



Commonwealth Human Rights Initiative

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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To: Mr. W.J.M. Lokubandara
Speaker of Parliament
Parliament of Sri Lanka

13/04/2006

Re: Constitutional Council

Dear Mr. Lokubandara,

I write from the Commonwealth Human Rights Initiative (CHRI), an independent, non-partisan international non-governmental organisation mandated to ensure the practical realisation of human rights in Commonwealth countries. I write to express CHRI's concern that the Constitutional Council is not functioning due to a failure to appoint its members.

The Constitutional Council is theoretically an important mechanism to check political interference and ensure independence of crucial bodies. As such, it was highlighted as an example of good practice in our biennial pan-Commonwealth report to the 2005 Commonwealth Heads of Government Meeting (CHOGM). However, such praise would appear to be misplaced if the Council is unable to function due to a persistent failure to appoint members. Such inaction not only thwarts the Council itself but also the other bodies to which it is mandated to make appointments.

It is unacceptable that important commissions created under the 17th Amendment to the Constitution, such as the Human Rights Commission of Sri Lanka (HRCSL) and the National Police Commission, are functioning without Commissioners. Without Commissioners in place to oversee the operations of the commissions that have been affected, and with the ensuing absence of independent leadership, the effectiveness, independence and legal credibility of these commissions are severely jeopardised. The HRCSL and Police Commission were both doing excellent work before the term of their Commissioners expired and were looked to as examples of good practice in the region and across the Commonwealth more broadly. It would be a shame if this good reputation was lost due to delays in appointing members to the Constitutional Council.

The Human Rights Commission of Sri Lanka needs assistance to cope with the large amount of cases that it has to deal with on a daily basis - but, instead of being strengthened, it has been dealt what could be a lethal blow to its functioning and credibility. This is a particularly disturbing development for human rights in Sri Lanka and compromises the large number of pending cases before the HRCSL. The current state of the HRCSL means that it is longer in line with the internationally accepted Paris Principles, a fact which jeopardizes its credibility.

The National Police Commission has been another vital institution as it created a mechanism to check political interference in the matters of appointments, transfers and disciplinary actions against the police. In fact, illegitimate political interference had been reduced in your country since the creation of bodies such as the Constitutional Council and the Police Commission - but is likely to increase again without their operation. The Chair of the National Police Commission has in fact said that crime and violation of law and order have increased because the Constitutional Council is not functioning.

We urge you to make the appointments to the Constitutional Council without delay. The failure to appoint Constitutional Council members has already significantly disrupted the Government's work, and means that the human rights of citizens are not protected as well as could be. I call on you to rectify this as soon as possible.

Yours sincerely,



Maja Daruwala
Director,
Commonwealth Human Rights Initiative (CHRI)

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