

Sri Lanka: Reparations: Not blood money

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This week an Access to Justice Mobile Service was launched by the Ministry of Justice in the Jaffna District. This is a most welcome move by the Government. According to the Ministry of Justice, the main objective of the mobile service was to educate the people in the Jaffna, Kilinochchi, Mullaitivu, Mannar and Vavuniya districts of the Northern Province about the roles played by institutions that fall within the purview of the Justice Ministry and provide services of those institutions expeditiously.

It is said that the Northern Province Mobile Service Program will focus on educating government officials, university students, youth and the public regarding peace and reconciliation. This too is a positive development. However, the peace and reconciliation “education component” will hopefully refrain from imposing the ideology and will of the State on a people who have borne the brunt of Sri Lanka’s 26-year civil war. Without question, this Government took the position that victims of grotesque rights abuses during the war should ‘forget and move on’. It is the Government’s preference for people in the north and east to focus on livelihoods and development, rather than truth, justice, and power devolution.

In a country still grievously injured by 26 years of civil conflict, true reconciliation initiatives must be based on painful introspection, clearly articulated will to correct the mistakes of the past and genuine desire to prevent a recurrence of violence and strife. Imposing a form of victor’s justice on a community whose war wounds are still raw and unhealed will never achieve real reconciliation or bring fractured communities together across the island.

It is in this light that the Government’s decision to provide compensation to families of the disappeared must be evaluated. The Justice Ministry’s mobile program will grant compensation to the families of persons who have gone missing during the conflict. The offer of monetary compensation by a state entity will never negate the right of loved ones to continue to seek the truth about their missing or disappeared relative. Furthermore, in cases of enforced disappearance where a state agency may have had a role in the crime, there is also a duty on the part of the Government to investigate and prosecute those who may have been involved in disappearing persons.

Not every person missing is a victim of enforced disappearance. There may be combatants or civilians who died in conflict whose bodies were never found or recorded as dead. However, within these missing individuals are people who have been subjected to the crime of enforced disappearance. In Sri Lanka there are at least 60,000 or more such recorded cases stemming from the two JVP insurgencies in 1971, 1987-87 and the northern armed conflict. The Government cannot and should not try to move on from addressing these crimes which have been committed primarily by state agents, such as the police and the military.

The current Government has touted the continuation of the Office for Reparations as part of its reconciliation effort. Even though the broader transitional justice and reconciliation processes have ground to a halt under the Gotabaya Rajapaksa administration, the two remaining mechanisms that remain operational – the Office of Missing persons and the Office for Reparations – must be

permitted to work in an effective and systematic manner in line with the mandates provided to these institutions by statute of Parliament.

It is imperative therefore, for the reparations process, including compensating families of the disappeared, be linked to the OMP and the judicial process to find and prosecute the perpetrators. The OMP's mandate is not merely to recommend compensation, but to also investigate the circumstances in which citizens of Sri Lanka went missing. In the absence of a firm accountability mechanism, the judicial system should attempt to offer redress to the victims and their loved ones, if there is credible evidence that the crime of enforced disappearance has occurred. Only through such a truth and justice process - and not merely monetary compensation - will the families of the disappeared finally find closure and healing.

By contrast, the mere distribution of compensation to a few selected families of missing persons would be seen as a disingenuous act by the State by international actors including the UN Human Rights Council and the EU which will review Sri Lanka's access to GSP plus trade concessions over the next few months.

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