governmental organizations, policies required for their management and supervision, and legal provisions related to audit and investigation should be introduced.
05. Decentralize the powers of this Commission to District and Regional Steering Committees. Prepare a program that integrates the activities of non-governmental organizations at the district and regional level with the government machinery.
06. Mandatory registration for NGOs. 'Since there

are a significant number of unregistered non-governmental organizations operating in Sri Lanka, the registration of non-governmental organizations in Sri Lanka should be made mandatory and the registration should be done subject to the existing basic law of the country and subject to the conditions presented by the commission.'

Sectoral Oversight Committee for National Security - 2020 (Malith Jayathilaka Report)

The report was submitted to Parliament on February 19, 2020, based on a proposal by the Sectoral Oversight Committee for National Security for the formulation and implementation of laws and regulations related to national security to eradicate new terrorism and extremism while developing relationships between ethnicities and religions. The chairmanship of this committee was held by Sri Lanka Freedom Party Member of Parliament Mr. Malith Jayathilaka and 16 other members were appointed to this committee.

The report also included several recommendations regarding civil society and its functioning and governance. The objection they claimed that the public had about the activities of local and foreign NGOs in the north and east during war, the problem of the registration of NGOs which the committee mentions was revealed during the investigations into the Easter Sunday attack, as well as findings of the Financial Intelligence Unit of the Central Bank and National Intelligence Service were based for the report. Accordingly, the committee proceeded to make recommendations based on the fact that there is a connection between civil society, money laundering, and terrorist financing.

The committee emphasized that civil society organizations should be more rigorously monitored by the government. It also emphasizes the need to

gazette the Voluntary Social Service Organizations (Registration and Monitoring) Amendment Bill which was brought by the incumbent government and subsequently abandoned and pass it in the parliament. The report also recommended regulating the financial assistance received by local NGOs through a joint program with the Financial Intelligence Board of the Central Bank, the Office of the Head of National Intelligence, and the NGO Secretariat. A number of recommendations have been made including the establishment of an Act like the Foreign Contribution Regulation Act under the Secretariat of Non-Governmental Organizations and measures to properly audit the foreign aid received by Sri Lanka.

Recommendations:

1. Immediate removal of all impediments to gazetting of the Voluntary Social Service Organizations (Registration and Monitoring) Amendment Bill and its gazetting
2. As a matter of public policy, the Secretariat of Non-Governmental Organizations should be included in the purview of the Ministry of Social Services or the Ministry of Defence.
3. Designating organizations operating without registration in the NGO Secretariat as illegal organizations and taking steps to define the punishments given to such organizations. In particular, organizations functioning as voluntary organizations registered as non-profit, limited by guarantee companies under the Companies Act No. 7 of 2003 should be brought under the law.
4. Building a mechanism that brings together the Central Bank's Financial Intelligence Unit and the Head of National Intelligence to be able to comprehensively regulate all foreign funds and aid received by Sri Lanka

through non-governmental organizations.

5. Establishing an Act like the Foreign Contribution Regulation Act and thereby subjecting the foreign aid money received in Sri Lanka to a proper audit by the NGO Secretariat. Regulating to ensure that the money is used for social purposes so that all sections of society get common benefits
6. As in many countries, NGOs and other voluntary organizations must be registered only in one institution and they should be registered in the NGO Secretariat.
7. Appropriate amendment of parliamentary standing orders so that foundations, trusts,

funds, and organizations that benefit only one ethnic group or one religious group cannot be legislated by bills brought to Parliament as private members' proposals. Ensuring that the Boards of Foundations, Trusts, or Funds passed by Parliament are not limited to one family or a few related families.

8. Action at parliamentary committee to remove the existing clause "Registration of NGOs in Emergency Situations" in the proposed Voluntary Social Service Organizations (Registration and Monitoring) Amendment Bill. Because through that section, a gap in the basic law of registration can be created.

4 Cabinet approval for amendment of Voluntary Social Service Organizations Act

Cabinet Paper - 20 February 2018

Cabinet approval was obtained by Mr. Mano Ganesan, the Minister for National Integration, Official Languages, Social Progress, and Hindu Religious Affairs on 20 February 2018 for amending the Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980 as per the directions of the above-mentioned Nandana Gunathilake/Vijitha Herath Parliamentary Select Committee.

Due to the lack of appropriate responses to the requests made to the Minister to express the views of civil society regarding these amendments, the representatives of the civil society discussed with Prime Minister Mr. Ranil Wickramasinghe on March 27, 2018, about the cabinet paper. Based on the agreements reached there, the Prime Minister agreed to withdraw the above cabinet paper.

After that, according to the notice given by a committee consisting of civil society representatives to submit relevant amendments for this draft, a consultation was held with 233 representatives of civil organizations representing all nine provinces across the island, in August 2019. The amendments proposed by them regarding the Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980 were delivered to the Minister and the NGO Secretariat.

However, after the change of government in November 2019, this process was completely stalled again, and the National Secretariat for NGOs, which was under the Ministry of National Integration, Official Languages, Social Progress and Hindu Religious Affairs, was placed under the Ministry of State Security again.

After that, a new director was appointed for the Secretariat of Non-Governmental Organizations in June 2020 and he called for proposals for the amendment of the Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980. The proposals previously submitted to the Secretariat in August 2019 by the civil society were referred to him again in August 2020.

Cabinet Paper dated 09 August 2021

Again, on August 9, 2021, former President Gotabhaya Rajapaksa as the Minister of State Security obtained cabinet approval for the amendment of Act No. 31 of 1980.

After that, the Secretariat for Non-Governmental Organizations, which was under the Ministry of State Security, was transferred to the Ministry of Foreign Affairs and after some time, it was placed under the Ministry of Public Security.

5 Civil Society Fundamentals on Legal Reforms

We have continuously shown that there is absolutely no need for a special new law for civil society organizations. But we have pointed out that if the government brings new laws targeting civil society organizations on any matter, those laws should be based on the following principles.

- 1 Relevant legislation respecting the fundamental rights of freedom of expression, association and assembly.
- 2 Equal treatment and non-discrimination towards NGOs.
- 3 Stopping unnecessary government interference or meddling and allowing the independence of the organizations and respect for the values of the organizations to work freely.
- 4 Respect the right to network, communicate, and collaborate with other organizations or groups as needed.
- 5 Freedom to spend legitimate funds on the objectives and strategies of the organization.
- 6 Providing opportunities for the opinions of civil society organizations regarding the laws that are being drafted and following international standards in terms of new legislation.
- 7 Creating the necessary environment in the country for the active functioning of civil organizations.

At present, NGOs can be registered under several methods.

- 1 Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980
- 2 Companies Act
- 3 By a deed of trust as a trust
- 4 Societies Ordinance
- 5 Trade Union Ordinance
- 6 Cooperative Societies Ordinance
- 7 As charities, trusts, or foundations registered by Acts of Parliament

The freedom of an organization to operate without being registered under any of the above laws is assured by the freedom of assembly and association mentioned in Article 14(1)(b) and (c) of the Constitution. Accordingly, organizations such as the Civil Rights Movement, the Platform for Freedom, and the National Movement for Social Justice can be mentioned as organizations that have performed significant tasks without being registered as such.

6 Diary of the Advocacy Campaign of the Civil Society Organizations and NGOs

- 1 On March 27, 2018, in a meeting with former Prime Minister Ranil Wickremesinghe and civil society representatives, the government agreed to withdraw the cabinet paper.
- 2 From May 2018 to June 2019, obtaining the opinions of 233 representatives of civil society organizations representing the 9 provinces for the amendment of the Act.
- 3 August 2019 - Handing over to the minister in charge of the subject and the Secretariat of Non-Governmental Organizations the amendments that include the proposals of civil society representatives for the amendment of Act No. 31 of 1980 based on the policies and principles of civil society organizations.
- 4 August 2020 - Referral of civil society proposals to the Director of the NGO Secretariat after the change of government
- 5 From Sep 16, 2021 to Aug 27, 2022 - Further development of the civil society proposals we presented in 2019 after discussions with 677 organizations representing 9 provinces. Preparation of a report containing the problems faced by local organizations and their solutions
- 6 September 23, 2022 - Civil society representatives start discussions about the amended Act with Mr. Tiran Alas, Minister of Public Safety
- 7 October 2022 - Appointment of Mr. Sanjeeva Wimalagunaratne as the new director for the Secretariat of Non-Governmental Organizations and starting negotiations with him
- 8 07 October 2022 - Official delivery of the draft document related to voluntary organizations prepared by the previous government to civil society representatives. In the second discussion held with the Minister, expressing the complete opposition of the civil society organizations to that document.
- 9 In the third discussion held with the Minister, agreeing to withdraw the draft and agreeing to formulate the new Act jointly with the civil society.
- 10 December 27, 2022 - Discussion with the new Director General on the administrative problems faced by civil society organizations
- 11 On 12th January 2023, held the Coalition of Civil society and Non-Governmental Organizations attended by 400 NGOs at the Sri Lanka Foundation Institute (SLFI). The civil society organizations discussed the plans, policies and principles, as well as the new law
- 12 January 31, 2023, policies and principles of the The Coalition of Civil society and Non-Governmental Organizations were presented to the Director General of the NGO Secretariat to deliver to the Minister.

7 Problems Faced by Local Organizations and Proposed Solutions

Between 16 Sep 2021 and 27 August 2022, the National Coalition of Civil Society and Non-Governmental Organizations held discussions with 677 non-governmental organizations in Colombo and at regional levels. During those discussions,

the problems faced by civil society organizations and the proposals made by them for solving those problems were presented to us. The table below summarizes the problems they presented and their solutions.

	Problems	Proposed solutions
01	Changing the hostile attitudes towards NGOs of some officials working in the NGO Secretariat and the District and Divisional Secretariats	After a study regarding the services and activities of the non-governmental organizations and the foreign exchange brought into the country by them, their service is appreciated. Establishing a system for working harmoniously with non-governmental organizations
02	Discrimination against some NGOs	To treat all NGOs equally, instruct the relevant officers not to discriminate, and establish a unit to investigate discrimination.
03	Inadequate understanding of the objectives and responsibilities of the NGO Secretariat and its limitations and legal framework.	Making it a primary objective of the NGO Secretariat to cooperate with NGOs. Joint preparation of various programs to sensitize non-governmental organizations on the legal status and responsibilities of the Secretariat.
04	To protect the dignity of that position and specify its responsibilities so that various behaviours, intimidation, and threats of some officials including the former director of this secretariat do not reoccur.	Clarifying the responsibilities and legal limitations of the position of the Director and working to improve the professional relationship between the NGO Secretariat and the NGOs.
05	Arbitrary actions and domineering nature of NGO coordination officers in some District Secretariats and Divisional Secretariats.	To give the necessary instructions to the District Coordinators to work harmoniously and cooperatively within their legal boundaries and to monitor whether they do so. Providing opportunities to discuss problems of both sides.

06	Difficulties in the process of obtaining approval for project activities from officials including the Divisional Secretary/Village Officer and sometimes requesting various reports and having to forward those reports to several authorities.	Reconsideration of the method of approval for project activities. If approval is required, establish a simple system for approval and reporting. Refer those reports to a mutually agreed authority.
07	Problems in getting approval for project activities through Divisional Secretariats and local governments	Restructuring the approval process for all project activities and directing approval only for necessary project activities
08	Army, Air Force, Navy, Police, and State Intelligence agencies visit organizations from time to time and request various reports or information from them.	If such information is required, a system of obtaining such information through civil authorities should be devised to prevent acts of influence, threats, or intimidation carried out by the security forces. Avoiding interference by security forces in the absence of a specific complaint or investigation against an organization
09	Security forces visit the private homes of activists of some organizations and demand information. (It is reported that security forces have come when the activists are not at home.) As a result, the family members are feared.	Taking necessary steps to prevent intimidation under the guise of obtaining information. If it is necessary to get the information of a particular organization, only visit the offices through a regular system to get that information.
10	Difficulties arise from working in another district.	Removing the obstacles for organizations that have the funds and capacity to do so.
11	The support provided to organizations dealing with government development programs is not equally provided by secretariats to organizations carrying out other programs.	Equal treatment for organizations working for development, peace, environment, and human rights
12	Difficulties encountered in terms of registering new organizations.	To ease the rules and procedures for the registration of new organizations and open the opportunity for organization registration.
13	Disruption of mutual cooperation between government and non-governmental organizations.	Establishing a communication system between the Ministry and the Secretariat of Non-Governmental Organizations to resolve the problems faced by the two parties to improve cooperation.

8 Regional Discussions

These discussions were held from 16 September 2021 to 13 May 2023.

Seven meetings were conducted via Zoom

	District	Date	Number of Participants	Resource Persons
01	Anuradhapura District	2021.9.16	18	Ruki Fernando, Philip Dissanayake
02	Sabaragamuwa Province	2021.09.18	40	Ruki Fernando, Ermisa Tegel, AAL, Thilak Kariyawasam, Rohana Hettiarachchi, Philip Dissanayake
03	Uva Province	2021.09.25	50	Ruki Fernando, Ermisa Tegel, AAL, Rohana Hettiarachchi, Philip Dissanayake
04	Galle District	2021.09.26	57	Ruki Fernando, Thilak Kariyawasam, Rohana Hettiarachchi, Kumuduni Samuel, Philip Dissanayake
05	Matara District Hambanthota District	2021.09.30	58	Ermisa Tegel, AAL, Philip Dissanayake, Nadeeshani Perera, AAL
06	Kurunegala District	2021.10.07	26	Dr. Jehan Perera, Ruki Fernando, Philip Dissanayake
07	Puttalam District	2021.10.18	33	Ruki Fernando, Philip Dissanayake, Ermisa Tegel, AAL, Saman Hamangoda
	Total		282	

Regional Meetings - 19

	Province / District	Date	Number of Participants	Resource Persons
01	Gampaha	2021.10.25	34	Thilak Kariyawasam, Rohana Hettiarachchi, Saman Hamangoda, Ruki Fernando, Philip Dissanayake, Chaminda Rajakaruna
02	Kalutara	2021.11.09	35	Thilak Kariyawasam, Philip Dissanayake, Ermisa Tegel, AAL, Chaminda Rajakaruna
03	North Central Province (Habarana)	2022.02.27	15	Ruki Fernando, Thilak Kariyawasam, Dr. Jehan Perera, Philip Dissanayake
04	Central Province (Kandy)	2022.02.28	20	Ruki Fernando, Philip Dissanayake, Thilak Kariyawasam,
05	Galle	2022.03.22	45	Ruki Fernando, Philip Dissanayake, Dr. Jehan Perera, Nadeeshani Perera, AAL
06	Matara	2022.03.22	42	Ruki Fernando, Philip Dissanayake, Dr. Jehan Perera, Nadeeshani Perera, AAL
07	Kurunegala	2022.03.29	30	Thilak Kariyawasam
08	Kegalle	2022.04.02	20	Thilak Kariyawasam
09	Badulla	2022.04.02	60	Gauthaman Balachandran, Philip Dissanayake, Suresh Nadesan
10	Hambanthota	2022.08.20	29	Philip Dissanayake, Dulan Dasanayake, AAL, Thilak Kariyawasam
11	Monaragala	2022.08.21	41	Philip Dissanayake, Dulan Dasanayake, AAL, Thilak Kariyawasam
12	Kalutara	2022.08.24	26	Philip Dissanayake, Dulan Dasanayake, AAL, Thilak Kariyawasam

13	Hatton	2022.08.27	18	Philip Dissanayake, Dulan Dasanayake, AAL, Thilak Kariyawasam
14	Gampaha	2022.08.23	15	Thilak Kariyawasam, Philip Dissanayake, Dr. Jehan Perera, Jehan Thigadeesan
15	Anuradhapura	2022.11.05	30	Dr. Jehan Perera, Thilak Kariyawasam, Ruki Fernando, Philip Dissanayake
16	Kurunegala	2022.11.06	20	Dr. Jehan Perera, Thilak Kariyawasam, Philip Dissanayake
17	Matara	2023.02.18	32	Dr. Jehan Perera, Dulan Dasanayaka, AAL, Philip Dissanayake
18	Kantale	2023.04.30	28	Dulan Dasanayaka, AAL, Philip Dissanayake, Lakshan Fernando, AAL
19	Badulla	2023.05.13	35	Lakshan Fernando, AAL, Philip Dissanayake, Suresh Nadesan
	Total		575	

9 Recommendations

1. Government should treat all NGOs equally and not discriminate any.
2. Respecting the fundamental rights and freedoms of expression, association, and assembly mentioned in the Constitution.
3. Stopping unnecessary government interference and allowing the relevant non-governmental organization to work freely while respecting the independence and values of the organization.
4. Respect the right to network, communicate, and collaborate with other organizations or groups as needed.
5. Give the necessary freedom to spend legally received funds on the objectives and strategies of the organization.
6. Consulting civil society organizations in terms of law reforms.
7. If laws are made for the governance of civil society organizations, they should be made in accordance with international standards.
8. Creating the necessary environment in the country for the active functioning of civil society organizations.
9. Development of a service evaluation system for civil society organizations.
10. Encouraging them to work within a code of conduct prepared by civil society organizations.

Resources:

1. Challenges faced by NGOs in Sri Lanka (Publication of the National Coalition of Civil Society and Non-Governmental Organizations)¹
2. The Sectoral Oversight Committee on National Security - Malith Jayathilaka Report²
3. NGO Phobia; Nandana – Vijitha Interim Report (Article written by Prabodha Ratnayake/ Jayani Abeyssekara to Samabima newspaper)³

¹ <https://www.right2lifelanka.org/2022-aug-vsso-reports-in-sinhala-and-tamil/>

² <https://www.parliament.lk/uploads/comreports/1582610778064822.pdf>

³ <https://srihanda.lk/2020/07/20/ngo-phobia/?fbclid=IwAR0mpKV9P12dwsa8w9P34BdVCvjYh6kbydGgvONSbv2te0fpX-oOG6fkYwE>

Annexure - 1

Declaration of Civil Society Principles and proposals for the amendment of the Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980, submitted by the National Coalition of Civil Society and Non-Governmental Organizations to Minister of Public Security Tiran Alles on January 31, 2023.

Guiding Principles for Policy on Not for Profit Social Service organizations

This document details the principles that are recommended to inform a policy framework on Sri Lanka's State engagement with not-for-profit social service organizations. It is also the guidelines to be adhered to when drafting any legislation relating to this sector.

Legal Standards

Any law should adhere to the fundamental rights guaranteed to the citizens under the Sri Lankan constitution. It should respect the international conventions and standards that Sri Lanka has subscribed to and agreements and commitments Sri Lanka has made.

The constitution of the Democratic Socialist Republic of Sri Lanka of 1978 in article 14 (1) guarantees the freedom of assembly and expression. Article 14 (1)¹ secures the constitutional rights of freedom of association, subject to limitations as stipulated by Article 15 (4)². The rights to freedom of association serve as a vehicle for the exercise of many other civil, cultural, economic political and social rights.³ These rights are essential components of democracy as they empower people to express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable.⁴

International Conventions and Standards also apply. Sri Lanka is a party to including the Universal Declaration of Human Rights (UDHR) 1948⁵, International Covenant on Civil and Political Rights (ICCPR) 1966⁶, International Covenant on Economic, Social, and Cultural Rights (ICESCR)⁷, the Convention on the Elimination of Discrimination

¹ Article 14 (1) - Every citizen is entitled to; (a) the freedom of speech and expression including publications, (b) the freedom of peaceful assembly, (c) the freedom of association. civil society organizations to operate in ways consistent with commitments to freedom of association, and in the Sustainable Development Goals (SDGs) for an enabling environment for civil society. The Busan Principles relating CSO effectiveness also recognizes the value of ensuring "the participation of the full diversity of CSOs as independent development actors in their own right" and the promotion of "equitable and just development cooperation architecture".

² Limitations prescribed by law in the interests of racial and religious harmony or national economy.

³ Thus, freedom of association is a valuable indicator of a state's respect for the enjoyment of human rights. The right to freedom of association and assembly is also frequently linked to the freedom of expression and freedom of movement.

⁴ MainaKiai, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 20th sess., UN Doc A/HRC/20/27 (21 May 2012).

⁵ Article 20 (1) - Everyone has the right to freedom of peaceful assembly and association; Article 29 (2) - In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

⁶ Article 22 - Everyone shall have the right to freedom of association with others. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

⁷ Article 8 (1)- The States Parties to the present Covenant undertake to ensure (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests.

against Women (CEDAW) and the International Covenant on the Elimination of all Forms of Racial Discrimination⁸. Also applicable is the 1998 United Nations Declaration on Human Rights Defenders, and recommendations and reports of the United Nations Special Rapporteur on Human Rights defenders; and on the rights to freedom of peaceful assembly and of association. Recognition must be afforded to the humanitarian principles of humanity, non-discrimination and “do no harm” in the provision of humanitarian and development assistance. It also recognizes the State pledges made in the Open Government Declaration to protect the ability of not-for-profit and

1. Freedom of Association

The basic premise is that people in Sri Lanka are free to work together and with others. Those requiring registration for recognition of the legal personality of their associations whether it be for the purpose of securing funds, advocating under a common banner, or providing institutional support for sustained activities must be free to register under an appropriate law. Those who wish not to function as a registered entity should also be able to do so, such as collectives, groups. Registration provides legal recognition of collective responsibility as opposed to personal responsibility. A group of people are able to set up a bank account, lease or purchase office space, hire staff, etc., in the name of the organization. These are basic characteristics of any legal entity, be it for-profit or not-for-profit and the organization voluntarily subjects itself to a basic minimum standard of accountability (provision of a statement of accounts, annual report).

For the non-governmental sector in which VSSOs function, independence allows exploration of alternative paradigms of development to challenge social, economic and political activities that may work against public interest and also find new ways to combat poverty, deprivation and other social problems as well as foster innovation and entrepreneurship. It is therefore crucial that all laws, policies, rules and regulations relating to these entities categorically safeguard their autonomy, while simultaneously ensuring their accountability. Freedom of association also includes the right to seek and receive funds and apply same for lawful activities.

This principle becomes patently obvious at the present time when the country is facing immense humanitarian needs and it is imperative that the ability of some citizens to get together to help those in need, even in small ways, shall not be discouraged.

For legislation:

- **Laws must not be enacted to compel or make mandatory registration for legal recognition.**
- **If they so decide, individuals and collectives should have the freedom to register under the law that is most appropriate for them.**

2. Equal treatment and non-discrimination of non-governmental organizations

Voluntary social service organizations in Sri Lanka must be afforded the same independence as any other individual or registered organization such a limited liability company. The heavy surveillance, monitoring and impinging of activities of non-governmental organizations merely on the basis that they are ‘non-governmental’ is a breach of the fundamental principle of equality and non-discrimination. It is driven by the harmful assumption that all non-governmental activities are suspect. This is similar to the harmful assumption that all persons of a particular ethnic or religious community are potentially terrorists. This has deeply affected the voluntary social service organizations registered under the VSSO act.

⁸ Article 5 - Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

The formality of registration, as it does with every other form of legal identity formation, can only attract a minimum degree of legal obligation – transparency of annual reports and accounts. In every other aspect, there can be no monitoring, surveillance or interference of activities of VSSOs similar to the fact that any citizen or company or organization enacted by Act of Parliament is free to carry out their activities as they deem fit. Only when there is specific information triggering an investigation, a formal complaint of criminal activity or causing of actionable loss or injury, or complaint relating to labour law contraventions can the appropriate, criminal, labour or civil laws be applied to that particular organization by institutions that have the legal mandate for the purpose. Broad based surveillance, monitoring and interference deeply affects the culture of volunteerism in Sri Lanka.

Similarly, there shall not be any blanket restrictions on the whole of not-for-profit-sector. The not-for profit sector shall have a level playing field in terms of receiving and expending funds and maintaining accounts similar to those enjoyed by entities that have other forms of incorporation including private companies. Any restrictions shall be targeted, proportionate and be informed by a risk analysis. This is the approach that is recommended by Financial Action Task Force (FATF) to the central bank’s of the country.

For legislation:

- **Must recognize the full range of criminal and civil law that applies to all persons and legal persons and ensure that no double burdens are created by the law merely based on the not-for-profit social service nature of the organization or association.**
- **The not-for-profit entities should have a level playing field and shall not have additional and burdensome requirements that are not imposed on others with regard to opening accounts, receiving and expending funds, reporting etc.**

3. Freedom of expression

People in Sri Lanka have historically come together to work and promote ideas and practices that they believe to be beneficial to society - addressing inequality, reducing poverty, fostering peace and reconciliation, social harmony, protecting the environment and protecting victims. It is a fundamental concept that they are free to determine the goals or purposes they pursue, even if those purposes run counter to government positions. It deepens participation and is particularly relevant for marginalized or vulnerable communities to engage in law and policy reforms. The multitude of challenges non-governmental organizations have reported as facing from state authorities have impeded organized activity for social change. Social change activities sometimes involve agitating for rights and protections, highlighting defects in government policy and lodging complaints if officials act unfairly or illegally. Accommodating and protecting dissent builds trust and a strong democracy.

For legislation

- **Laws must not be enacted to prohibit goals, objectives, activities that are perceived to be contrary to government policies, towards law reform relating to subjects that may currently be considered criminal for example vagrants ordinance, section 365A of the Penal Code etc)**

4. Freedom to determine and decide on the values, plans and working methods of associations (self-governance)

Independence from state intervention is a defining feature of the civil society activism. As a general rule, for registered organizations a rational and simple reporting mechanism that requires annual reporting on completed activities and achievements and if organizations are of a certain

income bracket the filing of duly audited accounts in keeping with the standards prescribed by Institute of Chartered Accountants of Sri Lanka (ICASL) should be in place to maintain registration status. These should not be onerous on the organizations and must provide for size, age and issues variations.

For Legislation

- **NGO laws shall not impose additional prior approval requirements over and above what is already applicable to all citizens/organisations for undertaking lawful activities which might impinge on the freedom of expression and independence of civil society from state intervention.**

5. Right to communicate and cooperate

Active citizen participation requires a vibrant civil society that encourages working in collectives, coalitions, alliances and networks. Independence naturally means having the right to communicate and cooperate with other individuals and entities. Again, the only instance when free communication or cooperation can be subject to limitation is when there is information triggering an investigation into criminal wrongdoing and in the interest of preventing a crime.

For Legislation

- **The law shall not prevent or restrict the ability of organisations at local, national, regional and international levels from collaborating and working with each other. This includes giving and receiving funds, sharing resources and engaging in collective initiatives.**

6. State duty to protect and to provide an enabling environment for CSOs

The State's obligation is to foster an environment conducive for all civil society organizations to engage in their works, including VSSOs. State entities may work with civil society organizations. However, no State entity or centralized body should be given the power to interfere or direct CSO activities – therefore monitoring and supervising activities, prosecuting or taking over should not be provided for in this law. The CSOs and their activities will be subject to the same common laws as any other registered entities.

Many complex social, cultural and economic issues require adaptive, multi-sectoral solutions where sustained social mobilization is critical over the long term. This policy recognizes that such areas require strategic collaboration between the Government and the voluntary sector through long-term national level programmes, and utilize multiple strategies, methodologies and activities to achieve their objectives. This voluntary cooperation implies identifying shared goals and defining complementary roles. It must be based on the basic principles of mutual trust and respect, with shared responsibility and authority.

It must also be recognized that the recent history of measures to supervise and control CSOs including placing the NGO secretariat under the Ministry of Defence or attempts to require CSO to obtain approvals for proposals, budgets, activities and beneficiary lists, etc have not been conducive for CSO work. The current environment and experience is one of state scrutiny, control and suspicion of CSOs and considering them as extended arms of government policy implementation.

For Legislation

- **Law reform must be careful not to facilitate this supervisory environment based on suspicion and where possible encourage positive engagement. Law reform must be cohesive (not be contrary to or exclude the larger legal framework in place) – and therefore must permit illegal conduct to be dealt with through the use of criminal law and financial regulatory frameworks that would ordinarily apply to any legal entity. Basically state-civil society interaction must respect the independence of the sector.**

Annexure 2

Proposed Draft law for Not-for-Profit Social Service Organizations

AN ACT TO REGISTER AND FACILITATE NOT-FOR-PROFIT SOCIAL SERVICE ORGANIZATIONS NO. XX of 2023

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

Long Title	“AN ACT TO PROVIDE FOR THE REGISTRATION OF NOT-FOR-PROFIT SOCIAL SERVICE ORGANIZATIONS, FOR THE ESTABLISHMENT OF AN INDEPENDENT COMMISSION FOR NOT-FOR-PROFIT SOCIAL SERVICE ORGANIZATIONS AND MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO”
Short Title	1. This Act may be cited as the Not-for-Profit Social Services Act, No. XX of 2023, and shall come into operation on such date (hereinafter referred as the “appointed date”) as the Minister may be order published in the <i>Gazette</i> appoint.
Objectives of this Act	2. The objectives of this Act shall be – (a) To provide a scheme by which legal personality of organizations registered in terms of this Act is recognized; (b) To provide assurance that organizations registered in terms of this Act conduct business as a not-for-profit social service; and (c) To ensure a legal and administrative environment that facilitates the purposes of registered organizations.
	PART I - SECRETARIAT OF NOT-FOR-PROFIT SOCIAL SERVICE ORGANIZATIONS
Establishment of a Secretariat	3. (1) There shall be established an office which shall be called the Secretariat of Not-for-Profit Social Service Organizations. (2) A Registrar shall be appointed for the purposes of this Act by name or office and the general direction and control of the Secretariat of Not-for-Profit Social Service Organizations shall be exercised by the Registrar. (3) There may be appointed by name or by office such number of Deputy Registrars and other officers as may be necessary for the purposes of this Act. (4) Every Deputy Registrar or Assistant Registrar shall, in the exercise of their powers, performance of their duties and discharge of their functions, be subject to the general direction and control of the Registrar. (5) Every Deputy Registrar or Assistant Registrar may, subject to the general direction and control of the Registrar, within the area of his jurisdiction, exercise, perform or discharge all or any of the powers, duties or functions vested in, assigned to, or imposed upon the Registrar, by or under this Act.

	PART II – REGISTRATION
Organizations that require to be registered	<p>3(a) Subject to the provisions hereinafter contained, a not-for-profit social service organization may be registered under this Act.</p> <p>(b) A registered voluntary organization shall be recognized as a not for profit organization committed to directing all assets, earnings and profits of such organization to support the not-for-profit purposes of such organization and shall not be used to provide benefits, directly or indirectly, to any founder, director, officer, employee or donor of the voluntary organization. This section does not preclude the payment of reasonable compensation and other employment related benefits to such persons for work performed for the organization.</p>
Registration	<p>4(1) An organisation may apply to the Registrar for registration under the provisions of this Act in order to operate in its name with legal personality in Sri Lanka.</p> <p>Provided that registration under this Act is voluntary and no adverse consequences flow from the absence of registration.</p> <p>4(2) An organisation may register by providing the Registrar with:</p> <ul style="list-style-type: none"> (i) A duly completed application form as described in Schedule 1 to this Act; and (ii) The Constitution or other governing document of the organisation (founding instrument). <p>4(3) A foreign or international organisation may register by providing the Registrar with:</p> <ul style="list-style-type: none"> (i) A duly completed application form as described in Schedule 2 to this Act; and (ii) Proof that it is a legal person in another country; and (iii) The organisation’s address in Sri Lanka; and (iii) A written statement from an authorised representative of the international organization’s headquarters stating: <ul style="list-style-type: none"> (a) The purposes of the organisation; and

	<p>(b) A general description of the activities of the organisation in Sri Lanka; and</p> <p>(c) The name, address, and other contact information of the individual or individuals in Sri Lanka authorised to represent the organisation and to receive official notices and inquiries.</p>
Registration	<p>5. (a) If the Registrar is satisfied that a voluntary organization has complied with the provisions of this Act the Registrar shall register such organization.</p> <p>(b) The Registrar shall issue to an organisation a registration certificate within 15 business days of receiving an application to register, unless the Registrar requests in writing further information or clarification.</p> <p>(c) The Registrar shall maintain a register of organisations that have obtained registration under this Act. The register shall state the name, address, organisational form, and purposes of each organisation, as well as the name, address and other contact information of its authorised representative(s). The register shall also indicate if an organisation has public benefit status. The register shall be available to the public in a central location during regular business hours to be established by the Registrar.</p>
Denial of Registration	<p>6. (a) The Registrar may deny an application if:</p> <p>(i) The registration documents do not comply with the requirements of this Act; or</p> <p>(ii) The organisation seeking registration has the same name or one so similar to a previously registered or already established organisation that confusion is likely to result.</p> <p>(b) The Registrar shall give written notice of a decision to deny an application to register. The written notice shall contain:</p> <p>(i) The grounds upon which the application was rejected; and</p> <p>(ii) Inform the applicant of the right to challenge the decision: and</p> <p>(iii) The timeframe for lodging an appeal of the decision: and</p> <p>(iv) The name, address, and other contact details of the authority to which an appeal is to be directed</p>

Appeal from refusal to register	<p>7. An organization may appeal a decision to deny registration to the Independent Commission for Registered Not for Profit Social Services within 60 business days from the date the applicant becomes aware of the denial decision.</p> <p>a. The Secretariat shall make a decision on the appeal and provide written notice of the decision to the appellant (applicant) within 30 days of the appeal being lodged. The written notice shall contain the grounds upon which the appeal was decided.</p> <p>b. For appeal decisions decided in favour of the appellant (applicant), the appeal authority shall provide written notice to the Registrar to register the organisation.</p>
Revocation of Registration	<p>8. The Registrar may revoke registration if:</p> <p>(a) A Court has determined the organisation was engaged in criminal activity and that decision has been upheld after all appeal processes have been exhausted; or</p> <p>(b) A Court has determined that the organisation's operations have become primarily a for-profit business; or</p> <p>(c) The registration was secured by presentation of materially erroneous or fraudulent information.</p>
Evidence of registration	<p>9. A certificate of registration signed by the Registrar shall be conclusive evidence of the fact that the voluntary organization therein mentioned, is duly registered unless it is proved that the registration of such organization has been cancelled.</p>
Address of organization	<p>10. Every voluntary organization registered under this Act shall have an address registered with the Registrar in accordance with the rules of such organization, to which all notices and communications may be sent, and shall within seven days of any change of such address notify to the Registrar of such change.</p>
Notice of any material change to registration documentation	<p>11. An organisation registered under this Act shall inform the Registrar within 90 business days of any material change with respect to documents submitted for registration. Amendments to registration shall be subject to procedures, standards, and time limits equivalent to those applicable to initial registration. Amendments accepted by the Registrar shall be recorded, registered, and publicly available under section ... of this Act.</p>

	PART III – INDEPENDENT COMMISSION
Establishment of an Independent Commission of Not-for-Profit Social Service Organizations	<p>12. (1) There shall be established an office which shall be called the Independent Commission of Not for Profit Social Service Organizations.</p> <p>(2) The Independent Commission of Not-for-Profit Social Service Organizations shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.</p>
Constitution of the Independent Commission of Not-for-Profit Social Service Organizations	<p>13. (1) The Independent Commission of Not-for-Profit Social Service Organizations shall consist of nine members appointed by the President on the recommendation of the Constitutional Council.</p> <p>(2) The Constitutional Council shall recommend three names out of the members of the Independent Commission of Not-for-Profit Social Service Organizations to be appointed as the Chairperson of the Independent Commission of Not-for-Profit Social Service Organizations.</p> <p>(3) One of the members recommended under subsection shall be appointed by the President as the Chairperson of the Independent Commission of Not-for-Profit Social Service Organizations.</p> <p>(4) In making recommendations for the appointment of members to the Independent Commission of Not-for-Profit Social Service Organizations, the Constitutional Council shall have due regard to –</p> <p>(a) ensure that the composition of the Independent Commission of Not-for-Profit Social Service Organizations reflects the pluralistic nature of Sri Lankan society including gender; and</p> <p>(b) ensure that the members of the Independent Commission of Not-for-Profit Social Service Organizations shall be persons of integrity and possess experience and qualifications relevant to the carrying out of the functions of the Independent Commission of Not-for-Profit Social Service Organizations, and consists of</p> <p>(i) Four eminent persons from the not-for-profit social services sector not holding any post or formal engagement with any state institution</p> <p>(ii) One person qualified as a chartered accountant</p> <p>(iii) One experienced legal professional</p>

	<p>(iv) One representative from the Central Bank</p> <p>(v) One representative each from the Ministry of Social Services and Public Administration</p>
Appointments	<p>14. (1) The President shall, within a period of fourteen days of receiving the recommendations under section 13, appoint such persons as members and, a person as Chairperson out of the names recommended under section 13(3) for the Independent Commission of Not-for-Profit Social Service Organizations.</p> <p>(2) In the event of the President failing to make the necessary appointments within such period of fourteen days –</p> <p>(a) the persons recommended to be appointed as members of the Independent Commission of Not-for-Profit Social Service Organizations shall be deemed to have been appointed as the members of the Independent Commission of Not-for-Profit Social Service Organizations; and</p> <p>(b) the person whose name appears first in the list of names recommended to be appointed as the Chairperson, shall be deemed to have been appointed as the Chairperson of the Independent Commission of Not-for-Profit Social Service Organizations, with effect from the date of expiry of such period of fourteen days.</p>
Terms of members	<p>15. (1) Every member of the Independent Commission of Not-for-Profit Social Service Organizations shall, unless such member vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of such member's appointment and shall, unless such member has been removed, be eligible for reappointment.</p> <p>(2) The term of office of the Chairperson shall be such member's period of membership of the Independent Commission of Not-for-Profit Social Service Organizations.</p>
Office of member becomes vacant and removal of members	<p>16. (1) The office of a member of the Independent Commission of Not-for-Profit Social Service Organizations shall become vacant –</p> <p>(a) on the expiration of such member's term of office;</p> <p>(b) upon the death of such member;</p> <p>(b) upon such member resigning such office by writing addressed to the President; or</p> <p>upon such member being removed from office on any ground specified in subsection (2).</p> <p>(2) A member of the Independent Commission of Not-for-Profit Social Service Organizations may be removed from office by the President, if</p>

	<p>such person –</p> <p>(a) is adjudged an insolvent by a court of competent jurisdiction;</p> <p>(c) is unfit to continue in office by reason of illness or other infirmity of mind or body;</p> <p>(d) is declared to be of unsound mind by a court of competent jurisdiction;</p> <p>(e) is convicted of an offence involving moral turpitude; or</p> <p>(f) absents himself from three consecutive meetings without previously obtaining leave from the Independent Commission of Not-for-Profit Social Service Organizations.</p> <p>(3) The Chairperson may resign from the office of Chairperson by letter addressed to the President</p>
Meetings of the Independent Commission of Not-for-Profit Social Service Organizations	17. Subject to the other provisions of this Act, the Independent Commission of Not-for-Profit Social Service Organizations may make rules, to regulate the procedure in regard to the conduct of its meetings, and the transaction of business at such meetings.
Functions of the Independent Commission of Not-for-Profit Social Service Organizations	18. The Independent Commission of Not-for-Profit Social Service Organizations shall have the following powers and functions <ul style="list-style-type: none"> (a) To receive appeals from any organization who has been denied registration or any organization whose registration has been revoked in terms of Section 8 of this Act and to affirm or reverse the decision of Registrar. (b) To receive complaints relating to registered organizations, evaluate the nature of complaints received and refer such complaints to appropriate institutions for appropriate inquiries and action; (c) To make recommendations to state institutions in relation to resolving or addressing any challenges faced by organizations registered under the Act with the object of protecting and promoting the constitutional fundamental guarantees of freedom of association and freedom of expression; and (d) Make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.
Regulations	19. Every regulation made by the Independent Commission of Not-for-Profit Social Service Organizations shall be published in the <i>Gazette</i> , shall
	come into operation on the date of such publication or on such later date as may be specified in the regulation
Interpretation	20. (clause to be developed)

Annexure - 3

Sectoral Oversight Committee on National Security

The Chairman of the Sectoral Oversight Committee on National Security, Hon. Malith Jayathilaka, MP, presented the report to Parliament regarding the proposal for the formulation and implementation of rules and regulations related to establishing national security by developing relationships between races and religions to eliminate new terrorism and extremism.

Wednesday, February 19, 2020

Members of the Sectoral Oversight Committee on National Security

1. Hon. Malith Jayathilaka (Chairman)
2. Hon. Mr. Shehan Semasinghe
3. Hon. Mr. Vijitha Herath
4. Hon. Mr. Weerakumara Dissanayake
5. Hon. Buddhika Pathirana
6. Hon. M.S. Mr. Thawfeek
7. Hon. Palitha Kumara Thevarapperuma
8. Hon. S. Mr. Vialendhiran
9. Hon. Mr. Dharmalingam Siddharthan
10. Hon. A.A. Mr. Wijetunga
11. Hon. M.A. Mr. Sumanthiran
12. Hon. Mr. Chandima Gamage
13. Hon. Dr. Kavinda Heshan Jayawardena
14. Hon. Mr. Mayantha Yaswantha Dissanayake
15. Hon. Mr. Bandula Lal Bandarigoda
16. Hon. Mr. Muhammad Ibrahim Muhammad Mansoor
17. Hon. (Dr.) Ashu Marasinghe

Powers of the Committee

The powers and functions of the Sectoral Oversight Committee are set out under Standing Orders 111 of the Parliament of Sri Lanka and the information is available on the website www.parliament.lk.

Publications

The reports and evidence published by the Sectoral Oversight Committees can be downloaded from the Committee Bureau of Parliament or the website www.parliament.lk.

Oversight Committee Secretariat Office

Mr. Tikiri K. Jayathilaka - Assistant Secretary General of Parliament, Mr. Jagath Gajaweerarachchige - Director (Legislative Services), Ms. Indira Dissanayake - Assistant Director (Administration), Mr. N.N. Wevelwala - Chief Officer, Ms. R.A.N. De Alvis - Assistant Chief Officer

Reference and inquiries

For all correspondence and inquiries regarding this report - The Secretary, Sectoral Oversight Committee on National Security, Committee Office, Sri Lanka Parliament, Sri Jayawardenepura, Kotte can be contacted at (011) 2777100.

Empowerment and Legalization of the NGO Secretariat (from page 74 of the report)

According to modern concepts, it is no secret that non-governmental organizations are closely linked with civil society activities. The activities and recognition of these organizations have been built on international non-governmental organizations (INGOs) operating as branches of the United Nations and other international organizations and as non-governmental organizations (NGOs) operating within a particular country.

It is also true that most of the non-governmental organizations operating nationally and internationally are dealing with pressing social problems that are rooted in poverty in developing countries. In emergencies, they sometimes act more efficiently than the governments. Especially in places where large-scale human tragedies occur, many volunteers even risk their lives. However, there is often a mixed reaction to NGOs in most countries of the world. From that point of view, Sri Lanka is unique. Throughout the 26-year war, and especially at the end of the 4th Eelam War, the activities of international NGOs and domestic NGOs were not viewed with optimism by the majority of Sri Lankans. The result of all that was that the NGO Secretariat, which was set up to regulate and control NGOs, had to be taken over under the Ministry of Defense by the end of the war.

The full responsibility of the voluntary social service organizations established under the Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980 was held by the Ministry of Social Services for a long time. The Act introduced in 1980 was again amended by Act No. 8 of 1998 and by Circular No. 199, the NGO Secretariat was established.

At the beginning, this NGO Secretariat operated successfully under the Ministry of Social Services and then under the Ministry of Defense. After that, it came under the purview of the Ministry of National Integration, Official Languages, Social Progress, and Hindu Religious Affairs after 2015. In particular, other institutions belonging to that Ministry are the Official Language Department and the Official Language Commission. Against this backdrop, it appears as an unscientific division of institutions. The scope of this secretariat is very broad and complex and it is also entrusted with the responsibility of monitoring and regulating the overall operation of non-governmental organizations in the country with great financial discipline and financial management.

After the Easter Sunday attack on April 21, 2018, investigations are being conducted by the Criminal Investigation Department regarding several registered non-governmental organizations, and according to facts revealed during the investigation, some non-governmental organizations are operating without registration in the Secretariat. It has also been confirmed that security and intelligence agencies dealing with them is very difficult because the Act is not strong. Especially after the Easter Sunday attack, it seems that the attention of many people was directed towards the NGO Secretariat, because of the way the funds

were received by those who were directly involved in the attacks as well as the people who contributed to it in numerous ways. At the same time, the flow of money into the country concerning the Batticaloa Campus Limited was also questionable.

According to the agreements signed by Sri Lanka regarding the prevention of money laundering and funding of terrorist organizations in the Asia Pacific region, the secretariat should implement the recommendations regarding the NGO sector in Sri Lanka. Based on the observations obtained by the National Intelligence Chief of the Financial Intelligence Unit of the Central Bank of Sri Lanka, this secretariat should have the legal authority to prevent opportunities for non-governmental organizations to launder money and provide funding to terrorists. Sri Lanka has been listed as a high-risk country in terms of money laundering and terrorist financing, and thus Sri Lanka's international financial affairs have been affected. However, the implementation of these recommendations has already been delayed and since its progress is evaluated annually, due to the non-implementation of these recommendations, Sri Lanka may face problems regarding the relevant international agreements.

Especially in a situation where a large number of organizations that receive large amounts of foreign funds into the country are not registered, the way that money is used in the country is not adequately monitored. On various occasions, the security forces as well as the media have reported information that money is coming into the country through the bank accounts of non-governmental organizations that are operated by various foreign grants although they are not regulated. In further inquiry about this, a large number of organizations that receive large amounts of foreign aid from Middle Eastern countries operate even at the local level, and the amounts of money and the activities for which they are used are not subject to formal supervision.

To efficiently fulfill many of the above tasks and responsibilities, the Voluntary Social Service Organizations Amendment (Registration and Supervision) Act No. 31 of 1980 must be amended as currently proposed by the Non-Governmental Organizations Secretariat.

More than two years have passed since the completion of the relevant legal process for the above amendment bill, but it has not been possible to issue the relevant gazette notification so far. The reason for that appears to be that the leaders of several non-governmental organizations registered and operating under the Companies Act have been blocking the gazette notification related to the amended bill for about two years by giving false information to the government leaders. They refer to issues such as the loss of freedom of speech through these amendments.

It was reported to our committee that the reason why the heads of several non-governmental organizations exerted their influence against the relevant amendment is that two clauses related to money laundering and preventing the flow of money to terrorist organizations were included in this bill. Accordingly, the respective heads of non-governmental organizations argue that steps should be taken to work under the general law of the country without new amendments. Those people did not stop there and appointed an unofficial committee with their members, claiming that they will look into this issue. But their committee has met only twice in the last two years. Accordingly, after taking into account all the above matters, the Sectoral Oversight Committee on National Security decided to make the following recommendations in this regard.

1. Immediate removal of all impediments to gazetting of the NGO Bill and gazetting it.
2. As a matter of public policy, the Secretariat of Non-Governmental Organizations should be included in the purview of the Ministry of Social Services or the Ministry of Defence.
3. Designating organizations operating without registration in the NGO Secretariat as illegal and taking steps to define the punishments given to such organizations. Especially, the organizations registered under the Companies Act No. 7 of 2003 and working as voluntary non-profit, companies limited by guarantee should be brought under the law.
4. Building a mechanism that includes the relevant Secretariat, the Financial Intelligence Unit of the Central Bank, and the Head of National Intelligence to enable comprehensive regulation of all foreign funds and aid received by Sri Lanka through non-governmental organizations.
5. An Act like the Foreign Contribution Regulation Act should be introduced and the foreign aid money received by Sri Lanka should be properly audited by the Non-Government Secretariat. Also, it should be ensured that the money is used for social activities so that all sections of society get common benefits.
6. As in many countries, NGOs and other voluntary organizations register with only one institution and they must register with the NGO Secretariat.
7. Appropriate amendments to the standing orders of the Parliament must be introduced so that foundations, trusts, funds, and organizations that benefit only one ethnic group or one religious group are not legislated by bills brought to Parliament as private members' proposals. Further, the governing boards of foundations, trusts, or funds passed in Parliament should be confirmed that they are not limited to one family or a few families with kinship ties.
8. Parliamentary Committees should remove the existing clause 'Registration of NGOs in Emergency' in the proposed Voluntary Social Service Organizations Amendment Bill because through that section, a loophole can be created in the basic law on registration.



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