

## SOCIAL SERVICE ORGANIZATIONS ACT

*The following is the text of the letter sent in April to the Minister of Social Services protesting against the new legislation to control social service organizations. Nearly four hundred non-overnmental organizations have signed this communication.*

Minister of Social Services,  
Ministry of Social Services,  
Sethsiripayaya,  
Battaramulla.

Dear Sir,

### RESCINDING AMENDMENT 14 (a) OF THE VOLUNTARY SOCIAL SERVICE ORGANIZATIONS (REGISTRATION AND MONITORING) ACT NO. 31 OF 1980

We wish to draw your attention to the above amendment, which we strongly feel poses a threat to the guarantee of freedom of association which non-governmental organizations in Sri Lanka have enjoyed as a fundamental right under the Constitution of Sri Lanka.

Section 14 of the Act of 1980 read as follows:

Upon the receipt of the report of the Board of Inquiry in terms of Section 12 (3), the Minister shall refer such report to the appropriate authority for steps to be taken according to law.

The Amendment No. 14 (a) introduced by this government has added the following to this Section:

Such authority may require the organization to duly reconstitute its management committee. Where the organization fails to effect such reconstitution, the Minister may, in the public interest, appoint by Order published in the Gazette an Interim Board of Management for a specified period for the purpose of supervising the exercise of the powers of the organization's management committee and for duly reconstituting it.

Our concerns regarding the Act of 1980 were that it impinges on the freedom of association in the manner set out below :

1. Although the Act refers to 'Voluntary Social Service Organizations', according to the definition it could be any and non-governmental organization that is set up by a group of individuals with local or foreign funding. Since the definition is so general, the Act could be used against any civil society organizations, using the benefit of the doubt to the advantage of the state.

2. The Act has a retrospective effect, that is, it relates to the past as well. This is in direct contradiction of all internationally accepted standards including Article 15 of the International Covenant of Civil and Political Rights to which the government of Sri Lanka is a signatory.

3. The Act is also in contravention of Article 22 of the International Covenant on Civil and Political Rights, which states that 'Everyone shall have the right to freedom of association with others...' and in particular of Article 22(3) which explicitly states that 'Nothing in this Article shall authorize States Parties to the International Labor Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take

legislative measures which would prejudice, or apply the law in such a manner as to prejudice the guarantees provided for in that Convention'.

4. Thus, this Act is also in contravention of the ILO Convention of 1948 which has been signed by the government of Sri Lanka.

Just as much as the government of Sri Lanka is bound by its international commitments as described in the above manner, the Constitution of Sri Lanka also guarantees certain fundamental rights to all citizens. We feel that the Act and the new Amendment are both in contravention of these guarantees.

While, for example, our Constitution guarantees the freedom of expression, the freedom of peaceful assembly and the freedom of association, this Act and the Amendment 14 (a) pave the way for state interference in these freedoms. In addition, our Constitution guarantees the right to equal protection by the law. Through the use of this Act and the Amendment, the state has created an environment for differential treatment for state organizations and institutions and non-state ones.

Our Constitution also guarantees the right of the freedom of thought and conscience. Through the use of this Act and Amendment, the state could create an environment of fear and state interference in the non-governmental sector which could impede the freedom of citizens to act in accordance with their conscience and to enjoy freedom of thought.

The Act and Amendment also give state authorities powers to act in ways which could constitute an abuse of their powers. In particular, it enables government officials to intervene in the internal affairs of any non-governmental organization. We therefore express our strong protest against the Sections of the original Act and the present Amendment which contravene human rights principles and the rights guaranteed by both the Constitution of Sri Lanka and international standards on civil and political rights.

The appeals filed against the Act were dismissed not on the basis of the content of the appeal but rather due to a technicality. Appeals against the Amendment of 1998 were dismissed because they were not made within one week of notice of the Bill appearing on the Parliamentary Order Papers. However, the Bill had remained on the Order Paper for over two and a half years before being taken up for discussion. This delay sanctioned by our lawmakers makes it clear that the government itself did not consider this Bill to be of any urgency.

We feel that there are adequate legal mechanisms already existing that can be used to investigate and punish organizations and individuals guilty of fraud and misappropriation. Among them are the Companies Act, the Societies' Act, the Trust Fund Act and other civil and criminal laws created to deal with fraud and misappropriation.

In light of the above, as members of non-governmental organizations that are dedicated to service to the community in our country, we appeal to you to reconsider Amendment 14 (a) to the Act as well as Sections of the Act that are in contravention of international human rights standards and principles.