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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka



Selected Recommendations issued by Human Rights Commission of Sri Lanka in year 2024

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**Selected Recommendations issued by Human Rights
Commission of Sri Lanka in year 2024**

10 December 2024

Introduction

The Human Rights Commission of Sri Lanka, established under the Human Rights Commission of Sri Lanka Act, No. 21 of 1996 has completed 27 years. During this period, a large number of recommendations relating to the violation of fundamental rights have been issued. These recommendations are now available to the public through the Commission's website.

The recommendations issued by the Human Rights Commission help raise awareness among the public about the violation of their rights and the necessary actions to be taken. Additionally, public officials and other parties interested in human rights will be able to use these recommendations as guidance to protect and promote human rights.

The Human Rights Commission intends to publish its recommendations in Sinhala, Tamil, and English. As part of this process, Commission is pleased to publish this compilation of recommendations on the occasion of this year's International Human Rights Day.

On December 10, 1948, the Universal Declaration of Human Rights was adopted by the United Nations. It contains 30 articles and serves as the primary document on human rights. These rights encompass a set of entitlements that every person is granted upon birth. Human rights are indivisible, meaning that no right is secondary to another, and all rights carry equal importance. Furthermore, these rights are interrelated and universal.

Accordingly, the rights mentioned in the Constitution of Sri Lanka, such as the right to freedom of thought, conscience and religion, the right not to be subjected to torture or cruel, inhuman, or degrading treatment, the right to equality and equal protection of the law, the right to not be arbitrarily arrested or detained, the right to freedom of expression, and the right to engage in any occupation or profession of one's choice, are among the most significant human rights.

Under the Human Rights Commission Act of Sri Lanka, investigations are conducted into violations of fundamental rights caused by executive or administrative action of the state. Among the recommendations made by the Commission in 2024, five selected recommendations are included here, and they have been printed in Sinhala, Tamil, and English.

The recommendations included here are only a few selected from the recommendations made by the Commission this year. These recommendations were issued after analyzing the evidence provided by both the complainant and the respondent parties, as well as reviewing all relevant documents and data.

The complaints registered under numbers **HRC/HO/2865/21** and **HRC/HO/2706/21** were submitted to the Commission concerning the same incident. The Human Rights Commission's investigation revealed that M.L. Lasantha, also known as Tinkarin Lasantha, died due to gunfire by police officers following his arrest by the Kalutara District Criminal Investigation

Unit. Although it was presented that the police officers used the right to self-defense when carrying out the shooting, the investigation by the Commission revealed that these claims could not be accepted. The Commission concluded that the procedures to be followed after arrest had been gravely violated, thus breaching Article 12(1) of the Constitution. As a result, the Commission recommended that the responsible party should pay compensation and that disciplinary action be taken against the relevant officers.

The complaints registered under numbers **HRC/2603/23**, **HRC/2153/23**, and **HRC/2154/23** are all related to the alleged unlawful arrest of Nathasha Edirisooriya. The victim is an artist who held a theatrical performance titled “Modabhimani” on April 1, 2023, which was later broadcast on a YouTube channel. It was reported that social media backlash arose due to a statement made during the show, which was perceived as insulting to Buddhism. Following this backlash, she removed the show from YouTube and issued an apology. Due to the mental distress caused by the situation, she planned to leave the country for a break. However, she was arrested at the Bandaranaike International Airport by immigration officials and handed over to the Criminal Investigation Department. A case was filed against her under the provisions of the International Covenant on Civil and Political Rights Act, No. 56 of 2007. As a result of this charge, she was denied bail by the Magistrate’s Court and was compelled to seek bail from the High Court.

According to the findings of the extensive investigation conducted by the Human Rights Commission, it has been revealed that there were insufficient grounds to file charges under the International Covenant on Civil and Political Rights Act, No. 56 of 2007 against this individual. Furthermore, it is reported that the Attorney General has also informed the court that this case cannot be pursued. The Commission concluded that the provisions of Article 14(1)(a) of the Constitution, which ensures the right to freedom of speech and expression, have been violated in relation to the complainant. Accordingly, the Commission recommended compensation be paid by the responsible parties, disciplinary action against the officers involved, and training programs to raise awareness among relevant officials about the legal aspects involved.

HRC/904/20/I (vi): This complaint was filed anonymously through the Commission’s emergency hotline, leading to an investigation conducted by a team of Human Rights Commission officers who visited the Juvenile Offenders Training Institute and its outdoor work camp. During the investigation, statements were recorded from six children who reported being subjected to torture. They were subsequently referred to medical examinations, and the findings confirmed that the children had been physically abused by prison officers. The Commission concluded that Articles 11 and 12(1) of the Constitution had been violated, and it recommended disciplinary action against the responsible officers and compensation for the victims.

HRC/4835/23: In this case, the complaint involved the proposed construction of a new renewable energy plant for the Aberdeen Small Hydro Power Project. The complainant had obtained approvals from approximately thirteen institutions and received Cabinet approval, with the project gazetted and a contract signed with the Sustainable Energy Authority.

However, the Director of the Central Provincial Environmental Authority later unlawfully halted the project, causing the complainant's rights to be violated. Following an extensive investigation, the Human Rights Commission concluded that the government's decision in 2010 to approve the project and the subsequent investment by the complainant over nearly a decade was negated by the later withdrawal of approval. This action violated the complainant's fundamental rights under Articles 12(1) and 14(1) of the 1978 Constitution. The Commission recommended disciplinary action against the responsible parties and sufficient compensation for the complainant's financial losses.

HRC/KI/15/21: In this complaint, the complainant, along with two other journalists, was prevented by the Sri Lanka Navy from visiting Iranaitheevu Island. Upon investigation by the Human Rights Commission, it was confirmed that there was no legal regulation prohibiting access to Iranaitheevu Island. Under Article 14(1)(h) of the Sri Lankan Constitution, every individual has the right to freedom of movement and the freedom to reside in any place within Sri Lanka. Although this right can be restricted under Article 15(6), no such legal framework existed in this case. Therefore, the Commission concluded that by denying the complainant access to the island without any lawful basis, the complainant's fundamental rights had been violated. The Commission recommended that the complainant's rights be restored.

The Human Rights Commission of Sri Lanka, by examining complaints of fundamental rights violations and issuing such recommendations, aims to provide justice and fairness to those whose rights have been infringed. The Commission seeks to prevent future violations by holding responsible parties accountable and fostering a society that respects human rights. The Commission's board and staff provided leadership in guiding these efforts with a commitment to upholding justice and human dignity.

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Recommendation No 01

Complainant:

01. Mr. S. Ariyadasa
No. 303/05, Sri Viaya Mawatha, Bokundara.
02. Mrs. M. L. S. V. Chamali,
No. 442, Bandaranayakpura, Kekunadura.

Victim:

Mr. M. L. Lasantha

Respondents:

01. Mr. Sanath, Chief Inspector of Police,
Criminal Investigation Department, Kalutara Division.
02. Mr. Sujith Silva, Sub Inspector of Police,
Criminal Investigation Department, Kalutara Division.
03. Mr. Nuwan, Sub Inspector of Police,
Criminal Investigation Department, Kalutara Division.
04. Mr. Rathnayake, Police Sergeant 37109,
Criminal Investigation Department, Kalutara Division.
05. Mr. Kithsiri, Police Constable 36218
Criminal Investigation Department, Kalutara Division
06. Mr. Priyantha, Police Constable 7943,
Criminal Investigation Department, Kalutara Division.
07. Thambawitage Don Dimuth Indika, Police Sergeant 60015,
Criminal Investigation Department, Kalutara Division.
08. Chathura Priyasad, Police Constable 91332,
Criminal Investigation Department, Kalutara Division
09. Mr. Kapila Premadasa, Senior Superintendent of Police,
Office of Senior Superintendent of Police,
Kalutara.
10. Inspector General of Police, Sri Lanka Police.

Case No: HRC/HO/2865/21, HRC/HO/2706/21

Facts of the case

On or about 25.11.2021 Mr. Sanjaya Ariyadasa, Attorney-at-Law has by email and by telephone complained to the Human Rights Commission of Sri Lanka that Hewa Lunuwilage Lasantha alias Tinker Lasantha was arrested by the Criminal Investigation Department, Kalutara Division and that there was a plan to kill him under the guise of escorting him to recover weapons.

Intervention by the Human Rights Commission of Sri Lanka

As per the above complaint, on or about 25/11/2021 10:27a.m., the Inquiries and Investigations Division of the Human Rights Commission of Sri Lanka requested the Director of the Human Rights Division of Sri Lanka Police, Senior Superintendent of Police to take necessary actions regarding the said complaint.

Further, on or about 24/11/2021 11.07a.m. the officer in charge of the hotline had inquired the Criminal Investigation Department, Kalutara Division about this arrest which was denied by Sub Inspector Mr. Nuwan.

Thereafter, media reported that on or about 26/11/2021 while escorting Lunuwilage Lasantha for further inquiry to recover weapons he had tried to shoot at the officers who had fired their arms at him in self-defence resulting in his death. As the complaint received on the HRCSL hotline further stated that H. G. Lasantha's wife and daughter were being unlawfully detained at the police station a team of HRCSL officers visited the Criminal Investigation Department, Kalutara Division for further investigation and found that the victim's wife and daughter were at the police station during the morning of 26/11/2021 and had left afterwards.

The Inquiring Officers of the Provincial Office of Matara who were then directed to inquire their whereabouts in Kekunadura where they resided were informed by relatives that the victim's wife and daughter had not come home. The inquiring officers of the HRCSL had further done on-site inspection at the place where the suspect died.

As there was no information about the whereabouts of the victim's wife and daughter the HRCSL requested the Inspector General of Police in writing to take necessary action to ensure their safety.

Respondents' Statement

The Respondents stated that as per information received by Mr. Sanath Kumara, Chief Inspector attached to the Criminal Investigation Department, Kalutara Division on 25/11/2021 that Lunuwilage Lasantha alias Tinker Lasantha, a suspect of the murder of a certain Amila Prasanga caused by shooting was hiding in Panapitiya area within the Northern Kalutara Police Division officers Chief Inspector of Police Sanath Kumara, Sub Inspector Sujith Silva, Sub Inspector Nuwan, Police Sergeant 37109 Rathnayake, Police Sergeant 44817 Gunawardena, Police Sergeant 60015 Indika, Police Constable 7943 Priyantha, and, Police Constable 91332 Priyasad, were dispatched to investigate around 1:00p.m. on 25/11/2021 on the Jeep bearing registration no. WP NE 0826 driven by Kithsiri Police Constable 36218.

The Respondents further stated that as they approached the house at Delduwa, a person ran away from the garden and through a back path and the police team gave chase. That person had resisted arrest and had caused minor injuries to Police Sergeant 60015 Indika and Police Constable 91332 Priyasad. That person was then arrested at 14:35 hour and later while recording his statement at the Matar Division the suspect had admitted the fact that he was Lunuwilage Lasantha suspect of causing Amila Prasanga's

death by shooting. Afterwards, on 26/11/2021 he was taken to Galpatha, Diyagama to recover the pistol used in to commit homicide and at around 04:20 the suspect immediately retrieved a pistol that was hidden in the roadside of the roadway surrounded by a forest leading to the suspect's temporary residence and had attempted to shoot Police Constable 7943 Priyantha who had in exercising his right to self-defence had fired his T56 at the suspect once.

The Responded has stated that, as a result of the shooting the suspect had sustained injuries and was admitted to the Nagoda hospital and was pronounced dead by the doctor at 05:15.

The Complainant's Statement: Mrs. Champa Chamali

The Complainant stated that the deceased was her husband, and that he had been in hiding in different places for the past duration and that he had covertly been staying at a house in Kalutara, and that she was brought to the Matara Police Station, Kekunadura Police Station and Crime Investigation Department and was questioned about the whereabouts of her husband and regarding money. She has further stated that she was summoned to the Crimes Investigation Department and that in the meantime she had moved to Kalutara with her husband and daughter and had resided at three different rental houses, and that on 25/11/2021 a friend of Lasantha had called him on the phone and informed him that the police would be arriving at his place. She then stated that they packed their clothes and Rupees 26 lacs and gone to the house at Moranthuduwa at about 10:00a.m. and 15 police officers had arrived at the Moranthuduwa house. Lasantha had run away as the police arrived while she had hidden under the bed with her daughter and had heard gunshots and sounds of a fight at about 11:00a.m. The police officers had thereafter found her and her daughter.

The Complainant has further stated that the police officers took Lasantha's telephone and NIC into custody. It was later revealed that they were officers attached to the Criminal Investigation Department, Kalutara Division. The officers had taken her and her daughter to the police station and had detained them there till 08:30p.m. before releasing them from custody. The police officers had agreed to let her see Lasantha later when the Complainant has asked to see him but did not bring him to see them. The next morning, she had gone to the police station but was not allowed to see her husband. Thereafter she had gone to their house at Ambalangoda and had found through social media that her husband was dead.

The HRCSL has conducted investigations and summoned the following officer on the following days and recorded their statements.

01. Mr. Sanath, Chief Inspector of Police	-	02/12/2021
02. Mr. Sujith Silva, Sub Inspector of Police	-	07/12/2021
03. Mr. Nuwan, Sub Inspector of Police	-	02/12/2021
04. Mr. Rathnayake, Police Sergeant 37109	-	07/12/2021
05. Mr. Kithsiri, Police Constable 36218	-	02/12/2021
06. Mr. Priyantha, Police Constable 7943	-	02/12/2021
07. Thambawitige Don Dimuth Indika, Police Sergeant 60015	-	29/12/2021
08. Mr. Gunewardena, Police Sergeant 44817	-	21/12/2021
09. Mr. Kapila Premadasa, Senior Superintendent of Police	-	23/12/2021
10. Inspector General of Police, Sri Lanka Police	-	02/12/2021
11. Mr. Indika, Sub Inspector of Police	-	21/12/2021

Observations

The Complainant, the wife of the Deceased Victim, M.L. Lasantha, has stated in relation to his arrest that her husband had gone in to hiding at Kalutara, and that on 25/11/2021 upon receiving information

from a friend that the police would be arriving to arrest him they had moved to a different house. As per the statements of the Respondents recorded from the 01st to 07th the Deceased Victim was arrested upon investigating information given by a private informant that the suspect of Amila Prasanga's death caused by gunshot was hiding at a house within the North Kalutara Police Division. It is thus 'observed' that the police had reasonable grounds to arrest the suspect.

It is noted that as per the Respondents statements that the officers did not act upon the information received from the private informant at 08:00a.m. well until 01:00p.m. It is evident through the Complainant's statement that the suspect was aware that the police were planning to arrest him. The HRCSL's attention is directed here to the fact that the officers and senior officers have failed to protect the confidentiality of the information received by the police station.

The 01st to 08th Respondents have in their statements given to the Commission on the above mentioned dates admitted that instead of bringing the Victim to the Police Station he was taken to a secure and peaceful bunt near the Nara Institute, an open outdoor place en route to Kalutara for further investigation.

The Respondents have admitted in their statements that the Victim was questioned in the above said place from 15:35 on 25/11/2021 until 02:10a.m. the next day. The victim had confessed to several crimes including homicide, robbery, rape and that he had taken a contract to murder a businessman in Wadduwa. It was further revealed in the statements of the 01st to 08th Respondents and through the evidence of Sub Inspector, Indika that the Officers and the Victim had had lunch during the questioning at around 05:00p.m. and dinner at around 02:00a.m. the next day; 26/11/2021.

However, the autopsy reported an absence of any food in the Victim's stomach.

However, as per the statements of 01st to 08th Respondents and the Victim's autopsy, the Victim had died within 1 ½ hours of having dinner. As it takes a minimum 6hours for food to digest it the fact that there was no food in the victim's stomach is open to suspicion. While it is not conclusively proved that the Victim was given any food by the Respondents while in custody it is also observed that they have not fulfilled the basic necessities of those in their custody.

It is also noted that there are contradictions in the facts relating to the arrest of the Victim when considering the statements given to the HRCSL by Respondents.

Upon questioning and further investigation, the 05th Respondent had stated in his statement the handcuffs were removed from the Victim's hand that were bound to the back and handcuffed the arms again to the front upon arriving at the house to recover the weapon. However, except the 05th Respondent, the others, 01st to 08th Respondents, had stated that the Victim's hand were handcuffed to the front from the beginning. Accordingly, there is a contradiction in the Respondents' statements regarding how the Victim was handcuffed.

Further contradictions are noted in the Respondents' statements to the HRCSL regarding the notes made at the exit and the statement and information list. The 02nd Respondent stated to the HRCSL "I saw him walking towards his left and bending over and as he rose up I heard two consecutive gunshots. Priyantha who was standing behind him shot the Suspect from his gun. The Suspect the fell to the ground face-up." The exit notes of the 02nd Respondent on GCIB 127/81 on 26/11/2021 at 18:35 hours read, "Suddenly the Suspect's posture changes and fell to the left side of the road. Police Constable Priyantha was startled by this took a few steps back when I saw the Suspect standing up shooting a pistol at Police Constable Priyantha. When I dropped to the ground at that I saw Police Constable Priyantha immediately attacked the Suspect with the gun in his hand and the Suspect fell to the ground face-up."

The 01st to 08th Respondents had stated to the HRCSL that upon questioning the suspect in custody he had confessed to several crimes including homicide, robbery, rape and that he had taken a contract to murder a businessman in Wadduwa. It was further stated that the Suspect had revealed that he knew where the pistol used to murder Sunshine Sudda was hidden. When considering the fact that according to the Complainant's statement that the Suspect attempted to hide from the police, it is questionable whether the Suspect revealed all the information during the investigation and that he immediately revealed where the weapons were hidden. On the other hand, according to the statements of the 01st to 08th Respondents, every officer has stated that the Victim admitted having hidden the gun under a cushion in his house and that the team left to search the premises where the gun was hidden at 02:10a.m.

Here the Respondents had stated that as the concrete road leading to the place where the gun was hidden wasn't broad enough to turn a vehicle around, they had driven in reverse. It is further noted that upon being informed that the weapon was hidden under a cushion at the Victim's house, the Respondents had left to recover it that night with the Victim without any further investigation.

In their statements, the Respondents have revealed that from the point of arrest of the Suspect-Victim till the end of the investigation besides the Respondents there were another team of police officers to note down statements, to supply food and water during the investigation and stationed further away from the investigation site for security during the investigation.

The Commission notes that the Respondents had the opportunity to send the said team to investigate whether the gun was in fact hidden under the cushion as the Victim had claimed.

Further, the Commission has discovered while perusing the running chart book of vehicle NE 0862 that the team took to arrest the Suspect the pages between the entries made on 23/11/2021 and 25/11/2021 had been torn out.

When questioned about this, the 05th Respondent, the driver of the said vehicle, stated to the Commission that as he missed the route while taking notes, he tore off the pages.

When taking the above facts together, it is evident to the commission that the fact that the fact that the Victim shot from a gun that was hidden has not been conclusively proved by the Respondents and it is doubtful whether the Victim had the opportunity to do so.

Furthermore, in the autopsy, the doctor has stated that the wound caused by the gunshot has not left any burn marks, blackening or tattooing. The Judicial Medical Officer has in his statement to the HRCSL stated on 02/02/2022 that the gun was shot from farther than 30 – 45 cm.

The autopsy further revealed that the trajectory of the bullet as lateral to the back from top. However, on 02/02/2022 the Judicial Medical Officer had before the HRCSL stated that the trajectory of the bullet as lateral to the back from below.

The Judicial Medical Report reports a lesion 3cm away from the meridian, entrance and exit 3.5x1 cm to the left upper side of the chest and 51.5 cm from the top of the head. It is reported that the tissue endings of the wound were sticking outwards, and that the lesion was created by the gunshot. Further, the bullet had pierced the sternum and through the mediastinum of right lung close to the 6th rib, pericardium, left ventricle, left atrium, pierced through the left lung between the 5th and 6th rib breaking the rib, and the Judicial Medical Report shows a fractured bone.

The Judicial Medical Report further reports that there were two wounds near the elbow and the JMO stated before the HRCSL on 02/02/2022 that they were likely scratches left by an object like a pin. The Medical Report contained details of scratch wound on the knees, 4cm x 2cm bruises on the right and

front of the chest, 3cm x 2cm bruises on the right and front of the chest, bruises on the muscles near the ankle. However, in their entrance notes in GCIB 137083 on 26/11/2021 reports that the Suspect fell while running and sustained wounds on both legs, knees, elbows and face. It is also reported in the notes in GCIB 89/75 on 11/26/2021 that there were wounds on the Suspect's legs, knees, elbows and face.

However, the autopsy does not report any scratch wounds to the face. Accordingly, the Commission finds the Judicial Medical Report questionable on several occasions.

Further the medical report of the Judicial Medical Officer reports the time of death as 03:00a.m. whereas the Respondents had reported the time of death as 04:20a.m. Thus, the Commission finds the time of death of the Victim contradictory.

The Respondents have stated that a scuffle happened in trying to arrest the Victim and that he fell on the concrete floor. This is evidenced by the wounds on the elbows, ankles, knee and chest of the Victim.

It is noted that the Petitioners have written an email to the Inspector General of Police claiming that the Victim's life is threatened. Furthermore, the Complainant's attorney had made a complaint to the HRCSL hotline, to the Director of Inquiries and Investigations by phone and email at about 10:00p.m. that the Victim's safety was at risk according to which the officers of the Commission informed the Police Human Rights Division and the Divisional Director of Human Rights had informed the Superintendent of the Kalutara Police Station.

Legal Analysis

As per Article 12(1) of Chapter III of the Constitution of Sri Lanka every person is entitled to equal protection of the law.

The procedure regarding those in police custody is provided in Police Order A20.

It clearly states that a person in police custody is not the same as a convict, and that every police officer should be mindful of such person's security.

Per the provisions of the Police Order A20, handcuffing is a discretionary power vested on the Senior Officer of the Police Station and necessary steps must be taken to prevent the detainee from escaping custody in a manner that does not insult such person.

Furthermore, 7(B) of Police Order A20 provides that reasonable caution must be exercised when escorting a detainee who causes apprehension of escaping or violence.

Further, per 7(I) unless there is strong necessity, no detainee shall be taken out of the police station for further investigation. In case a detainee is so taken out of the Police Station, he shall be provided with reasonable security.

Further, IGP Circular 2328/2011 provides for the security procedure for detainees.

XI of said Circular states that every Officer In-charge of Police Stations is bound to ensure the rights and protection of every detainee in custody and that every Officer In-charge of the district is bound to thoroughly investigate that the rights and protection of detainees are ensured.

III of the same Circular provides that when taking a detainee out of the Police Station, details must be properly recorded in the information book.

Further, the IGP Circular 2747/2023 sets out details about daily provisions to which police officers should attend to ensure the protection of detainees.

4.3.i of the same Circular provides the steps to be taken when taking a detainee out of the police station for further investigation and the manner of supervision for OICs and Supervising Officers.

Further, 5.5.4 of the same Circular provides that it is the duty of the OIC to pay special attention to members of organised criminal gangs, suspects of serious offences involving drugs, homicide, robbery, etc., suspects with arms training, and suspects involved in terrorist activities.

Further, 5.5.10 of the above Circular provides that it is the duty of the officer in charge of the team escorting a suspect out of the police station, if from prior experience has reason to believe that the suspect poses risk of suddenly grabbing a police officer's gun and/or any risk of the suspect causing injury to any officer or other person to take necessary measures to prevent any such risk.

It is the duty of the Deputy Inspector General of Police and Senior Superintendent of Police to implement the above rules. It is necessary to establish a system to overlook the implementation of the said rules and ensure the protection of the rights of detainees.

As such, it is noted that even though there are legal provisions regarding how to attend to detainees the Respondents have not followed such rules.

By taking the suspect to an isolated place and holding him in a jeep for 12 hours and questioning instead of taking him to the police station suggests the negligence of the suspects protection. The Respondents claim that the Suspect's security was ensured better by questioning him at an isolated place instead of at the Police Station is rather illogical. Further, according to the Respondents, the facts revealed before the arrest and during the investigation the Suspect is a murder suspect. In taking the suspect to recover the weapons and handcuffing his arms on the front when the information was revealed by a suspect involved in serious crimes, and when there was another team of police officers stationed for security and had the opportunity of dispatching such team around 03:00a.m. to investigate the veracity of the information but not doing so begs the question whether the Respondents fulfilled their duties properly.

Furthermore, the HRCSL had promptly informed the Director of the Human Rights Division of Sri Lanka Police that the Suspect's life was in danger. While the Director of the Human Rights Division had then informed the Senior Superintendent of Police there has been a miscommunication in the flow of information to the relevant subordinate officers and it is evident that proper investigations have not been conducted. It is the observation of the HRCSL that no attention had been paid to the claim that there is a risk of the Victim being killed while in custody even when the IGP was informed by email. The HRCSL observes that no senior officer had conducted any investigation or supervision of the situation.

While the Respondents have neglected to provide the Suspect necessary protection, they have also neglected to conform with the provisions of Police Orde A20, IGP Circular 2328/2011 and IGP Circular 2747/2023.

Taking all the above stated facts into account it is concluded that the Respondents have breached Article 12(1) of the Constitution of Sri Lanka, 1978.

Breach of Article 13(4)

Article 3 of the Universal Declaration of Human Rights, Article 6 of the International Convention of Civil and Political Rights, Convention on the Rights of the Child, Article 11 of the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families, and Article 10 of the Convention on the Rights of Persons with Disabilities read together guarantee the right to life.

The right to life guaranteed by Article 13(4) of the Constitution of Sri Lanka is further substantiated by judgments of the Supreme Court.

In **Sriyani Silva v Iddmalgoda, OIC Paiyagala and Other (2003) 1 Sri LR 14** “Although the right to life is not expressly recognised as a fundamental right, that right is impliedly recognised in some of the provisions of Chapter III of the Constitution. In particular, Article 13(4) provides that no person shall be punished with death or imprisonment except by order of a competent court. That is to say, a person has a right not to be put to death because of wrongdoing on his part, except upon a court order. (There are other exceptions as well, such as the exercise of the right of private defence.) Expressed positively, that provision means that a person has a right to live, unless a court orders otherwise. Thus Article 13(4), by necessary implication, recognises that a person has a right to life”

This was further confirmed in the cases **Rani Fernando v OIC, Seeduwa Police (2005) 1 Sri LR 40-45**, **Rathnayake Tharanga Lakmali v Niroshan Abeykoon Inspector of Police Officer-in-Charge Crime Branch Embilipitiya Police Station and Others (SC FR Application No. 577/2010)**, and **Mohammed Rashid Fathima Sharmila v Officer in Charge, Police Station, Slave Island & Others, SC (F.R.) Application No. 398/2008**.

The HRCSL has observed that the exception (the right to self-defence) for Article 13(4) has been used by the police as a trend in the recent past. The HRCSL also observes that parties beg the right of self-defence even in situations where opportunities to act had been disregarded.

According to the above facts, the HRCSL is of the opinion that the rights guaranteed to the Victim by Articles 12(1) and 13(4) by the Constitution of Sri Lanka, 1978 have been breached by the respondents.

The following recommendations are presented accordingly.

01. Disciplinary actions must be taken against 01st to 09th Respondents for the breach of Article 12(1).
02. It is recommended that the IGP take measures to establish a proper supervision procedure conforming to the procedures authorised by the law in detaining a suspect in custody and publish a circular in a way accessible to all OICs and SSPs.
03. Respondents 01, 02, 03, 04, 06, 07, and 08 are personally liable for individually breaching the Victim’s fundamental rights. A sum of Rs. 25,000/= each to be paid by 01st Respondent who led the team and the 06th Respondent who shot the Victim, a sum of Rs10,000 each to be paid by the 02nd, 03rd, 04th, 07th, and 08th Respondents, and a sum of Rs500,000/= by Sri Lanka Police to the 02nd Complainant, the wife of the Victim and his daughter.

As per Section 15(7) of the Human Rights Commission of Sri Lanka, Act No. 21 of 1996 the IGP is hereby requested to implement the said recommendations by 24/07/2024 and to submit a report to the Commission.

Further it is hereby noticed that the Commission shall be notified one week before the date the recommendations are implemented and that any notification past such date shall not be entertained.

Chairperson,
Human Rights Commission of Sri Lanka.

Commissioner,
Human Rights Commission of Sri Lanka.

Copy to :- Minister,
Ministry of Public Security,
04th Floor, Suhurupaya, Battaramulla.

Recommendation No 02

1. Ms. E.A.N.H. Edirisooriya
No. 81, Pahalagama
Wewaldeniya

Complainant

2. Ms. E.A.J. Nathasha Edirisooriya
No. 81, Pahalagama
Wewaldeniya

Aggrieved Party

Vs.

1. Mr. Lucky Randeniya
Senior Superintendent of Police
Former Director
Criminal Investigation Department,
Colombo 01
2. Mr. Chandima Arumapperuma
Assistant Superintendent of Police
Internet Monitoring and Intelligence Unit
Cyber Crimes Division
Criminal Investigations Department
Colombo 01
3. Mr. S.M.U. Subasinghe
Sub Inspector
Officer in Charge
Internet Monitoring and Intelligence Unit
Cyber Crimes Division
Criminal Investigations Department
4. Controller General
Department of Immigration and Emigration
Colombo 01

Respondents

Complaint Nos.: HRC/2603/23, HRC/2153/23/, HRC/2154/23

Statement of Complaint

The complainant stated in her submission to the Commission that her sister, Nathasha Edirisooriya, a stand-up comedian, performed a segment of the comedy show titled Modabhimanaya 03 on April 1, 2023. This performance was later published on the YouTube channel Colombo Comedy Central on May 23, 2023, and subsequently posted on Nathasha's own YouTube channel. Following these publications, the video circulated on various social media platforms, leading to numerous comments and threats directed at her sister. As a result, Nathasha suffered significant mental distress. To alleviate this, she planned a short holiday to Singapore with her partner, scheduled for May 27, 2023.

On May 27, intending to depart for Singapore at 10:30 p.m., Nathasha arrived at Katunayake Airport, where officers from the Department of Immigration and Emigration detained her at Departures. She was subsequently handed over to the Criminal Investigation Department (CID) and, on May 28, produced before court under case number B25774/2023.

Victim Statement

On April 1, 2023, she performed in a show titled Modabhimanaya, which was later posted on both the Colombo Comedy Centre YouTube channel and her own YouTube channel on May 23, 2023. The following day, on May 24, social media comments emerged accusing her of insulting Buddhism.

In response, on May 6, 2023, she and Colombo Comedy Centre issued a public apology and removed the video from their platforms. However, the wave of online criticism caused her significant mental distress, leading her to plan a short trip to Singapore to relieve her stress. She went to Bandaranaike Airport on May 27, 2023 to leave to Singapore, where officers from the Department of Immigration and Emigration detained her. She was informed that a travel ban had been imposed, though no documentation was provided, and further inquiries revealed that the Criminal Investigation Department (CID) had requested her detention without providing a reason.

On May 27, CID officers took her to their headquarters, where she noticed media personnel covering her airport detention. She reported that on May 28, she was not allowed to meet with a lawyer or her family, although she was later permitted to see her partner. That same day, she was taken to her house for investigation, during which some of her comedy books were seized, again in the presence of the media.

On May 28, 2023, she was presented to the Magistrate and subsequently remanded until July 5, 2023. She claims that this detention was unlawful, violated her fundamental rights, and caused her unjust harm.

Statement by 01st, 02nd, and 03rd Respondents

The Respondents alleged that On April 1, 2023, at an event held in the auditorium of Bishops College in Colombo titled Modabhimanaya, the victim made malicious and hateful statements against Buddhism disrupting religious harmony. A video of this event was later circulated on social media around May 24, 2023. In response, a written complaint was submitted to the Cyber Crime Investigation Division on May 27, 2023, by Rev. Attaragama Pagnnalankara Thero, of the Sisila Buddhist Centre. The complaint highlighted concerns about the confusion, discord, and discontent these statements caused among followers of Buddhism. This complaint, along with seven others from Buddhist monks and the Commissioner of Buddhist Affairs, initiated the investigation.

On May 27, 2023, Ven. Attaragama Pagnnalankara provided a statement, alleging that a defamatory video containing statements disparaging Buddhism and the Lord Buddha, which threatened religious harmony, was published on a YouTube channel called Colombo Comedy Central. The video was reportedly presented by an individual named Nathasha Edirisooriya, standing before a background with the title Modabhimanaya. The complaints argued that Edirisooriya's statements insulted Buddhist traditions and offended Buddhists, asserting that no individual has the right to make statements offending religious leaders or their followers, whether Buddhist, Catholic, Muslim, or otherwise. The complaints further suggested that such expressions could foster hostility between religious groups and disturb public peace. The complaint further claimed that the statements disparaged Lord Buddha and his teachings and other related beliefs, and belittled the Buddhist culture.

An internet search conducted to gather more information on the incident confirmed that this video was being widely shared across social media platforms, including the Colombo Comedy Central and Nathasha Edirisooriya YouTube channels. Further investigation revealed it to be a comedic programme performed by Edirisooriya's before an audience called Modabhimanaya. The statements alleged to be offensive included controversial remarks about the Buddha's early life and Buddhist history, specifically referring to narratives involving Suddhodana's son. These remarks were perceived as belittling Buddhist teachings and traditions, creating distress, confusion, and feelings of antagonism among Buddhists.

The investigations further discovered that the recorded video from the Modabhimanaya event, led by Edirisooriya was uploaded on to her YouTube channel subsequent to which it was widely circulated on social media. Reports also indicated that complaints were filed with the Chief of Police and Police Headquarters, and the objections of the public were widely covered by the media. In response, Edirisooriya issued a public apology, though this apology drew further public criticism.

During the investigation, authorities learned that Edirisooriya was planning to leave the country, which could have hindered the inquiry. On May 27, 2023, the CID informed the Katunayake Airport unit, and Edirisooriya was detained by Immigration and Emigration officials at the airport as she prepared to depart for Singapore. She was subsequently taken into custody by the Cyber Crime Division at Katunayake Bandaranaike Airport for making statements perceived as offensive to religious sentiments, inciting religious hostility and insulting religious leaders. On May 28, 2023, she was presented at the Fort Magistrate Court under Case No. B25774/23, charged under Sections 120, 291(a), and 291(b) of the Penal Code of Ceylon, along with Section 6 of the Computer Crimes Act No. 24 of 2007 and Section 3 of the International Covenant on Civil and Political Rights Act No. 56 of 2007. Based on the presented evidence, the Magistrate ordered Edirisooriya to be held in remand custody until June 7, 2023.

The respondents further note that the contentious statements incited religious hatred, thereby violates Section 3(1) of the International Covenant on Civil and Political Rights Act No. 56 of 2007. The investigation indicated that the first suspect's remarks constituted an offense, as they denigrated a religion, incited religious animosity, and created a risk of conflict between religious groups. These developments were compared to prior incidents of unrest in the Akurana area, demonstrating the potential for such statements to trigger unrest both locally and online. Given these risks, the urgency of the investigation was underscored, necessitating prompt action against the suspects.

Statement by 04th Respondent

Respondent stated that on May 27, 2023, at 12:44 PM, the Criminal Investigation Department (CID) issued instructions to notify them if an individual named Edirisooriya Arachchige Jayani Nathasha Edirisooriya attempted to leave the country.

On the same day, Ms. Edirisooriya had arrived at the terminal to board flight MHO 0178. She presented her passport to the on-duty immigration officer, whose computer displayed an alert associated with her passport. Following standard procedure, the officer referred Ms. Edirisooriya to the senior authorized officer on duty. At that time, Ms. Edirisooriya asked the senior officer whether they had the authority to prevent her from traveling abroad without a court order.

The senior officer explained that, per the CID's directive, she would be handed over to CID officers. Shortly after Ms. Edirisooriya presented herself at the immigration terminal, CID officers arrived and took her into custody for further investigation. An official log entry was made by the authorized officer, documenting that CID officer Udaya Kumara took Ms. Edirisooriya into custody at 11:00 PM on May 27, 2023.

Call for Investigations

On November 21, 2023, December 19, 2023, April 5, 2024, April 24, 2024, May 15, 2024, May 20, 2024, and June 11, 2024, the Human Rights Commission conducted investigations on this matter by inviting the relevant parties to provide statements.

Investigations:

The complainant alleges that the victim was unlawfully arrested, denied legal protections, and deprived of her freedom of expression. Consequently, the investigation focused on whether proper legal procedures were followed in making the arrest.

Article 13(1) of the Constitution of Sri Lanka protects personal liberty and specifies criminal procedure rights, stating that no one may be imprisoned except in accordance with legal procedures. Furthermore, if a person is arrested, they have the right to be informed of the reason for their arrest. This provision safeguards against arbitrary detention, establishing a legal framework to prevent the misuse of legal processes for personal or political purposes.

Regarding this incident, the complainant and the victim claim that on May 27, 2023, when she arrived to depart for Singapore, she was detained by Immigration and Emigration officers. Shortly afterward, CID officers took her into custody without stating the reason for her arrest.

01st, 02nd, and 03rd Respondents claim they received complaints alleging that the victim made statements online that promoted hatred toward Buddhism and disrupted religious harmony. During the investigation of these complaints, they learned that the victim was planning to leave the country. Since her departure could potentially hinder the investigation, she was detained by Katunayake Airport officers when she attempted to board a flight to Singapore on May 27, 2023, under the grounds that she was being investigated for making statements offensive to religious leaders.

The respondents further clarified that, as part of their ongoing investigation, they discovered the victim's intention to leave the country, which would obstruct the investigation. Consequently, 01st and 02nd Respondents instructed Respondent 3 to take steps to detain her should she attempt to travel, formally notifying the Immigration and Emigration Department to prevent her departure.

To prevent the victim from traveling, 01st Respondent issued a written instruction, signed and directed to 04th Respondent, stating: "Restriction If Restriction/If Revocation further action to be taken" and further noting, "Until we get a court order, if she tries to go abroad, please arrest her and present her to the Computer Crime Investigation Unit."

This document was indeed signed by 01st Respondent. When asked about the legal procedure followed for enforcing travel restrictions, Respondent 01 informed the Human Rights Commission that the Sri Lanka Police had not provided formal guidelines for preventing a person from traveling, however, the standard practice in such cases typically involves obtaining a court order to restrict the travel of suspects wanted for serious offenses under CID jurisdiction.

It was noted that Respondent 01 directed 04th Respondent to prevent the victim's travel and arrest her through a process lacking in transparency and established procedure. According to 01st Respondent, such a restriction should only apply to serious criminal offenses. The respondent explained to the Human Rights Commission that the victim was detained due to concerns that her departure could cause public unrest and hinder the investigation. However, the commission concluded that the law does not permit travel restrictions based solely on such speculative assumptions.

In *Navasivayam vs. Gunawardane*, Justice Sharvananda, Justice Athukorala and Justice H.A.G. de Silva ruled that even when a police officer questioned a suspect about a theft and released him shortly afterward, the acts still constituted an illegal arrest since the officer prevented his travel and restricted his freedom. Based on this precedent, the Commission observes that 01st, 02nd, and 03rd Respondents acted beyond the legal procedures applicable to the victim.

Additionally, Article 13(1) of the Sri Lankan Constitution prohibits arrest except in accordance with legally prescribed procedures. In *Kapugeekiyana vs. Hettiarachchi and two others (1984) 2 SLR 153*, it was held that "“procedure established by law” cannot mean any other than the procedure established by the Code of Criminal Procedure No. 15 of 1979". Section 32(1) of this Code specifies that a person may be arrested if there is a reasonable complaint or suspicion, provided there are justifiable grounds for the arrest.

01st, 02nd, and 03rd Respondents acknowledged that the victim was investigated upon receiving complaints and arrested based on sufficient evidence of alleged criminal activity. They also affirmed that the investigation pertained to complaints received about statements shared online that were deemed hateful toward Buddhism and disruptive to religious harmony.

The defendants further assert that the victim's controversial statements belittled Lord Buddha's childhood, as well as Buddhist history and teachings, which caused distress, confusion, and resentment among Buddhists. They argue that her actions were likely to incite unrest or provoke animosity, justifying her arrest on these grounds.

Upon reviewing the complaint submitted on May 27, 2023, it is noted that it was officially recorded at 9:30 AM that same day. According to investigative records from Respondent 03, online monitoring of the case commenced at 10:30 AM, and by 10:40 AM, instructions were given to gather further evidence. Additional investigations into the person responsible for these statements followed.

It was further recorded on May 27, 2023, further officers were assigned to investigate another programme of the victim said to be scheduled to take place on 27/05/2023. At 4:00 PM, it was documented that a private informant notified officials that the program in question would not proceed

as planned. Based on this information, the director instructed that a message be sent to the CID Unit at Bandaranaike Airport, requesting detention of the individual before she could leave the country.

Respondent 04 reported receiving the document ordering the detention of the individual at 12:44 PM on May 27, 2023. The timeline indicates that the Immigration and Emigration Department was promptly instructed to detain the victim immediately after receiving the first complaint, before a full investigation was conducted. It is evident that steps were taken to arrest the Victim immediately upon receiving the complaint without proper investigations.

The arrest receipt, labeled A979117, notes that the grounds for the arrest were the victim's statements, which allegedly incited national, racial, or religious hatred. Furthermore, the B Report submitted to the court confirms that the victim was arrested under Section 3 of the International Covenant on Civil and Political Rights Act No. 56 of 2007, as well as Sections 120, 291(a), and 291(b) of the Sri Lankan Penal Code, and Section 06 of the Computer Crimes Act No. 24 of 2007.

Accordingly, it is asserted that the victim has committed an offense under Section 3(1) of the ICCPR Act. Section 3 of the International Covenant on Civil and Political Rights Act No. 56 of 2007 states:

"No person shall propagate war or advocate national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence."

Section 3 of this Act mirrors the second clause of Article 20 of the International Covenant on Civil and Political Rights, and it is acknowledged that it should be interpreted together with Article 19, which protects freedom of speech and expression.

The Human Rights Commission of Sri Lanka previously published a legal analysis on Section 3 of the International Covenant on Civil and Political Rights Act No. 56 of 2007, indicating that the advocacy of hatred does not fall under Article 3 unless there's evidence of discrimination, hostility or deliberate violence. To establish an offense under Article 3(1) of the ICCPR, both of the following must be present:

- a) Advocacy of national, racial, or religious hatred; and
- b) Discrimination, hostility, or incitement of violence.

The Rabat Plan of Action, issued by the United Nations High Commissioner, provides a six-part threshold test relevant to Article 20 of the Convention. This includes the following factors: a) Context, b) Speaker, c) Intention of the Speaker, d) Content and Nature of the Expression, e) Extent and Magnitude of the Expression, and f) Imminent Harm.

The six elements to be considered are as follows:

- I. Context – The political and social context at the time the statement was made (e.g., whether there is a climate of conflict, history of conflict, or longstanding discrimination).
- II. Speaker – Whether the person disseminating the hate speech has influence over the audience (e.g., as a prominent public figure, a public officer, a religious leader, or someone capable of affecting public opinion). This influence need not arise from social status or position; rather, it pertains to the speaker's ability to sway attitudes or change opinions, potentially inciting hatred or violence. While sociability can support influence, strong social status alone does not suffice.

- III. Intention – If a person aware of its consequences, knowingly spreads hate speech, and does so with the understanding that harm may immediately follow, the necessary intent for this offense is present.
- IV. Content and Nature of the Statement – This includes the provocative nature of the content, the type of arguments and the manner they are presented, the mode and tone of expression.
- V. Extent and Magnitude of the Expression – Whether the statement was made in a public place and the scale of its audience.

VI. Imminent Harm – The statement must reasonably be expected to lead to immediate harm.

In considering whether the Respondents addressed the matters discussed above, the investigation notes and statements from the Respondents show no indication of any existing religious or racial conflict at the time of the victim's statements. Regarding the speaker, it was noted that she had only gained popularity after this matter was highlighted on the YouTube platform. During the "Modabhimanaya" program on 2023.04.01 the audience had made no objections to remarks made by the victim; however, the content became contentious following its broadcast on YouTube on 2023.05.23.

The speaker's role as a stand-up comedian and entertainer is evident from her previous comedy shows, including her work on "Modabhimanaya," which the Commission recognizes was purely intended for entertainment. It is clearly evident that the police had paid no consideration professional background during investigations.

The Commission further observes that Respondents 01, 02, and 03 have not presented sufficient evidence to show that the victim's segment on "Modabhimanaya" was directed at Buddhist audiences or aimed to incite hatred or violence against the Buddhist religion. Upon review of the video, it appears the audience's engagement was for entertainment purposes only.

Regarding the speaker's intent, an analysis of the entire program indicates her purpose was solely to entertain. In reviewing the complaints submitted to the CID, the statements regarding "Sudhodana's child," which included lines such as, "the day that child was born, he walked... but these ones, even if you hold their necks straight, they still flop..." and other similar remarks, the Human Rights Commission of Sri Lanka finds that these comments should not be interpreted in isolation but rather within the full context of the program.

International law maintains that statements, by reason of being perceived as offensive and hurtful by certain social or religious groups, or by reason of being made negligently do not fall under Section 3(1) of the International Covenant on Civil and Political Rights Act.

In light of the above facts, it appears that the authorities proceeded with the arrest without a thorough investigation of the circumstances and context surrounding the victim's statements.

In the case of *Ganeshan Samson Roy v. A.M.M. Janaka Marasinghe, Officer in Charge of the Criminal Investigation Department (SCFR 405/2018)*, it was held; ***“Police officers cannot mechanically make an arrest upon a mere complaint received without forming the opinion that the allegations are credible. Thus, a Police Officer is required to make necessary investigations, unless the facts are obvious, to verify whether the complaint is credible or whether the information provided is reliable.”***

Furthermore, it was stated that “***an arrest upon a general or vague suspicion would lead to significant abridging the personal liberties guaranteed to a person by the Constitution***”. In the case of Mohammed Rasik Macy v. A.B.M.S.K. Senaratne, Chief Inspector of the Criminal Investigation Department and others, the process of arrest under the Covenant on Civil and Political Rights Act was discussed. It was pointed out that before making an arrest, the officer should satisfy himself of the reliability of the facts leading to the arrest.

The Victim was further accused of committing an offence under the Computer Crimes Act, No. 2 of 2007 before the Court. Attention was drawn to Section 6(1) of the Computer Crimes Act No. 24 of 2007, raising questions about how the responsible parties applied this Act to the victim. Specifically, it was questioned how reasonable it was to interpret the victim's uploading of a program from one of her comedy shows on YouTube as an offence under Section 6(1) of the Act.

Various court rulings specify that arrests must be based on reasonable information or complaints. In the case of Dharmasena Thero and Others v. Sanjeewa Mahanama and Others, 1 Sri LR 81 Justice Dep ruled that “***in order to arrest a person there should be a reasonable complaint, credible information or a reasonable suspicion. Mere fact of receiving a complaint or information does not permit a peace officer to arrest a person. Police Officers upon receipt of a complaint or information is required to commence investigation and ascertain whether the complaint is a reasonable complaint, the information is credible, or the suspicion is reasonable before proceeding to arrest a person***”.

The Supreme Court has also clarified that an arrest should not occur based solely on a complaint without proper investigation and fact-finding. In the case of Emil Ranjan v. Attorney General, it was stated that a person cannot be remanded based solely on an investigator's assertion that there might be a public disturbance. The facts submitted to support the investigation must be considered when placing the petitioner in custody.

Furthermore, the Victim was granted bail on 2023.07.25 following the bail application made according to the ICCPR Act. The High Court Judge M. Patabendige indicated that the duty was to consider whether actual hate speech occurred under Section 3 of the International Covenant on Civil and Political Rights Act, in line with our country's international duties and obligations, rather than arresting a person based on a mere complaint.

Consequently, the Victims fundamental rights were prejudiced by the restriction of her foreign travel and her arrest without a proper investigation under the ICCPR Act, based on the unfounded assumption that her actions might lead to a public disturbance. Thus, we conclude that Article 13(1) of the Constitution was violated, as the victim's arrest did not adhere to the legally prescribed procedures.

Violation of Section 12(1)

The Respondent stated that the Victim was arrested under the Civil and Political Rights Convention Act No. 56 of 2007. In the RTM 541 dated May 23, 2022, the Inspector General of Police has outlined the procedure for initiating investigations under this Act.

According to the second point of this document, when there are sufficient facts to initiate an investigation under the Act, a comprehensive file containing all relevant extracts should be prepared and promptly sent to the Director of the Legal Division before any arrests are made. No individual should be arrested under the Civil and Political Rights Convention Act No. 56 of 2007 without the instruction of the Director of the Legal Division.

Additionally, in urgent and essential cases, officers should seek verbal guidance from the Director of the Legal Division and cause a file to be compiled and forwarded to the Director in due course. Furthermore, any verbal instructions received must be documented in the information notebooks maintained at the relevant police station.

If a person is arrested without verbal or written instructions from the Director of the Legal Division due to a special circumstance, the circumstances must be recorded in the information notebooks immediately.

It is observed that the above instructions issued by the Inspector General of Police were not followed in the actions taken against the Victim which the Respondents have admitted during the investigations conducted by the Human Rights Commission. 01st, 02nd, and 03rd Respondents stated that advice was received from the Attorney General's Department after the arrest was made.

The purpose of these instructions from the Inspector General of Police is clear: to prevent wrongful and illegal arrests. By seeking advice prior to an arrest, law enforcement can avoid acting on unjustified claims, thereby protecting the rights of individuals and preventing further prejudice against them.

On June 6, 2021, the Attorney General's Department informed the Director of the Cyber Crime Investigation Division that they did not intend to pursue further legal action against the accused and that the victim could be released, which should have been communicated to the Magistrate. Consequently, it is noted that the victim was released from the case in the Magistrate's Court on June 19, 2024.

Had respondents 1, 2, and 3 followed the Inspector General's instructions from the outset, the victim would not have suffered the prejudices she experienced. The Human Rights Commission acknowledges that these prejudices cannot be remedied.

By not following the said instructions, the 01st, 02nd and 03rd Respondents have deprived the Victim of the protection of law and consequently violated the fundamental rights guaranteed by Article 12 of the Constitution of Sri Lanka.

Regarding the victim's deprivation of her right to free speech and expression, Article 12 of the Constitution of Sri Lanka guarantees freedom of speech and expression to every citizen. Additionally, Article 19 of the Covenant on Civil and Political Rights states:

01. 19(1) Everyone has the right to express their opinion without hindrance. Everyone has the right to freedom of expression, which includes the freedom to seek and communicate information across borders, in all forms—whether oral, written, printed, in the form of images, or through any other media of choice.

Freedom of speech and expression, recognized as a fundamental right, is not absolute and is subject to certain limitations. Sections 15(2) and 15(7) specify these limitations:

15(2): "...shall be subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation, or incitement to an offense."

15(7)(a): "...shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order, and the protection of public health or morality."

Similarly, the Covenant on Civil and Political Rights states:

20(1): "All propaganda for war is prohibited by law."

20(2): "The spreading of national, ethnic, or religious hatred, or inciting hatred or acts of violence, is prohibited by law."

The United Nations Human Rights Committee, an independent body of experts that monitors the implementation of the Covenant on Civil and Political Rights, has stated that Articles 20 and 19 of the ICCPR must be read together. For instance, the Committee's General Comment No. 11 emphasizes that any prohibition required under Article 20 must align with the freedom of expression guaranteed by Article 19.

In evaluating whether the prohibition applies to the limitations on the victim's expression, and whether it falls within the category of limitations, the six-fold threshold test outlined in the Rabat Action Plan should be considered: a) Context, b) Speaker, c) Intention of the speaker, d) Content, e) Extent and magnitude of the expression, and f) Imminent harm.

The alleged violation of Article 3(1) of the ICCPR by the victim is viewed as a form of artistic expression intended to be humorous within the context of a comedy show designed to entertain audiences through satire and not upon a political, religious, or educational platform.

By referencing the Buddha's childhood, the petitioner does not undermine the belief in Buddhist teachings but rather invites the audience to recognize that parents should not expect their children to possess the same skills as others. Such comments aim to reassure parents about understanding their children's unique qualities, rather than insulting or defaming religious beliefs.

Furthermore, the manner and tone of the victim's comments lack any authoritative stance and do not encourage the audience to take any particular action in agreement with the statements made. Thus, it is evident that the victim, as a comedian, did not intend to provoke anyone to question their religious beliefs or to incite religious hatred, either directly or indirectly.

There is no evidence presented to the Commission indicating any reported incidents of discrimination, hostility, or violence against any individual stemming from the victim's statements. Additionally, there is no credible evidence to suggest that anyone intended to act in a discriminatory, hostile, or violent manner as a result of the comments made.

Consequently, since the remarks do not meet the necessary criteria for hate speech as outlined in the six-fold threshold test, the comments made by the petitioner do not constitute religious hatred and do not incite discrimination, hostility, or violence. Therefore, the alleged remarks do not violate Section 3(1) of the ICCPR Act.

In the absence of any advocacy for discrimination, hostility, or incitement to violence on the part of the victim, it cannot be legally established that her comments pose or may pose a threat to national security. While the defendants have not argued that the statements fall under the limits of Article 15(7) of the Constitution, the Commission concludes that the victim's statements do not fall within the constraints of Article 15(7) either.

It is grossly unfair to hold an individual accountable for the hurt feelings of someone who has misinterpreted their expressions of opinion, even if that person claims to feel prejudiced. Therefore, it is essential to focus on the intent of the individual expressing their views when considering restrictions on freedom of speech and expression. In this case, it is further observed that the victim's opinions do

not fall within any of the legally prescribed limitations, leading to the conclusion that their freedom of expression has been violated.

The scope of this right has been established through various legal cases. In the case of *Joseph Perera alias Bruton Perera v. Attorney General and others*, Justice Sharwananda stated, “**one of the basic values of a free society to which we are pledged under our constitution is founded on the conviction that there must be freedom not only for the thought we cherish, but also for the thought that we hate. All ideas having even the slightest social importance, unorthodox ideas, controversial ideas, even ideas hateful to the prevailing climate of opinions have the protection of the constitutional guarantee of free speech and expression.**” Therefore, we conclude that Article 14(1) of the Constitution has been violated in relation to the victims.

Considering all the aforementioned facts regarding the victim, it can be concluded that the fundamental rights secured under Articles 13(1), 12, and 14(1)(a) have been violated by 01st, 02nd, and 03rd Respondents, while respondent 4 has infringed upon the rights protected under Article 12.

Accordingly, the following recommendations are made:

01. The Inspector General of Police should conduct an investigation into the actions of respondents 1, 2, and 3 and take appropriate measures.
02. Respondent 4 should consult with the Inspector General of Police to develop a set of guidelines for the Immigration and Emigration Department regarding travel prevention and detention, and communicate these guidelines to all authorized officers.
03. The Inspector General of Police should establish an updated formal guidance system related to the detention of individuals attempting to leave the country and inform all relevant police officers about this system, providing progress updates to the Human Rights Commission.
04. The Sri Lanka Police should expedite the creation of a training program for all Officers in Charge and Assistant Superintendents of Police concerning Section 3 of the Civil and Political Rights Convention Act and the associated laws and procedures for arrest, in line with RTM 541 issued by the Inspector General of Police.
05. To address the prejudice suffered by the victimized party, it is recommended that respondents 1, 2, and 3 pay the victim a sum of Rupees Fifty Thousand (Rs. 50,000/-)

In accordance with Section 15(7) of the Sri Lanka Human Rights Commission Act No. 21 of 1996, we request that the respondents implement these recommendations by November 14, 2024, and submit a report to the Commission regarding this matter.

Furthermore, the complainant must inform the Commission about the implementation status of this recommendation within one week of the implementation date. No notification submitted after the said date shall be entertained.

Signed by:

Chairperson,
Human Rights Commission of Sri Lanka.

Commissioner,
Human Rights Commission of Sri Lanka.

Copies to :
Minister, Ministry of Public Security
Inspector General of Police
Chairman, National Police Commission

Recommendation No 03

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Gonagamuwa,
Thissamaharamaya.

Anthony Suresh
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Wellampitiya.

W.M Chaminda Saman Kumara,
Pallewatte
Doruwadaniya
Nawalapitiya.

B. G. Chamara Lakshan Senevirathne
Anamaduwa (Address has not been given)

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Isharage Sanju Pradeep
No: 77/29
Wabadamulla.

Victims

M.L.L. Udara Sumanapala (Jailor, Class Two)
Young Offenders Open Prison Camp,
Sri Lanka Prison,
Wataraka, Padukka.

M. D Perera (Officer-in-charge)
Young Offenders Open Prison Camp,
Sri Lanka Prison, Wataraka, Padukka

K. I. D Perera (Officer-in-charge, B Ward)
Young Offenders Open Prison Camp
Sri Lanka Prison,
Wataraka, Padukka

D. M Nimal Shantha (Asst. Suptd. of Prisons)
Young Offenders Open Prison Camp
Sri Lanka Prison,

Wataraka, Padukka

Ajith Palliyage (Chief Jailer)
Young Offenders Open Prison Camp
Sri Lanka Prison,
Wataraka, Padukka

Respondents

Complaint No: HRC /904/20/I(Vi)

Complaint

On 23rd May 2020, an anonymous call was made to the Human Rights Commission's emergency line, reporting that a jailer had subjected six youths at the Wataraka Youth Offenders Training College and Outdoor Work Camp to inhumane treatment. The Human Rights Commission investigated the incident and was informed by Mr. D.M. Nimal Shantha, the Assistant Superintendent of Prisons, that an internal investigation was underway. The internal investigation officer, Chief Jailer Ajith Palliyage, was also contacted for details on the incident.

On 26th May 2020, the Wataraka Superintendent of Prison was instructed to present the six inmates to a Judicial Medical Officer within 48 hours and to report the findings to the Human Rights Commission via fax. In accordance with the Sri Lanka Human Rights Act, the Human Rights Commission of Sri Lanka provided further instructions to provide the Commission preliminary investigation reports and medical records related to the treatment the inmates received at the prison hospital.

However, as of 15th June 2020, the prison authorities at the Young Offenders Training College and Outdoor Work Camp had not provided the requested information to the Human Rights Commission. Consequently, on 15th June 2020, a Human Rights Commission inquiry team conducted an onsite investigation and discovered that the young offenders had not yet been examined by Judicial Medical Officers. On June 16, 2020, the Superintendent of Prison was once again formally instructed to present the inmates to the forensic medical officer.

During the onsite investigation on 15th June 2020, the team of the Human Rights Commission recorded separate statements from each of the six victims.

Victim Statements

Statement of the 1st Victim

Mitithota Hewagamage Rashmi Kanchana, 18 years old, of B 35/2, Nadigamwila, Gonagamuwa, Thissamaharama, provided the following statement:

He explained that he was arrested by the Weerawila Police following an altercation between two groups during an almsgiving event. He was later brought before the Thissamaharama Court, and an earlier assault case involving him had been referred to the Mediation Board. On or about 4th October, 2019, he was transferred to Wataraka Prison.

He stated he does not recall the exact date of the incident in question but remembers returning to his ward after a bath around 3:00–3:30 p.m. to find loud noises coming from within. In response to the commotion, Jailor Mr. Udara, Officer-in-Charge Mr. Dayapala, and Warden Mr. Perera, who were downstairs, came upstairs because of the noise. He mentioned that two individuals exited the bathroom unclothed, about fifteen minutes after the officers arrived, and he was wearing a towel. There were three other individuals without clothing at the time. Mr. Udara instructed everyone, both with towels and without (to wrap on a towel), to gather together, and approximately five or six inmates, including himself, complied.

He stated that they were then instructed to kneel and walk for about 10–15 minutes as a disciplinary measure for their state of undress. He clarified that the officers did not physically assault them. After this, Mr. Udara inquired if the inmates had adequate clothing, and some responded that they did not. Mr. Udara said he would address the issue and left the area. The kneeling and walking exercise resulted in knee injuries for some, but there was no physical attack by the officers.

In addition, they were asked to list the names of those who lacked clothing, and some inmates provided their names. After a conversation about the Sinhala Literary Club, Mr. Udara left, telling the inmates to continue with their tasks and assuring them he would address their needs. The victim specifically noted, "There was no assault; the knee injuries were from walking."

The next morning, the Chief Jailor stated that an assault had been reported and requested that those involved come forward. The group, including Kanchana, complied, and after providing verbal statements, they were referred to the prison hospital for treatment. Kanchana noted in his statement that he had no concerns regarding the incident.

Statement of the 2nd Victim

Anthony Suresh, 19 years old, of 12/6 Meethotamulla Road, Wallampitiya, provided the following statement:

He shared that he attended school until the 10th grade but developed a drug addiction during that time, specifically to methamphetamine ("Ice"). Due to his drug use, his family arranged for him to surrender to the police. As ordered by Hulftsdorp Magistrate Court No. 2, he was sent to Wataraka Prison on 16th August 2019, for rehabilitation. Suresh stated that he had no issues initially and couldn't recall the exact date of the incident in question.

He recalled exiting the bathroom with five others, all wearing towels, and returning to the ward. Shortly after, Mr. Udara entered the ward and ordered the five inmates to kneel. As other inmates watched, Mr. Udara began striking them on their hands and legs with a wicket pole. At one point, the pole hit his drying underwear, causing it to fall from the cloth line. When Mr. Udara asked, "Whose underwear is this?" Suresh admitted it was his. Mr. Udara then instructed him to place it on his head and to kneel and walk. While kneeling, Mr. Udara had kicked him on the back, which caused pain but left no visible injury. Due to the kneeling, however, his knees were injured, and he was made to walk on his knees for about 10 minutes before being ordered to do 50 push ups.

Mr. Udara had shouted saying that he was previously in the Army and that the inmates should be given military training and he challenged any of them to fight him. He also warned the inmates that if any of them reported the truth of the incident to the Chief Jailor, he would fabricate charges against them and have them sent to Pallanhenana.

On the day of the incident, after the Chief Jailor became aware of the situation, he summoned the six assaulted inmates to his office to give statements. The Chief Jailor photographed their bruises and injuries and arranged for their treatment at the prison hospital, where they also informed the doctor about the assault. According to Suresh, one of the inmates, Chaminda, was unable to stand due to the injuries. The Chief Jailor assured them he would investigate the matter thoroughly and told them not to be afraid. Suresh expressed concern for his safety, fearing that Mr. Udara might retaliate with further assaults, as he still has two and a half years left to serve. He requested immediate intervention to stop the abuse by Mr. Udara.

Statement of the 3rd Victim

Wickramasinghe Mudiyansele Chaminda Saman Kumara, an 18-year-old from Pallewatta, Doruwadeniya, Nawalapitiya, provided the following statement:

On 2nd April 2020, the Nawalapitiya Police presented him in Magistrate's Court in relation to a phone theft, and on 6th April, 2020, he was sentenced to a three-year term in Wataraka Prison. Chaminda has had a speech disability since childhood and was placed in Ward B with 32 other inmates. While he couldn't recall the exact date of the incident, he stated that he and five others had taken a bath at the tank, returned to the ward wearing towels, and had been back in the ward for about an hour when Mr. Udara entered.

Mr. Udara instructed them to line up and asked those still in towels to step forward and show him if they had any pants. Chaminda explained that his clothes were wet from washing, but Mr. Udara insisted they put on their damp pants. Then, he ordered all six of them to kneel and walk on the cement floor. Holding a wicket pole, Mr. Udara struck Chaminda on his back and did the same to the others. They were made to crawl on their knees for about 20 rounds, which left their knees bleeding and injured. The following day, jail officers provided them with medical treatment through the prison hospital.

Chaminda stated they were informed about a family visitation day, but this was later cancelled due to COVID-19 restrictions. When questioned by the Chief Jailor, Chaminda and the others disclosed the details of the incident, explaining that none of them dared to challenge Mr. Udara, given his seniority. Chaminda added that representatives from the Human Rights Commission later visited, observed their knee wounds, and noted visible, though faded, bruises.

Statement of the 4th Victim

Bendaluwa Gamalathge Chamara Lakshan Senevirathne, a 17-year-old from Anamaduwa (exact address unknown), provided the following statement:

Following a case related to a motorcycle theft presented by the Anamaduwa Police to the Kurunegala court, and was held at the Negombo and Welikada prisons. He was sent to Wataraka Prison on 16th December 2019, with a three-year sentence, as no one had come forward to post bail for him. He could not recall the specific date of the incident but stated that he and other inmates, who usually stayed on the upper floor and were currently assigned to Ward B, would typically bathe in the afternoon. On the day in question, around 3:00 to 3:30 p.m., twelve inmates went to the bathroom. Since they each had only one pair of pants, which had been washed, they returned to the ward wearing only towels. Around 4:00 p.m., Mr. Udara entered and instructed them to line up, as was customary after bathing, but he noticed that five of them were still in towels. He separated those wearing towels, ordering them to kneel and proceed on their knees while other inmates watched.

At this point, Mr. Udara held a wicket pole and, while trying to strike Chamara, accidentally hit the clothesline, causing a pair of underwear, belonging to Anthony Suresh, to fall to the floor. He ordered Suresh to pick it up, place it on his head, and kneel while walking. Four inmates with knee injuries were told to stand, while Chamara and Suresh were left kneeling and had them engaged in an activity while seated. Afterward, Mr. Udara dismissed everyone except Chamara, who was ordered to walk while being struck on the legs with the pole. While attempting to slap him, Chamara noted a smell of arrack (alcohol) on Mr. Udara's breath. Mr. Udara then pulled Chamara's towel off, forcing him to march naked between the ward's toilet and door, chanting "left, right" as if in army training, while 36 inmates watched silently. Two other officers in the ward were ordered to leave by Mr. Udara.

The next day, the Chief Jailor interviewed the victims, photographed their injuries, and sent them to the prison hospital for treatment. Upon their return Mr. Eranga, a friend of Mr. Udaya had asked, "What did you say about the incident?" to which he replied, "the truth". Mr. Eranga then inquired, "How much longer do you have to serve?" When informed that he had two years remaining, he ominously remarked that it would be "difficult for them."

Following this incident, the Chief Jailor restricted Mr. Udara's access to the ward and initiated an investigation into his actions.

Statement of the 5th Victim

Muhammadu Fariz Faslan, a 17-year-old resident of No. 132/369, De Mel Rd, Grandpass, Colombo 14, provided the following account:

He left school early and initially worked as a porter in Pettah before finding a job in a shop. In August 2019, he began using the drug "ice" with friends and subsequently got involved in thefts around Colombo. On or about 20th or 21st October 2019, he was arrested by the Kotahena police for a theft and brought before the court. He was initially held in the Colombo Remand Prison and later transferred to Wataraka Prison.

On a day in May 2020, while taking a bath, Mr. Udara entered and instructed the inmates to line up. He then called those wearing only towels to come forward, at which point Faslan stepped out of line as instructed. Mr. Udara ordered him to kneel and walk and proceeded to strike him with his hands and feet. When told to run, Faslan tried but was slow due to pain in his legs, which prompted Mr. Udara to strike him on the back. After ordering him to stand and seeing no wounds on his legs, Mr. Udara repeated the command to kneel and walk for five rounds, occasionally striking his legs.

Faslan confirmed that these were the actions taken by Mr. Udara during the incident. He also mentioned that the prison hospital provided medical treatment for his injuries.

Statement of the 6th Victim

Isharage Sanju Pradeep, 18 years old, residing at No. 77/29, Webadamulla, provided the following statement:

On March 22, 2019, following an order from the Attanagalla court, he was transferred to the Wataraka detention centre for a theft-related offense. One evening in May 2020, after returning from a bath, Mr. Udara ordered the inmates to line up and asked those in towels to come forward. Sanju stepped forward, and Mr. Udara reprimanded him, instructing him to put on pants before joining the line. He was then ordered to kneel and walk, which caused injuries to his knees. At one point, Mr. Udara kicked him in the back with his boot, further injuring him. Mr. Udara had made them stand up in a line while he sat

and watched. Mr. Udara also demanded that any inmate wishing to challenge him should step forward, but when no one did, he berated them further. Later, the Chief Jailer arrived, questioned the inmates about the incident, recorded their statements, and sent them to the prison hospital for treatment.

Submissions of the Respondents

On 29th September 2020, respondents 1–4, and on 10th July 2024, respondent 5 were summoned to the Commission, where their statements were recorded.

Statement of the 1st Respondent: M.L. Udara Sumanapala (Jailor, Class Two)

Officer Meegahawelage Lakshitha Udara Sumanapala, jailor, class two, provided a statement indicating that he reported for duty on 17th May 2020, at 8:00 am. On that day, he was assigned as the jailor responsible for Ward B2, which housed 36 juveniles, overseeing both their daily activities and mental development programs. The juveniles involved in the incident had initially been assigned to Ward B1 and were transferred to Ward B2 two days before the incident.

According to the 1st Respondent, the detainees in Ward B2 participated in daily activities, including sports from 9:00 am to 12:00 pm, lunch at 12:30 pm, TV time following lunch, bathing from 2:00 pm to 2:30 pm, and dinner at 4:30 pm. He conducted an evening count at 5:00 pm, with his duties concluding at 5:30 pm. On the day of the incident, he reported that daily routines were followed as usual, with two officers assigned to assist during the midday shift: K.I.D. Perera, responsible for Ward B2, and Sergeant M.D. Perera as the duty officer. The 1st respondent stated that he and Sergeant Perera were seated at a table near the B1 section door on the lower floor, while the officer in charge of Ward B2 sat at a table by the B2 section door on the upper floor. The 1st respondent explained that several inmates in Ward B2 were severely addicted to drugs, and one juvenile, subject to prior disciplinary measures, had exhibited inappropriate sexual behaviour.

During bath time, a commotion was heard, and approximately 50 regular inmates were on the lower floor. The 1st respondent reported that he heard Officer K.I.D. Perera repeatedly instructing the detainees to remain silent. Noting past incidents where individuals had injured themselves while bathing, the officer in charge decided to close a door that could isolate the section and then proceeded to the upper floor to calm the detainees. After several unsuccessful attempts to quiet the detainees, the 1st respondent instructed the officer to unlock the door, then entered with the duty officer, ordering the door to be locked behind them.

Once inside, he observed a smaller number of juveniles than expected and, upon investigation, found some of the inmates misbehaving in the bathroom. He instructed them to return to their ward and dress, spending about 45 minutes issuing warnings and guidance before returning downstairs. As dinner was scheduled for 4:30 pm, he ensured the detainees were brought down to eat. He stated that the chief jailer arrived shortly thereafter and secured the premises with the night shift officers before the 1st respondent finished his duties and retired to his quarters on the prison premises.

The 1st respondent explained that he remained in the barracks until around 11:30 am the following day, as he was assigned the afternoon shift. During this time, he was informed by a staff member that the chief jailer summoned him for an inquiry. He reported that two boys who had provided truthful accounts of the events had later been assaulted by other inmates, a matter he had reported to the chief jailer without subsequent action. On 19th May 2020, he gave a statement at the preliminary investigation and was presented with what he described as unfounded allegations against him. He later learned that the boys were individually interviewed while the officers working in the office were made to wait outside.

He noted he could not recall the specific date on which the juveniles were transferred from Ward B1 to Ward B2 to prevent their prolonged detention. The bathing process, he stated, typically occurs under limited supervision, with a long-term detainee overseeing the process from within the ward while the ward officer waits outside. Although he initially instructed the detainees to stay quiet from outside the ward, he ultimately entered due to escalating noise. Afterward, he explained the juveniles were taken to the bathing area to establish order and were instructed to line up; they were dressed in shorts or towels during this process.

During a further inquiry by the commission, the respondent said only a warning had been issued. He expressed uncertainty regarding how the six juveniles in Ward B2 sustained similar knee injuries, stating he had not personally observed any knee injuries. On 18th May 2020, the chief jailer was directed to conduct a preliminary investigation into the incident, and it was only at that time that the 1st Respondent became aware of the matter. He also mentioned that he was unaware that the juveniles had been admitted to the prison hospital for medical treatment.

Statement of the 2nd Respondent: M.D. Perera (Duty Officer)

In his statement to the commission on 29th September 2020, Duty Officer Mimanage Dayapala Perera reported that on 17th May 2020, at 8:00 am, he was assigned responsibility for Wards B1 and B2 by the Chief Jailer. During his shift, at approximately 2:30 to 3:00 pm, he noticed a commotion in Ward B and promptly informed Officer Udara. Together, they went to investigate, finding a group of juveniles near the bathing area. The ward officer suggested lining up the juveniles for inspection, and they proceeded accordingly.

Perera stated that after Officer Udara arrived, he left the ward, as Udara had been assigned oversight of Ward B by order of the prison commissioner. At that point, around 10 to 15 juveniles were near the bathing area, with the others inside the ward. Following the line-up instruction, about 20 juveniles formed a line, with those who had already finished bathing fully dressed. Perera left the area about 10 minutes later, unaware of any incidents that followed.

He also noted that the interior of the ward was not visible from outside and that he retained possession of the key. He waited downstairs until Officer Udara returned 15 to 20 minutes later. Perera stated he was not informed of any injuries to the juveniles and only learned of the incident after his night shift. He clarified further that he had no knowledge of any forced kneeling or walking on rough surfaces involving the juveniles.

Statement of the 3rd Respondent: K.I.D. Perera (Ward Officer)

In a statement submitted on 29th September 2020, Officer Kalubowilage Iranga Dilshan Perera, the officer in charge of Wards, reported for duty at 8:00 am on 17th May 2020, overseeing Ward B at Wataraka Prison. He stated that a commotion arose between 2:30 and 3:00 pm when the inmates went for their scheduled bathing. Although he instructed them to remain silent, they did not comply. Officer Udara, responsible for Ward B that day, was on the lower floor. Hearing the noise, Officer Perera contacted Udara, who then arrived with the Officer Dayapala. Approaching the ward door, they instructed the inmates to quiet down. Officer Perera then handed the key to Officer Udara, who, along with Officer Dayapala, entered the ward, after which Perera locked the door.

The children inside were ordered to line up, and Officer Dayapala conducted a headcount, noticing that some children were missing. He saw that a few were still in the bathing shouting. Those already in line were told to sit, and those bathing were asked to come out, though not everyone complied. Once they

were all out they were made to sit by the entrance of the bathing area. Officer Perera questioned them about the noise, issued warnings, and inquired them about upcoming committee meetings. Since Officer Udara was tasked with managing the children's activities, Perera remained seated outside, performing other duties by the door, while Udara continued to instruct the children inside. Around 3:45 pm, Perera unlocked the door for Officer Udara to leave. The children were then taken outside for their meal. At this time, Udara went downstairs, while Dayapala remained on the ward floor. Perera asked the children what Officer Udara had said, as he had been unable to hear him clearly. The children reported that Udara had spoken to them about maintaining cleanliness, proper behaviour, keeping quiet, avoiding fights, and following guidelines for the upcoming committee meetings. All children returned inside after eating.

Perera stated that he only became aware of any incident involving the children the following day. He also noted that, by 5:00 pm, the night duty officer had arrived, inspected the wards, performed a headcount, and took over the duty. He could not recall the identity of the evening officer on duty. Sergeant Dayapala held the key to Ward B2 that day, keeping it locked while stationed in the B ward corridor. Perera explained that, from his position outside, he could not see what was occurring inside the ward. As the officer responsible for Ward B2, he admitted that he should have been more observant when other officers entered the ward. He confirmed that Dayapala and Udara were on duty for Ward B2 that day.

He further stated that since 18th and 19th May 2020, were holidays, he did not learn about the incident with the children until he returned to duty on 20th May 2020. Perera claimed that he was unaware of any injuries on the children's knees and had not observed anything unusual on the day of the incident. He noted that Sergeant Dayapala and Jailer Udara Sumanapala were present in Ward B2 for approximately 20 minutes. He also mentioned that the floor inside Ward B2 and the area just outside were coated with white cement that had, over time, developed a somewhat rough texture.

Statement of the 4th Respondent: D.M. Nimal Shantha (Assistant Superintendent of Prisons)

In his statement to the Commission on September 29, 2020, Officer Devpura Arachchi Mohandas Nimal Shantha, Assistant Superintendent of Prisons, indicated that he has been assigned to the Welikada Prison since 3rd October 2019. He explained that approximately 30 juvenile inmates from Sunitha School, affiliated with the Welikada Prison, are held in Ward B2. On 18th May 2022, while on his way to the main prison for an official duty, he was informed of the incident following a notification from Mr. Bandula Jayasuriya, then Commissioner of Prisons (Administration).

Officer Shantha conducted a preliminary investigation through the Chief Jailer regarding allegations of misconduct involving several juvenile detainees, which reportedly occurred on or about 17th May 2020. According to the investigation, Class Two Jailer M.L.S. Udara Sumanapala, responsible for the juvenile detainees, had directed them to kneel, which resulted in minor scrapes and bruises on their knees. The investigation noted that, these detainees had been unruly, and that the jailer had used minimal force to manage the situation and re-establish order. However, due to the visible injuries on the detainees' knees, the incident was reported to the Commissioner General of Prisons, with a recommendation for disciplinary action against the jailer under Schedule II of the Establishment Code.

The incident reportedly arose from unruly and disruptive behaviour by a group of juvenile detainees around 5:00 p.m. while they were bathing under Jailer Sumanapala's supervision. During this time, the detainees did not comply with the jailer's instructions, and their behaviour had gotten out of hand. Officer Shantha explained that, in such situations, minimal force may be necessary to restore order,

considering it an appropriate response to extreme non-compliance. The incident took place within the ward itself, bordered by a rough surface outside. The detainees involved in this incident were subsequently presented to the Judicial Medical Officer at Homagama Government Hospital.

Statement of the 5th Respondent: Ajith Palliyage (Chief Jailer during the time of the incident)

In his preliminary investigation report, former Chief Jailer Ajith Palliyage, who supervised both the Juvenile Training School and the outdoor work camp, provided the following account regarding the disputed incident:

On 18th May 2020, at around 9:15 a.m., the Commissioner of Prisons (Administration), K.W.B. Jayasinghe, had contacted Chief Jailer Palliyage at the Wataraka Detention Centre over the phone. The Commissioner informed him of an alleged incident in which a jailer reportedly assaulted several juvenile detainees on 17th May 2020. The officer in question was identified as Jailer Udara. The Commissioner directed Palliyage to immediately investigate the matter and to conduct a preliminary inquiry, and send photographs of the injuries sustained by the detainees. He also ordered that the injured juveniles be examined by a medical officer without delay. Palliyage was instructed to personally oversee the preliminary investigation, which he promptly initiated in accordance with the Commissioner's orders and notified the officer in charge of the institution.

During the preliminary investigation, statements were obtained from Second-Level Jailer M.L.S. Udara Sumanapala, Second-Level Jailer Shanaka Senarathna, Sergeant M.D. Perera (Dayapala), Officer K.I.D. Perera, and juvenile detainees C-08 Sanju Pradeep, C-28 Chamara Lakshan, D-05 Chaminda Saman Kumara, C-20 Rashmi Kanchana, D-01 Faris Mohamed Paslan, C-17 Anthony Suresh, B-19 Nisal Asanka, P-16 A.W. Pramod Sampath, C-10 B. Lakshmitha Shehan Perera, C-06 G.W. Supun, and C-25 Thilina Madhushanka.

According to these detainees, with the exception of C-20 Rashmi Kanchana, the events occurred between 3:30 p.m. and 4:00 p.m. on 17th May 2020, when Jailer Udara reportedly entered Ward B2, carrying a stick and shouting, and ordered everyone to line up, including those wearing only towels.

All the detainees were lined up and those wearing towels were asked to step forward. Five detainees—C-08 Sanju Pradeep, C-28 Chamara Lakshan, D-05 Chaminda Saman Kumara, C-20 Rashmi Kanchana, and D-01 Faris Mohamed Faslan—had stepped out of the line and were made to kneel. Upon noticing detainee Anthony's undergarment nearby, Jailer Udara allegedly directed Anthony to place it over his head. After doing so, Anthony was also ordered to kneel and join the others in crawling on their knees around the ward. During this, Jailer Udara is said to have struck the six detainees with a stick, hands, and feet, resulting in injuries. Additionally, Jailer Udara had taken off detainee C-28 Chamara Lakshan's towel and ordered him to march around the ward naked shouting commands.

C-20 Rashmi Kanchana stated that, although he was made to kneel, he was not physically assaulted; however, kneeling resulted in knee injuries. He observed that Officer Dayapala, who was holding a stick, struck some of the juveniles who were laughing at those who were kneeling. Kanchana also mentioned that Jailer Udara removed C-28 Chamara Lakshan's towel and instructed him to march within the ward.

On that day, Officer M.D. Perera, who was on duty, testified during the investigation that he left Ward B after entering with Jailer Udara and arranging the juveniles to sit. He claimed he was unaware of subsequent events.

Officer Shanaka Senarathna, who was also on duty that day, reported that no incidents of this nature were brought to his attention by either juvenile detainees or staff until the next day, when the Chief Jailer informed him of the allegations.

Class Two Jailer Udara Sumanapala, who supervised Ward B2, stated that he responded to a commotion between 3:30 p.m. and 4:00 p.m. by going to the ward, quieting the detainees, and checking on their well-being but had not used form of punishment. He added that Officer Dayapala was with him, while Officer K.I.D. Perera was positioned by the door.

In addition to statements from the Complainants and the Respondents, five other juveniles and one officer contributed testimonies. Despite denials from officers regarding involvement in misconduct, the investigation concluded that Class Two Jailer Udara Sumanapala physically assaulted the juveniles while they were kneeling, constituting a disciplinary violation. As a result, it was recommended that charges be filed against Jailer Sumanapala under the Schedule (a) and that appropriate disciplinary action be taken. Furthermore, due to the failure of the duty officer and the ward officer to report or prevent the incident and for concealing details, it was recommended that charges and disciplinary measures be pursued against them as well under Schedule (a).

Wataraka Prison Hospital Medical Report

On 18 the May 2023 six juvenile detainees were referred to the prison medical officer. The medical report is as follows:

“On 18th May 2020, six children with injuries to their knees were brought before me. Based on their accounts, these injuries were sustained from being forced to kneel in the juvenile dormitory hall as part of a punishment administered by a jailer. The punishment involved forcing the children to walk on their knees around the hall, during which they were struck with a wooden pole on their backs, buttocks, and the backs of their legs. The incident reportedly took place on 17th May 2020, between 3:00 PM and 4:30 PM. Details of each child and their specific injuries are documented below.”

(01) D - 01 - M.F. M. Fazlan (age 16)

- Superficial lesions can be seen on both knees.

On the right leg – a lesion measuring 4 cm x 2 cm

On the left leg – a lesion measuring 2 cm x 2 cm

- There was no visible evidence of other bruises or other signs of assault on the body.

(02) C-17 - A. Suresh (Age 19)

- Superficial lesions can be seen on both knees.

On the right leg – a lesion measuring 1 cm x 1 cm

On left leg – a lesion measuring 1 cm x 1 cm

- There is no visible evidence of other bruises or signs of assault on the body.

(03) C -20 - Rashmi Kanchana (Age 18)

- Superficial lesions can be seen on both knees.

On the right leg - a lesion measuring 3 cm x 1 cm

On the left leg - a lesion measuring 3 cm x 1 cm
- No assault has occurred.
- There was no evidence of other bruises or visible signs of assault on the body.

(04) B -05 - Waminda Saman Kumar (Age 18)

- Superficial lesions can be seen on both knees.
- Scratches can be seen on the upper front of the bottom.

On right leg – a lesion measuring 2 cm x 1 cm

On the left leg - a lesion measuring -3 cm x 1 cm
- There is no visible evidence of other bruises or signs of assault on the body.

(05) C - 28 - Chamara Lakshan Seneviratne (Age 17)

- External injuries can be seen on both knees.

On the right leg – a lesion measuring 1 cm x 2 cm

On left leg – a lesion measuring 1 cm x 3 cm
- There is no visible evidence of other bruises or signs of assault on the body.

(06) C - 08 - Sanju Pradeep (Age 18)

- External injuries can be seen on both knees.
- Scratches can be seen on the upper front side of the sole.

On right leg – a lesion measuring 2 cm x 1 cm

On left leg – a lesion measuring 2 cm x 1 cm
- There was no visible evidence of other bruises or other signs of assault on the body.

Forensic Medical Report - Avissawella Base Hospital

On 16th June 2020, the Human Rights Commission issued a directive to the Prison Authority to present the affected individual before the Judicial Medical Officer. Following this, the Prison Authority, in letter No. Wataraka Wada Kandawura/Li.Li/01/Miscellaneous/2020 dated 16th June, 2020, requested

that six youths be taken to the Judicial Medical Officer on 17th June, 2020. The following details are noted in the Judicial Medical Officer's report:

1. D-01 - M.F.M. Faslan (Age 16)

Incident Summary:

Faslan had been in the detention camp for two months, following a period at home. He disclosed a past of theft and drug use ("ice"), though he no longer has such inclinations. At the time of the incident, he had only one outfit, hiding naked. The officer noticed him and ordered him to kneel, commanding him to move roughly 20 meters across the cement floor on the upper level for about 30 minutes. The officer then kicked him from behind, urging him to move faster. After examining his leg, the officer saw no visible injury and instructed both him and another detainee, Chamara, to continue. They were forced to kneel until injuries formed. Faslan reported being struck on his back by the officer, who wore shoes, and was also slapped. No further assault occurred afterward.

- 3 cm x 2 cm dark bruise on the front of the right knee (resulting from kneeling).
- 3 cm x 2 cm dark bruise on the front of the left knee (resulting from kneeling).
- Pre-existing horizontal scars unrelated to the incident on the right and left lower limb.
- Dark bruises on the front of the knees could have been caused by kneeling on a rough surface.
- No evidence of internal injuries was observed.

2. C28- Chamara Lakshan Senevirathne (Age 17)

Incident Summary:

He has been at the camp for six months, following a previous four-month stay at Negombo Prison for theft. Although he used to consume arrack, he currently has no desire to drink. Officer Udara instructed him to kneel and walk approximately 12–14 feet across a cement floor for about 15 minutes, while wearing only a towel. During this time, he was struck on the legs with a stick, scraping his knee. He was later sent to the prison hospital to apply medication to his injuries, though he cannot remember the exact month this occurred. Currently, he feels no discomfort from these injuries, and no further assault occurred after this incident. He also noted that Officer Udara appeared intoxicated at the time and that he was struck on his right ear, though this too causes him no discomfort now.

He has some unrelated scars from tattoos and old scars on his body.

- Two 2 cm x 2 cm shiny bruises on the front of both knees (resulting from kneeling).
- An 8 cm x 1 cm shiny, elongated bruise on the back of the right leg with an inner edge elevated above the outer edge (likely caused by a strike from a pole and subsequent healing).
- Dark bruises on the knees from kneeling on a rough surface.
- This could be a blister caused by contact with a hard object, possibly a wall-like surface.
- No evidence of internal injuries was observed.

Incident Summary:

He has been at the camp for one year and three months, following nine months on remand. He was previously involved in theft and had used Kerala cannabis, though he no longer feels inclined to use it. At the time of the incident, he was wearing only a towel around his waist when Mr. Udara instructed him to put on shorts and kneel on a rough cement floor. He was made to kneel repeatedly, about 50 times over 30 feet each time, until his knees were injured. During this, Mr. Udara kicked him in the

back with his boots and struck him with a wooden pole. He received medical treatment the following day at the prison hospital and currently reports no ongoing issues with his injuries.

- There are prior dark scars on the front of the right and left forearms unrelated to the incident.
- A 2 cm x 1.5 cm shiny bruise on the front of the right knee (resulting from kneeling).
- A 2 cm x 1 cm shiny bruise on the front of the left knee (resulting from kneeling).
- A 1 cm x 1 cm small dark bruise on the back of the left foot (resulting from kneeling).
- The bruises on the front of the knees and the left foot may have been caused by kneeling on a rough surface.
- No evidence of internal injuries was observed.

4. C-17 A. Suresh (Age 19)

Incident Summary:

He has been at the camp for eight months, following time at Addressa Rehabilitation. He previously used drugs, including heroin and "ice," for about two years but is now abstinent and reports no current difficulties. On one occasion, while he and others were standing unclothed, Officer Udara struck him on the buttocks with a stick. During the incident, his underwear fell, and the officer instructed him to place it on his head and kneel on a cement floor for about 10 minutes over a distance of 10-15 feet, resulting in scrapes on his knees. He received medication for his injuries the next day. Additionally, Officer Udara had kicked him in the back twice while wearing shoes and made him do squats. No further assault followed. He notes, however, that he still occasionally feels the urge to use heroin.

- There are prior self-inflicted scars on the body which is unrelated to the incident.
- A 2 cm x 2 cm scratched bruise on the front of the right knee (resulting from kneeling and itching).
- A 1.5 cm x 1 cm scratched bruise on the front of the left knee (resulting from kneeling and itching).
- Older scar marks are also visible.
- The bruises on the knees may have resulted from kneeling on a rough surface. The healing of these injuries may have been delayed due to scratching.
- No evidence of internal injuries was observed.
- Rehabilitation treatment is advised to help reduce the craving for heroin.

5. Rashmi Kanchana (Age 18)

Incident Summary

He has been in the camp for eight months, following a month in Angunakola Prison and time at home prior to that. He was detained for causing a disturbance, though he doesn't recall the exact date. At the time of the incident, he was standing without any clothes or towel. Officers Udara, Dayapala, and Perera had arrived, and Officer Udara instructed him, along with five others without towels, to kneel. He was directed to walk on his knees along the cement floor of the cell for about 10 minutes, covering a distance of approximately 12-13 feet. He said that Mr Udara inquired about their wellbeing. He was not struck by Officer Udara. He reports no lasting discomfort from the incident, which occurred around three to four weeks ago. He was later taken to the prison hospital, where he received treatment for knee injuries the following day.

- There are prior self-inflicted scars on the body unrelated to the incident.
- A scar approximately 1.5 cm x 1 cm in size is present on the front of the right knee (resulting from kneeling).
- A scar approximately 2 cm x 0.5 cm in size is present on the front of the left knee (resulting from kneeling).
- The injuries on the knees may have resulted from kneeling on a rough surface.
- No evidence of internal injuries was observed.

6. B- 5 Chaminda Saman Kumara (Age 18)

Incident Summary

He has been in the camp for two months; before that, he was at home. He was sent to the camp for theft and has stuttered since childhood. At the time of the incident, he was wearing a towel, and Officer Udara instructed him to kneel. He was not struck and knelt for about 10 minutes, moving roughly two meters. Following this, he was not hit again, although he experienced some discomfort in his leg and had scrapes on his knees from the concrete floor. He received treatment for his injuries and has not felt any significant discomfort since. Currently, he feels a desire to drink arrack but has abstained.

- There are scars on his body unrelated to the incident:
- A scar approximately 1.5 cm x 1.5 cm in size is present on the front of the right knee (resulting from kneeling).
- A scar approximately 2 cm x 1 cm in size is present on the front of the left knee (resulting from kneeling).
- A scar approximately 1 cm x 0.5 cm in size is located on the surface of the right foot (resulting from kneeling).
- The bruises on the knees and foot may have resulted from kneeling on a rough surface.
- No evidence of internal injuries was observed.
- Rehabilitation treatment is necessary to help reduce the craving for arrack.

Observations

The recorded incident occurred on 17th May 2020, between 2:30 pm and 4:30 pm in the ward B2 on the upper floor of Wataraka Youth Offenders Training College and Outdoor Work Camp. During this time, several young detainees, some wearing towels and others unclothed, were bathing. According to statements from the victims, involved parties, prison records, and medical reports, there was significant noise in the ward.

The incident was reported to the Human Rights Commission of Sri Lanka on 23rd May 2020. Though Wataraka Prison was instructed to present the child victims to a Judicial Medical Officer within 48 hours, when an investigation team from the Commission went there for an on-site investigation on 15th June 2020 it was discovered that the Complainants had not been presented to a Judicial Medical Officer. A follow-up inquiry led to the children finally being presented to a forensic doctor on 17th June 2020, about a month after the incident.

The Complainants had been either wrapped in towel or had no clothes on at all as they did not have sufficient clothing and whatever they had were. The prison later distributed some extra garments, although the supply was insufficient for all.

On 15th June 2020, Rashmi Kanchana, the first victim, reported to the Human Rights Commission that Officer Udara Sumanapala had made him kneel for 10 to 15 minutes without further assault. The prison

medical report corroborates this account, noting superficial injuries on both knees (3cm x 1cm). Similarly, the report from the Judicial Medical Officer of Avissawella Base Hospital documents a 1.5 cm x 1 cm scar on the right knee and a 2 cm x 0.5 cm scar on the left knee, consistent with injuries caused by kneeling on rough surfaces.

He had stated to the doctor that Mr Udara had made him kneel on the cement floor of the ward and to walk about 12-13 feet on their knees for about 15 minutes which caused the wounds on the knees. He had further stated that Mr. Udara had not hit him. It is seen that the 1st Respondent, Rashmi Chamika's statement to the HRCSL was consistent with his statement made to the Judicial Medical Officer.

According to the statement of the second victim, Anthony Suresh, made before the HRCSL ON 15th June, 2020, Officer Udara had instructed five inmates to kneel and struck them with a (cricket) wicket. During the incident, the wicket had knocked his underwear off the clothesline and Officer Udara had told Suresh to place it on his head and to continue walking on his knees while he hit him on the back. This is supported by statements from other detainees and prison records.

The fact that Mr. Udara's stick knocked off an underwear from the clothesline and that it belonged to Suresh and that Officer Udara made Suresh wear it on his head while walking on his knees was confirmed by Chamara Lakshan Senevirathne's statement to the HRCSL on 15th June 2020.

The preliminary prison investigation report too reported this incident as Mr Udara seeing the underwear on the ground made Anthony put it on his face so that it covered his face and then made him kneel and made him walk across the floor with the others that were already on their knees. The 2nd Victim had stated before the Judicial Medical Officer while revealing his medical history that when Mr Udara was beating Faslan on the back the underwear fell off the clothesline and that he was made to put it on his face and was then made to walk 10-15 feet on his knees for about 15 minutes wounding his knees.

The prison hospital report has revealed that there were 1cm x 1cm wounds on both knees. Further the JMO report revealed that there was a 2cm x 2cm wound on the right knee and a 1.5cm x 1cm wound on the left. These were assumed to have been caused by walking on his knees on a rough floor and the itching may cause the wounds to delay the healing.

The JMO report further indicates abrasions on Suresh's knees, likely caused by kneeling on rough surfaces, and suggests a rehabilitation program to address cravings for heroin.

According to the above observations it is evident that the 1st Respondent made Suresh Anthony put his underwear on his head and walk on his knees till they were wounded.

The third victim, Chaminda Saman Kumara, stated that Officer Udara made him walk on his knees at least 20 rounds while striking him with a stick until he sustained bleeding injuries. The prison medical report confirms injuries on both knees, while the forensic report notes lacerations consistent with kneeling on rough surfaces.

The report released by the prison hospital on the injuries of the 3rd Victim shows 2cm x 1cm wounds on the right leg and 3cm x 1 cm wounds on the left. The JMO report by the Avissawella General Hospital shows 1.5cm x 1.5cm bold scars on the front of the right knee and 2cm x 1cm white coloured scar on the left knee, and another 1cm x 0.5cm wound on the right leg. These wounds were assumed to have been the result of walking on knees on a rough surface. A recommendation for rehabilitation to curb alcohol cravings was also noted.

Accordingly, it is confirmed that the 3rd Victim was forced to walk on his knees by the 1st Respondent.

According to the fourth victim's statement to the HRCSL given on 15th June 2024, Chamara Lakshan Seneviratne, Officer Udara instructed him to walk on his knees while carrying a wicket stump. When he was the last person remaining Mr. Udara had hit him on the legs and pulled off his towel stating he is going to give him a military training making him march nude, shouting "left, right." The prison's investigation corroborates this, and his medical records show abrasions on his right leg. The forensic report notes further knee injuries and lesions on his thigh caused by impacts, confirming the conditions reported.

The medical report released about the 4th Victim's injuries by the prison hospital shows wounds ranging from 1cm x 2cm to 1cm x 3cm on both knees. The report released by the JMO of the Awissawella General Hospital shows wounds ranging from 2cm x 2cm on both legs and 8cm x 1cm on the right thigh and was presumably caused by blisters resulted by hitting with a wicket stump.

Accordingly, it is confirmed that the 4th Victim was forced to walk on his knees by the 1st Respondent.

The fifth victim, M. F. M. Faslan, stated before the HRCSL on 15th June 2020 that Officer Udara kicked him and ordered him to walk on his knees for about 20 meters and struck him if he slowed down. When there were no wounds on his knees, he was made to continue walking on his knees. Medical reports confirm injuries 4cm x 2cm and 2cm x 2cm on both knees, attributed to kneeling on a rough surface. The forensic report verifies the presence of knee lesions consistent with his statements.

His statement to the JMO too stated that he was made to walk on his knees for about 20meters on the cement floor until his knees bled and that he was kicked with booted legs urging him to move faster, and also that he was slapped across the face. The JMO report obtained from the Awissawella General Hospital further confirms this situation. Accordingly, the 1st Respondent had intentionally made the victim walk on his knees until they were visibly injured. The JMO report shows wounds on both knees; 3cm x 2cm long on the right and 3cm x 2cm on the left.

Accordingly, it is confirmed that the 5th Victim was forced to walk on his knees by the 1st Respondent.

The sixth victim, Sanju Pradeep, also stated to the HRCSL on 15th June 2020 that he was instructed by Mr. Udara to kneel and move on a rough floor, sustaining knee injuries. His account, supported by the prison and forensic medical reports, describes bruising on his knees and spine from kicks and baton strikes. The prison hospital has reported wounds of 2cm x 1cm on both legs.

The same was accounted by the 6th Victim before the JMO. Accordingly, it is confirmed that the 6th Victim was forced to walk on his knees by the 1st Respondent.

Based on these observations, it is clear that victims 1 through 6 were made to kneel or move on rough surfaces, sustaining knee injuries inflicted by the first respondent, M.L. Udara Sumanapala, Second-Level Jailer. Additionally, respondents M.D. Perera (Officer in Charge) and I.D. Perera (Block Supervisor) are held accountable for failing to ensure the safety of detainees and obscuring the extent of their injuries.

The fourth respondent, Assistant Prison Superintendent D.M. Nimal Shantha, attributed the actions to "minimal force" for disciplinary control. However, compelling juveniles to kneel on rough surfaces, resulting in injuries, reflects poorly on the officer's professional conduct. Mr. Shantha is also held responsible for not ensuring timely medical evaluations of the victims within 48 hours, as instructed by the Human Rights Commission.

The fifth respondent, Chief Jailer Ajith Pallewatte, conducted an initial investigation and recommended disciplinary action against the first, second, and third respondents.

Following his report, disciplinary charges were filed against Udara Sumanapala, M.D. Perera, and I.D. Perera. Ultimately, only Udara Sumanapala received a penalty of a five-day salary deduction and was transferred to Welikada Prison as detailed in letter No. D17/Wataraka/35/20 dated 6th October 2020. This disciplinary action was taken solely against Udara Sumanapala under the Second Schedule of the Establishment Code. Accordingly, Mr. Udara had pled guilty to the charges against him on 15th July 2020 and show caused his defences consequent to which he was convicted. He was fined wages of five days and transferred to the Welikada Prison.

Conclusion

Upon reviewing all the evidence, it has been confirmed that the first respondent, M.L. Udara Sumanapala (second-level Jailer), subjected victims 1, 2, 3, 4, 5, and 6 to injuries by requiring them to kneel and walk on a rough surface. Additionally, it has been established that Mr. Udara inflicted physical assaults on victims 2, 3, 4, 5, and 6, with the exception of the first victim. Therefore, it can be concluded that the first respondent, M.L. Udara Sumanapala, Class Two Jailer, violated the fundamental right protected by Article 11 of the 1978 Constitution of Sri Lanka, which asserts that "no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

The second respondent, M.D. Perera (Officer in Charge), and the third respondent, K.I.D. Perera (Ward Supervisor), were the supervising officers in Block B2 on the date in question. Their failure to protect the victims, combined with their involvement in concealing the facts related to the victims' rights, constitutes a violation of the victims' fundamental rights as outlined above and is liable accordingly.

The fourth respondent, Assistant Superintendent of Prisons D.M. Nimal Shantha, failed to ensure that the victims were presented to a judicial medical officer when the incident was first reported. This neglect of the official responsibilities assigned to him, as well as a lack of oversight regarding the safety of detainees under his care. By disregarding or delaying the Human Rights Commission's directive to present the injured detainees to a judicial medical officer, the fourth respondent is deemed to have violated the fundamental rights guaranteed by Article 12(1) of the 1978 Constitution of Sri Lanka.

Lastly, although the fifth respondent, Ajith Palliyaguru, though names as a respondent is found not to be directly or indirectly liable as her served as Chief Jailer at Welikada Prison at the time of the incident. His actions, which included conducting a fair and reasonable preliminary inquiry and issuing appropriate recommendations, demonstrate his commitment to addressing the incident responsibly.

Recommendations:

The following recommendations are made:

1. The first respondent, M.L. Udara Sumanapala (Class Two Jailer), should provide compensation totalling Rs. 15,000 to the affected individuals, at a rate of Rs. 2,500 per person.
2. The Commissioner General of Prisons should initiate appropriate disciplinary action against the second respondent, M.D. Perera (Acting Officer), the third respondent, K.I.D. Perera (Ward Officer), and the fourth respondent, D.M. Nimal Santha (Assistant Prison Superintendent), and report the outcomes to the Human Rights Commission.

3. The Commissioner General of Prisons should take steps to ensure that inmates at the Welikada Youth Rehabilitation Centre and Outdoor Work Camp receive adequate essential provisions, including clothing and other necessities.

To ensure the implementation of these recommendations and to submit a related report to the Commission by 20th November 2024, the respondents are notified in accordance with Section 15 (7) of the Sri Lanka Human Rights Commission Act No. 21 of 1996.

Sgd. by

Chairperson,
Human Rights Commission of Sri Lanka.

Commissioner,
Human Rights Commission of Sri Lanka.

Copies:

1. Minister, of Justice, Prison Affairs and Constitutional Reform,
Ministry of Justice, Prison Affairs and Constitutional Reform,
No. 19, Sri Sangaraja Mawatha,
Colombo 10.
2. Commissioner General of Prisons,
Department of Prisons,
No. 150, Baseline Road,
Colombo 09.

(To implement relevant recommendations)

Recommendation No 04

Petitioner

Mr. Jackson Premasiri Kannangara
K.E.W. Upper Aberdeen Power Grid Ltd.
115 A, School Road
Gangodawila
Nugegoda

Respondents

01. Chairman
Central Environmental Authority
Parisara Piyasa
104, Denzil Kobbekaduwa Mawatha
Battaramulla
02. Director
Central Environmental Authority
Polgolla

Complaint No: HRC/4835/23

Complaint Summary

The petitioner has submitted a complaint to the Human Rights Commission of Sri Lanka regarding delays and inconsistencies in approvals for the renewable energy plant under the proposed Upper Aberdeen Small Hydropower Project. The petitioner asserts that approvals were obtained from the following institutions:

Department of Agriculture
Bureau of Mines Geological Survey
Water Supply and Transport Board
Department of Archaeology
Department of Irrigation
Agricultural District Office
Ambagamuwa Pradeshiya Sabha
Central Environmental Authority
Sri Lanka Solar Energy Authority
Public Utilities Commission of Sri Lanka
Ambagamuwa Divisional Secretariat

The complainant has submitted a complaint to the Human Rights Commission stating that despite having obtained approvals from the relevant institutions, and with the consent of the Ministry of Energy Authority had issued a license based on contractual agreements, and the Ceylon Environment as approved by the President and Cabinet and published in the Government Gazette, the Sustainable Electricity Board had given its consent. However, the Director of the Provincial Environmental Authority, who has no legal authority, has acted in a manner that overrides all prior approvals, causing irreparable harm.

The complainant further states that, following these institutional approvals, the project's construction license was issued by the Sri Lanka Sustainable Energy Authority, along with the power generation license from the Public Utilities Commission, and an agreement with the Ceylon Electricity Board for electricity purchase, all formalized between 31.01.2012 and 31.01.2014. After construction was completed and the plant was ready to commence power supply in February, the Central Environmental Authority issued a letter on 21.07.2014 indicating that an amendment to the original project had been made. This amendment entailed an extension of the plant to Galgediwala, approximately 60 meters upriver, involving adjustments to the river embankment's height. The Authority stated that this was merely a modification of the approved project and that it could be approved once a supplemental report was provided.

An environmental supplemental report, delayed by weather conditions, was submitted on 04.10.2016. On 22.03.2019, the Central Environmental Authority requested a fee of Rs. 50,000 to review the amendment, which the complainant promptly paid. However, in a letter dated 03.06.2019, the Environmental Authority informed the complainant that the project, including the proposed changes suggested by the Authority, could not be approved. The complainant was advised to file an appeal against this decision within 30 days.

Due to the director of the complainant's company being overseas, an extension was requested via letter dated 06.03.2019. However, the complainant received no response to the extension request, leading him to assume the matter had been escalated to the Secretary. Upon the director's return to Sri Lanka, an appeal was filed, but it was ultimately dismissed. Subsequently, on 17.08.2021, the Sustainable Energy Authority reached out to the Central Environmental Authority, requesting approval for the project within 14 days. Despite this, the Environmental Authority did not respond, and during a Ministry of Environment meeting on 19.10.2023, all attendees agreed that the complainant company had suffered significant injustice.

Respondent's Statement

The respondent, the Central Environmental Authority (CEA), submitted a written statement to this Commission on January 3, 2024. The CEA confirmed that a committee convened to assess an application submitted to the Sustainable Energy Authority (SEA) by the applicant, with participants including the Director Generals of the SEA, the Department of Irrigation, the Department of Wildlife Conservation, and the Sri Lanka Mahaweli Authority. After determining that the proposed project would not adversely affect the waterfall, the SEA issued

an approval, No. PA-207001, on October 12, 2003. A preliminary environmental inspection was conducted in 2008 as part of the Environmental Impact Assessment (EIA) procedure, resulting in a three-year environmental approval granted on September 3, 2010. During this phase, key studies, including a Landslip Study Report, Flora and Fauna Study Report, Geological Report, Hydrologic Report, and Basic Environmental Inspection Report, revealed various environmental impacts. Specifically, the Forest Department's land allocation for this project raised concerns that it could diminish the beauty of small waterfalls above Aberdeen Falls due to water diversion.

To address these concerns, a survey report was obtained, and as per recommendations from the technical committee, a release of 700 liters per second was deemed sufficient to preserve the aesthetics of the waterfalls above Aberdeen Falls. This calculation factored in suspending electricity generation during the dry season and maximizing it during the rainy season. As such, the committee agreed to preserve the upper falls' beauty while optimizing electricity production during rainy periods.

A special discussion on June 4, 2013, chaired by the Minister of Environment and Renewable Energy, yielded the following directives:

1. The CEA Chairman was instructed to conduct a field investigation and submit findings to the Minister.
2. Future siting of small hydropower plants would fall under the SEA's oversight.
3. Feasibility-approved sites must secure all necessary institutional approvals, including environmental and land-use clearances, under the SEA's supervision.
4. Following approvals and public queries, the project would be offered to a contracting company.

In line with these decisions, a joint field inspection was held on August 12, 2013, attended by representatives from the SEA, CEA, local officials, the plaintiff's institute, and the Aberdeen Environment Foundation. At the meeting, no objections were raised by local residents regarding the hydropower plant's construction; however, it was suggested to relocate the plant to the left bank or upstream from the waterfall to mitigate environmental and aesthetic impact.

Following this recommendation, the SEA examined the feasibility of relocating the plant and notified the CEA on January 30, 2014, regarding the revised power plant and diversion embankment locations. A joint field inspection on June 24, 2014, with the CEA, SEA, *Pradeshiya Sabha* (Divisional Council) Ambagamuwa, Building Development Department, Forest Department, and Water Board confirmed the need for a Supplemental Report. This report, including the recommended revisions, required approval by the CEA's Technical Committee.

Despite the field inspections on August 12, 2013, subsequent objections emerged regarding the revised locations for the diversion embankment and plant. On November 10, 2006, the project director submitted an outline report to the CEA on the new location. Since the SEA's letter lacked a defined validity date, the issue was referred to the Oversight Committee on October 12, 2018, seeking guidance on confirming the Provisional Approval.

After being directed to provide a valid Provisional Approval and secure environmental clearance, the complainant was informed that project approval would be reconsidered. However, no valid provisional approval was submitted. In an SEA letter dated January 15,

2018, it was clarified that environmental clearance would be necessary to extend the Energy Permit's validity for the revised project site.

Based on the committee's evaluation of these issues, the project approval was ultimately revoked, as the site was deemed unsuitable. On June 3, 2019, the project proponent was notified by registered mail of the approval's refusal and advised to file an appeal with the Ministry of Environment's Secretary within 30 days if dissatisfied. Although the appeal was filed on August 29, 2019, the Ministry of Environment's Chief Legal Officer informed the applicant on February 3, 2023, that the appeal could not be heard as it was filed beyond the permitted timeframe.

Observation

The complainant has obtained approvals for the project from multiple institutions, including the Department of Agriculture, Geological Survey and Mines Bureau, Water Supply and Drainage Board, Archaeological Department, Irrigation Department, District Agriculture Office, Ambagamuwa Pradeshiya Sabha, Sri Lanka Sustainable Energy Authority (SEA), Public Utilities Commission of Sri Lanka, Ambagamuwa Divisional Secretariat, the Central Province Land Commissioner's Department, and the Land Commissioner General's Department. Following these approvals, the Central Environmental Authority (CEA) granted a conditional three-year approval to initiate the project on September 6, 2010, under reference No. CEA/CPO/NW/P&E/08/32. Subsequently, the SEA issued the required license for power plant construction on January 31, 2012, under No. EP 322900.

During the validity of the environmental approval, NGOs and local villagers raised concerns regarding the project, as part of the construction involved land under the Forest Conservation Department. Consequently, a meeting held on June 4, 2013, chaired by the Minister of Environment, advised a field investigation to verify land ownership, after which the CEA clarified that the land was not under the Forest Department's purview. The Land Commissioner confirmed that approval had been granted. Following these instructions, a joint field inspection took place on August 12, 2013, during which alternative proposals were discussed for the embankment and power plant construction.

After the SEA informed the CEA of a revised project location on May 30, 2014, another inspection was conducted on June 24, 2014. The resulting supplementary reports were evaluated and subsequently approved by the CEA's technical committee, with an additional requirement to gather recommendations from the District Secretary to address any technical and logistical issues before finalizing approval. According to submissions by the complainant, the revised project amendment was shared on July 21, 2014, followed by an additional environmental report submitted on October 4, 2016, explaining that adverse weather caused delays.

On September 22, 2017, the CEA forwarded the additional report to the Central Provincial Environmental Authority, and nearly a year later, on March 22, 2019, it requested Rs. 50,000 from the complainant to visit the revised location, taking approximately 2 1/2 years to process this request. The complainant notes that the CEA took 2 1/2 years to review the reports they submitted regarding the amendment, without providing adequate justification for these delays.

Following the August 12, 2013 inspection and related decisions, villagers voiced concerns that the new project location might impact their water supply, although this claim lacks documentary support, as per the CEA's June 3, 2019, letter. On October 12, 2019, the Oversight Committee reviewed the interim report initially submitted by the complainant on October 11, 2016, noting that three years had passed since then. Despite a joint investigation and discussions with relevant institutions, the technical committee ultimately deemed the proposed revised locations unsuitable, resulting in the cancellation of the project's license.

The complainant was given a 30-day period to appeal the license cancellation to the Secretary of the Ministry of Environment, but, due to the project director being abroad, they requested an extension. However, the CEA did not communicate this extension request to the Secretary. Consequently, the appeal submitted on August 27, 2019, was rejected. Although the SEA advised the CEA on August 19, 2021, to allow the project continuation within 14 days, the CEA has not responded.

Over the nearly three-year review period of the complainant's revised submission, the CEA provided no valid reasons for the delays. The complainant sought an extension to appeal the cancellation due to the director's absence abroad. Given the project's national significance and substantial investment, no action was taken within 30 days to address the request to the CEA. It is noted that both the CEA and the Secretary of the Ministry of Environment failed to exercise due diligence in processing the complaint.

During the project's valid environmental approval period, the respondent created institutional barriers, impeding project progress despite the complainant securing all necessary permits. The project, aimed at advancing the country's economy and public benefit, had obtained formal approvals and conducted public consultations. Despite significant financial investments, revised project proposals have led to further delays.

It is observed that nearly 10 years have passed since the initial CEA approval (dated September 6, 2010) to the project's cancellation decision (dated June 3, 2019), with the revised locations deemed unsuitable. This prolonged process has hampered national development, causing considerable financial losses. The final decision, after a decade, to cancel licenses based on the inappropriateness of respondent-proposed amendment sites, has resulted in substantial losses for the complainant, and points to ineffective actions from several government agencies, particularly the CEA. It is concluded that the respondents violated the complainant's rights to legal recourse and protection under Article 12(1) of the Sri Lankan Constitution by not following due process.

Furthermore, the actions of the respondents have infringed upon the complainant's fundamental rights as outlined in Article 14(1)(g) of the Sri Lankan Constitution.

Commission Recommendations

1. Regarding the violation of the complainant's fundamental rights, the Central Provincial Council's Central Environmental Authority, responsible officers, and the relevant Ministry Secretary should conduct an investigation and take appropriate action.
2. The CEA should assess and compensate the complainant for the financial loss incurred.

Under Section 15(7) of the Sri Lanka Human Rights Commission Act No. 21 of 1996, respondents are instructed to implement this recommendation by September 26, 2024, and submit a report to the Commission. The complainant has a one-week window from the implementation date to notify the Commission of compliance; requests received after this deadline will not be considered.

Sgd

Chairman
Human Rights Commission of Sri Lanka

Commissioner
Human Rights Commission of Sri Lanka

Copies:

1. Minister of Environment, Ministry of Environment
2. Secretary, Ministry of Environment
3. Chairperson, Bureau of Geological Survey and Mines
4. Chairperson, Sri Lanka Sustainable Energy Authority
5. Chairperson, Public Utilities Commission of Sri Lanka

Recommendation No 05

Complainant

Rukshan Fernando
3/4, Gamunu Mawatha
Attidiya
Dehiwala.

Respondent

Navy Commander
Sri Lanka Navy
Navy Headquarters
Colombo.

HRCSL Application Case No: HRC/KI/015/2021

Synopsis of the Complaint

The complainant made a complaint to the Human Rights Commission of Sri Lanka (HRCSL) on 05th March 2021 alleging that inter alia his freedom of movement guaranteed under Article 14(1) (h) of the Constitution had been infringed.

The Complainant stated that he, along with two other journalists, had arrived on the morning of 5th March 2021 at Iranaimathanagar in Mulankavil with the intention of visiting Iranaitheevu. However, the Sri Lanka Navy at the relevant checkpoint prevented the Complainant and the other two persons from boarding a boat and travelling to the island. The Complainant alleged that his freedom of movement had been violated by the prevention of his entry into Iranaitheevu.

The relief requested by the Complainant included urging the Commission to recognize that an infringement of his fundamental rights had taken place, and to make appropriate recommendations under section 15 of the HRCSL Act. The complainant also requested compensation, including for the cost of his travel to Iranaitheevu.

Action taken by the Jaffna Regional Office of the HRCSL

1. Report from the Sri Lanka Navy Headquarters

The HRCSL, through its Regional Coordinator at its Jaffna Regional Office, called for a report from the Sri Lanka Navy Headquarters with respect to the complaint made by the Complainant.

The Regional Coordinator inquired (a) whether the Navy denied any citizen entry into Iranaitheevu and (b) if so, what the legal basis of such denial was.

The Sri Lanka Navy, by a letter sent on behalf of the Commander of the Sri Lanka Navy, dated 16th March 2021, informed the Commission that a “communication gap” had occurred between the Sri Lanka Navy Headquarters and the North Central Naval Area (ie, the Naval Area to which Iranaitheevu belongs) and that no journalists had been denied entry into the said island. Furthermore, it stated that if any journalists wished to travel to the said island in the future, they should inform the Sri Lanka Navy, which can provide assistance with respect to travelling to the island.

2. Report from the District Secretary, Kilinochchi

The HRCSL, through its Regional Coordinator at its Jaffna Regional Office, called for a report from the District Secretary of Kilinochchi. In the said report, the District Secretary stated that, as per the information provided by the Poonagary Divisional Secretary, there was a procedure that if any non-residents of Iranaitheevu wished to enter Iranaitheevu, they have to obtain permission from the District Secretary of Kilinochchi. The Commission thereafter inquired from the District Secretary: (a) whether there are any restrictions imposed on the residents of Iranaitheevu to exit Iranaitheevu : (b) whether there are any restrictions on non-residents of Iranaitheevu entering Iranaitheevu and (c) if so, what the basis for such restrictions were.

The District Secretary of Kilinochchi responded as follows;

1. There are no restrictions to the residents of Iranaitheevu to exit Iranaitheevu.
2. There was an initiative that began in Iranaitheevu on 14th February 2021 to commence an “export village” and that non-residents who wished to participate in the initiative were expected to inform the Sri Lanka Navy if they needed to obtain the services of the Navy for the purpose of transportation. It was clarified that it was only in those circumstances that non-residents were expected to inform the Sri Lanka Navy of the time of travel, i.e., to obtain transportation services. Apart from such circumstances, it was clarified that there were no other restrictions with respect to travelling to Iranaitheevu.
3. Since there is no police post in Iranaitheevu, the Sri Lanka Navy is usually vigilant with respect to illegal activities. Therefore, the Sri Lanka Navy usually checks the identify of non-residents who wish to enter Iranaitheevu.

The Complainant’s Submissions

In response to the explanations made on behalf of the Commander of the Sri Lanka Navy dated 16th march 2021, the Complainant contended that the nature of the ‘communication gap’ was not explained and that this ‘communication gap’ had led to him being prevented from travelling to Iranaitheevu by the Sri Lanka Navy officers attached to the North Central Naval Area on 05th March 2021.

The complainant also claimed that the official spokesperson of the Sri Lanka Navy had been quoted in two separate media outlets on the same day of the incident and had stated that the Sri Lanka Navy only allowed residents of the island to enter the island, implying that non-residents were not permitted. Furthermore, he cited an eyewitness account of a journalist that Sri Lanka Navy personnel were following a 'list' provided by the District Secretariat, permitted only island residents to enter Iranaitheevu.

Consideration of the Merits

The freedom of movement is a fundamental human right, recognized under international human rights law and under Article 14(1) (h) of the Constitution of Sri Lanka.

Article 12 of the International Covenant on Civil and Political Rights (ICCPR) specifically recognizes the freedom of movement. In General Comment No. 27, the United Nations Human Rights Committee has clarified the scope of this freedom. It has observed that 'the right to move freely relates to the whole territory of a State' and such right 'precludes preventing the entry or stay of persons in a defined part of the territory'. Moreover, the enjoyment of this right 'must not be made depend on any particular purpose or reason for the person wanting to move or to stay in a place'.

Under the ICCPR, the right to freedom of movement can only be restricted in exceptional circumstances, i.e., the restriction must be provided by law, and must be necessary for the protection of a legitimate interest mentioned in Article 12(3) of the ICCPR. Therefore, as clarified by the Human Rights Committee in General Comment No. 27, any restriction on the freedom of movement must be based on clear legal grounds and be necessary and proportionate in a democratic society for the protection of national security, public order, public health or morals, or the rights and freedoms of others, and must also be consistent with the other rights contained in the ICCPR.

Under the Sri Lankan Constitution, the right guaranteed by Article 14(1) (h) may be limited under Article 15(6) and (7) of the Constitution. Any restriction on the freedom of movement must be by 'law'. Furthermore, the Supreme Court in *Thavaneethan Vs. Dayanada Dissanayake* (2003) 1 Sri LR 74 has clarified that 'law' in terms of Article 15(7) only includes regulations issued under the Public Security Ordinance , No. 25 of 1947 (as emended).

The legitimate grounds on which the right to the freedom of movement can be limited under Article 15(6) and (7) of the Constitution include the interests of national economy, national security, public order and the protection of public health or morality, and the rights and freedom of others.

In *Vadivelu Vs. Officer in Charge, Sithambarapuram Regional Camp Police Post, Vavuniya and others* (SC (F.R.) No: 44/2002), Justice Fernando observed.

The restrictions on the freedom to travel [in this case] were comparable to the procedures often applicable to obtaining a visa for travel to a foreign country, with no assurance that permission would be granted. Cumulatively, they were significant restrictions on the petitioner's freedom of movement and residence guaranteed by Article 14(I)(h). He held : There is force in the respondent's contention that the restrictions complained of were imposed in the interests of national security and were reasonably necessary for that purpose. However, Article 15(7) required that such restrictions be imposed by a law, or by regulations made under the law relating to public security. Accordingly, the travel pass system constitutes a restriction not authorized by Article 15(7).

Therefore , in this case, the Supreme Court found that a travel pass system that was not authorized by law was not in compliance with Article 15(7) of the Constitution.

Applying the same reasoning to the present complaint, it is observed that the restriction of the complainant's freedom of movement on 05th March 2021 is inconsistent with Article 14(1) (h) read with Article 15(6) and (7) of the Constitution, as it was not a restriction by 'law', it is observed that the Sri Lanka Navy was not, at such time, authorized to act as a competent authority under any law and or any Emergency Regulations issued by the President under the Public Security Ordinance.

In the letter dated 16th March 2021, on legal provisions were cited by the Respondent in explaining the circumstances in which the Complainant was prevented entry into Iranaitheevu. Moreover, no legal provisions were cited as a basis for the Respondent's comment that journalists who wished to travel to the said Island should inform the Sri Lanka Navy.

The Commission notes that the Respondent did acknowledge that the freedom of movement of the Complainant had been restricted due to a 'communication gap', and that no legal restrictions were in fact applicable with respect to the Complainant's entry into Iranaitheevu.

In the absence of any law that authorizes the Sri Lanka Navy to restrict or regulate the freedom of movement of citizens to and from Iranaitheevu, the said restriction on the Complainant's entry into Iranaitheevu, regardless of any explanation with respect to a 'communication gap', amounts to an infringement of the Complainant's fundamental rights.

The Commission accordingly finds that the Complainant's freedom of movement guaranteed by Article 14(1)(h) of the Constitution was infringed on 05th March 2021.

Although the Complainant separately alleged an infringement of his fundamental right to the freedom of expression, the Commission decided not to consider the merits of this claim in view of the fact that the Complainant was free to express his criticism of the impugned restriction on his freedom of movement. Moreover, the Commission was of the view that the award of compensation and/or costs was not appropriate in this case.

Recommendations

The Commission is of the view that, given the possibility of future similar infringements on the freedom of movement of citizens seeking to enter into Iranaitheevu, it was not appropriate to refer this matter for conciliation or mediation, and that certain recommendations need to be made to the Respondent.

In terms of section 15(3) © and (4) of the HRCSL, Act, the following recommendations are made to the Commander of the Sri Lanka Navy.

- a) Refrain from imposing any restrictions (including requirements to obtain prior authorization or give prior notice) on the Complainant or any other citizen of Sri Lanka with respect to entering Iranaitheevu unless such restrictions are by ‘law’ in accordance with Article 15(6) and (7) of the Constitution;
- b) Issue clear written instructions in the form of a circular to the relevant officers stationed in the North Central Naval area directing the same to permit all citizens of Sri Lanka to enter Iranaitheevu without any restrictions, including the need for prior authorization or notice;
- c) Provide a copy of such instructions to the HRCSL.
- d) Within one month of the receipt of these recommendations, report back to the HRCSL on the progress made with respect to measures taken to implement recommendations a), b) and c).

Chairman
Human Rights Commission of Sri Lanka.

Commissioner
Human Rights Commission of Sri Lanka.

Copies to :

01. Minister
Ministry of Defense
Defense Headquarters, Sri Jayawardenapura.
02. Regional Coordinator
Human Rights Commission Regional Centre
Jaffna.