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இலங்கை மனித உரிமைகள் ஆணைக்குழு  
Human Rights Commission of Sri Lanka



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*ANNUAL REPORT* 2020

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This is the Annual Report of the Human Rights Commission of Sri Lanka on its activities in 2020. It is submitted in compliance with section 30 of the Human Rights Commission of Sri Lanka Act No.21 of 1996.

Human Rights Commission of Sri Lanka

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# **Members of the Commission 2020**

## **Chairperson**

Dr. Jagath Balasuriya

*(From 10 December 2020)*

Prof. Nelum Deepika Udagama

*(Up to 31 August 2020)*

## **Commissioners**

Dr. M.H. Nimal Karunasiri

*(From 10 December 2020)*

Dr. Vijitha Nanayakkara

*(From 10 December 2020)*

Ms. Anusuya Shanmuganathan

*(From 10 December 2020)*

Mr. H.K. Navaratne Weraduwa

*(From 10 December 2020)*

Mr. H Ghazali Hussain

*(Up to 10 December 2020)*

Ms. Ambika Satkunanathan

*(Up to 7 March 2020)*

Ms. Ramani Muttettuwegama

*(Up to 10 December 2020)*

Ms. Deepika Subasinghe

*(Up to 10 December 2020)*

## Message of the Chairman

The year 2020 was identified as the year for holding general elections, and the people hoped to use their sovereignty to elect representatives to parliament for the next five years. With such a backdrop, the year began and there were indications at the beginning of the year that the world was facing health challenges different from other years, and Sri Lanka could not escape it. Following the introduction of the coronavirus as an pandemic by the World Health Organization (WHO) in 11th January, 2020, Sri Lanka also began to deal with it. The first case of coronavirus was diagnosed in Sri Lanka on 27th January, 2020, and the patient was a 44-year-old Chinese woman. The first Sri Lankan corona patient was identified on March 11 and since then Sri Lanka has begun to adopt procedures similar to those used by other countries in the world regarding corona pandemic. Isolation of selected areas where patients were reported was initiated and they were provided with the necessary facilities by the health authorities and the police and other security forces. From January 28, the Epidemiology Unit of the Ministry of Health publishes data on a daily basis and 12 hospitals island wide have been set up as treatment centers for people suspected of having Covid – 19. National holidays were declared with effect from March 16, with the aim of preventing the spread of the coronavirus. During that time, the heads of the institutions were informed to start a system to encourage the staff to perform their duties from home.

The corona pandemic was seen as another manifestation of human rights problems in the country. A problematic issue that arose during this period was the creation of controversy in the country over the manner in which the final rites of persons dying of corona infection would be performed. At that time, the health authorities in Sri Lanka were of the opinion that the bodies of every Sri Lankan who died of coronavirus should be cremated in a crematorium. It was emphasized that no burial should take place. At the time, it was reported that there was a risk of the coronavirus mixing with groundwater and spreading through the burial ground. The Sri Lankan Muslim community has expressed opposition to the issue on religious and cultural grounds and has repeatedly called on health officials to allow the burial of loved ones who die of corona infection. The Human Rights Commission of Sri Lanka (HRCSL) pointed out that the Commission should take a decision in this regard together with the Muslim community leaders, taking into account the cultural sensitivities involved in implementing this sensitive issue. Observations and recommendations of the

Human Rights Commission of Sri Lanka were submitted to the Secretary to the Ministry of Health and the Director-General of Health Services regarding the Extraordinary Gazette Notification No. 2170/8 dated 20.04.2020. The focus was on the final rites of corpses of people who died of coronavirus infection.

A tense situation developed in the Anuradhapura prison on March 21 due to the fact that there is a high risk of the coronavirus spreading inside the prison. Two detainees were killed and six others were injured in the unrest, and the Human Rights Commission of Sri Lanka (HRCSL) intervened immediately. The Commission recommended to the Commissioner-General of Prisons that prison inmates be protected from the coronavirus and that isolation facilities in prisons be made available as soon as possible. It also called on the President to take immediate action to ensure the safety of prison inmates, taking into account the health problems caused by the Corona pandemic. The second incident that occurred inside the prisons this year took place on 28.11.2020 at the Mahara Prison. The Human Rights Commission of Sri Lanka immediately intervened in this conflict. In a very short period of time, the Human Rights Commission of Sri Lanka (HRCSL) deployed a team of officials to the scene of the conflict and assisted in controlling the situation. The Human Rights Commission of Sri Lanka (HRCSL) has issued recommendations regarding this incident and has made recommendations for action in four phases, immediate, short-term, medium-term, and long-term.

In the Covid-19 situation, the Director-General of Government Information was informed in writing of the importance of the use of sign language in broadcasting emergency news statements via visual media. The Human Rights Commission emphasized the need for proper communication of messages to the public through emergency news to all without discrimination.

During the month of May, when the country was not functioning normally, a process of reclaiming sand from the deep sea areas based in Mt. Lavinia and Angulana was reported and, a team of Human Rights Commission officials visited the area and reported the situation to the Commission accordingly, after which inquiries were made from the relevant parties.

The Human Rights Commission of Sri Lanka (HRCSL) has issued guidelines and regulations to the relevant institutions to ensure that no one misses out on the 2020 Parliamentary Elections. The Elections Commission paid special attention to a code of conduct proposed by political parties and independent groups contesting elections. The Human Rights Commission of Sri Lanka (HRCSL)

appealed to the candidates of the political parties / independent groups contesting the 2020 Parliamentary Elections to refrain from acting in a manner that would incite hatred or intolerance towards any party based on the existing social changes in the Sri Lankan society and commenting in such a way as to cause such feelings. The Human Rights Commission of Sri Lanka (HRCSL) appealed to all media institutions in Sri Lanka to focus on the media criteria set by the Election Commission. At its core, the Human Rights Commission of Sri Lanka (HRCSL) emphasizes the need to refrain from broadcasting, promoting, or publishing in a manner that would create or incite hatred and intolerance among the Sri Lankan people based on the differences that exist within Sri Lanka. And to refrain from broadcasting, advertising, and publishing in a manner that promotes hate politics in society or in political activists. The Human Rights Commission of Sri Lanka (HRCSL) has issued guidelines to all government officials and police officers targeting this election. The essence of the guidelines is that all their duties should be performed in accordance with the law, and that non-compliance with the law is a violation of the fundamental rights of the people by abusing power to the advantage of one party. In addition to the government's liability for rights violations caused by non-compliance with the law, those officials should be held personally responsible. In addition, the Human Rights Commission of Sri Lanka (HRCSL) has informed the Ministry of Public Administration and Home Affairs, the Ministry of Labor, and the Board of Investment of Sri Lanka that all citizens, regardless of their place of employment, should be provided with adequate leave without loss of pay at the forthcoming General Election. In addition, a special complaint receiving unit was set up for the 2020 parliamentary elections. Accordingly, the Human Rights Commission monitored the general elections to be held on August 05, 2020, with a special focus on ensuring that the elections were free, fair, free from influence, and will not leave anyone behind.

An inquiry was made from the IGP on 21.10.2020 regarding the deaths of the suspects who were in police custody during this year. The letter drew the attention of the IGP to this matter and the Commission recommended that necessary steps be taken to prevent such incidents in the future.

The Human Rights Commission of Sri Lanka conducted a study on prisons from February 2018 to March 2020. The study focused on the extent to which Sri Lanka's current prison system operates in line with Sri Lanka's accepted human rights conventions. A comprehensive report was prepared in this regard and it contains the current prison system in Sri Lanka, the human rights issues in it, and the recommendations made by the Human Rights Commission of Sri Lanka

on its rectification. The report has been forwarded to all responsible parties and is currently being posted on the Human Rights Commission's website in a way that is accessible to all.

The implementation of this year's human rights programs, which had restrictions on travel, was somewhat limited. Despite this, the Human Rights Commission of Sri Lanka (HRCSL) took steps to celebrate International Women's Day. This year's Women's Day celebration was held under the theme "Countering Technology-based Violence against Women". This was conducted with the participation of women activists representing NGOs and government officials representing GOs.

Overall, the year 2020 was a challenging period for the Human Rights Commission of Sri Lanka. During the Covid-19 pandemic, remote work was done using available resources during times when our offices were not physically open. Working remotely in the face of the epidemic and facing new challenges occurred during this time, and it must be said that it was a rehearsal for future interventions. In addition, the United Nations agencies, the Asia-Pacific Forum of National Human Rights Institutions, the Global Alliance of National Human Rights Institutions, the media, civil society organizations and finally, we would like to thank all those who have personally joined and encouraged the Human Rights Commission of Sri Lanka.

Dr. Jagath Balasuriya,  
Chairman,  
Human Rights Commission of Sri Lanka.  
31st December 2020

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Appendix 3: List of suo motu inquiries undertaken	

## LIST OF ACRONYMS

A & F	Administration & Finance
APF	Asia Pacific Forum
CCD	Colombo Crimes Division
CID	Criminal Investigation Department
CORE Justice	Coherent, Open, Responsive and Effective Justice Program
CTF4HR	Community Task Forces for Human Rights
DIG	Deputy Inspector General
DMS	Department of Management Services
DoP	Department of Prisons
ED&SP	Education & Special Programmes
EU	European Union
HQI	Head Quarters Inspector
HRCSL	Human Rights Commission of Sri Lanka
I & I	Inquiries & Investigations
ICCPR	International Covenant on Civil and Political Rights
IGP	Inspector General of Police
IR	International Relations
JMO	Judicial Medical Officer
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning
MFA	Migrant Forum in Asia
NGOs	Non-Governmental Organizations
NPM	National Preventive Mechanism
OHCHR	Office of the United Nations High Commissioner for Human Rights
OMP	Office on Missing Persons
OPCAT	Optional Protocol to the International Convention Against Torture
R&M	Research & Monitoring
SoR	Scheme of Recruitment
TID	Terrorist Investigation Division
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
WFH	Work From Home schemes

## **State of Human Rights in Sri Lanka 2020**

The COVID-19 pandemic with its unprecedented challenges set the tone for the human rights situation in Sri Lanka in 2020. While some areas of human rights showed improvement, an overall shrinking of democratic ideals and democratic spaces for citizens to exercise vigil over government actions was witnessed during the year.

At the beginning of the year, Sri Lanka withdrew its support for resolutions 30/1, 34/1, and 40/1 of the UN Human Rights Council on post-conflict transitional justice, accountability, and reconciliation with a commitment to establish domestic mechanisms. Thereafter, the President dissolved the Parliament in March 2020 with the intention of holding the elections in April, which was postponed twice due to the Pandemic. As a result, many of the COVID-19 responses during May-August eluded Parliamentary scrutiny and oversight, instead being implemented through presidential taskforces.

Next, at the outset of the COVID-19 pandemic, the Commission received complaints and expressions of concern from persons of various religions including Muslims, Christians, and Buddhists against the government policy mandating cremations for all COVID-19 deaths, despite World Health Organization guidelines permitting burials. The performance of final religious rites such as those performed at burial ceremonies is sacrosanct for certain religions and a form of manifestation of religion or beliefs which cannot be restricted except according to Constitutional and international human rights obligations. HRCSL made recommendations to the government on this issue which urged the government to retract the policy.

Thereafter, in October 2020, the newly elected Government which had a two thirds majority in the house, passed the 20th Amendment to the Constitution, which removed some of the important checks and balances introduced by the 19<sup>th</sup> Amendment to the Constitution and extended executive power in respect of appointments to the judiciary and independent Commissions.

As it did at the Presidential Election of 2019, the Commission focused extensively on the right to exercise franchise in an inclusive manner during the Parliamentary Election held in August 2020. Similar to 2019, HRCSL made interventions to ensure all registered voters were able to cast their votes, including recommending the state to provide for special allowances to guarantee the right to vote of persons with disabilities or with special needs and

persons who are geographically isolated. The Commission also advocated the Elections Commission to take necessary steps to avoid undue influence of voters at polling stations and to take steps to prevent harassment and violence against supporters of defeated parties at village and institution level post-election. The Commission also made appeals to the media to necessarily comply with the Media Guidelines issued by the Election Commission as media organizations have an obligation to provide accurate, balanced, and impartial information to assist the voting public. HRCSL also made a public appeal to political parties/independent groups and candidates contesting the election to abstain from hate speech.

Perhaps as a result of the COVID-19 containment efforts, the total number of complaints received by the Commission plunged from 8983 in 2019 to 6417 in 2020. However, unlike in the previous years, both the head office and the regional offices received roughly the same number of cases. This could be attributed to the option made available for complaints to be submitted electronically during COVID-19 lockdown periods. As is usual, of the complaints received during the year, those relating to the infringement of personal liberty were the highest. It is interesting and perhaps concerning to note that this category of complaints has a higher number than the previous reporting period despite the overall drop in the number of complaints received by the Commission. Further, 502 out of 853 complaints against government inaction were against the police. The third highest number of complaints at 717 related to employment, which however, has declined considerably from the previous reporting year. Complaints against violations of education related rights such as admissions to schools remained comparatively low, displaying a similar downward trajectory since 2015.

Within the broader category of violations of personal liberty, complaints relating to violations of arbitrary arrest and detention have increased from 775 in 2019 to 910 in 2020. Continued high numbers of complaints regarding torture in custody, and arbitrary arrest and detention concerns the Commission. Similarly, complaints of deaths in custody, of extra-judicial killings, and complaints regarding the violation of prisoners' rights warranted closer scrutiny. The Commission made several interventions with relevant authorities on these areas. HRCSL reiterates the importance of sensitizing law enforcement and detention authorities on the law relating to the prohibition of torture and unlawful arrest and detention and strictly enforcing the law against errant officers including prosecuting wrongdoers, in order to eliminate the recurrence of these violations.

## **CHAPTER 1: THE COMMISSION**

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### **1.1. Overview of the Commission**

#### **1.1.1. Vision**

#### **1.1.2. Mission**

#### **1.1.3. Core values**

#### **1.1.4. Strategic focus areas**

#### **1.1.5. Crest of the Commission**

### **1.2. Nature and Scope of the mandate**

### **1.3. Organizational Structure**

# Commission

## 1.1 Overview of the Commission

### 1.1.1. Vision

A society that recognises diversity and respects the human rights of all.

### 1.1.2. Mission

To provide leadership in Sri Lanka in promoting and protecting human rights, human dignity and the rule of law within a democracy based on the sovereignty of the people.

### 1.1.3. Core Values

- Respect for human dignity
- Respect for diversity
- Equality and non-discrimination
- Peace, truth and justice
- Independence
- Accountability
- Service
- Humility
- Integrity
- Transparency

### 1.1.4. Strategic focus areas

Strategic operational focus areas of the Commission are:

- Accessibility of the HRCSL and its services to all people, especially the poor and marginalized
- Gender mainstreaming within and through the HRCSL and its programs and services
- Recognition of and respect for diversity within the HRCSL and through its programs and services

The substantive strategic focus areas of the HRCSL are:

- Torture/custodial violence
- Rights of migrant workers
- Economic, social and cultural rights, including education, health and land rights
- Gender issues
- Minority rights
- Up-country Tamils and plantation workers
- Disaster management and recovery
- Rights of people with disabilities
- Rights of lesbian, gay, bisexual, transgender, intersex, and queer people
- Rights of the elderly
- Prisoners and detainees

#### **1.1.5. Crest of the Commission**

The crest of the HRCSL conveys the responsibility of the National Human Rights Institution to protect and promote human rights at the national level. The colour blue reflects the liveliness and creativity of human beings. The two hands reflect protection and taking of action for protection. The globe reflects the universality of human rights and the protection afforded at the international level. The map of Sri Lanka reflects the necessity to take action for protection at the national level. The figures of a woman, man, and child symbolize that human rights protection should be afforded equally to all.



## 1.2 Nature and scope of the mandate

HRCSL is an independent Commission, established to promote and protect human rights in the country. The Commission is also mindful of Sri Lanka's international human rights obligations and strives to ensure the country abides by these obligations.

The Commission was established in 1996 by the Human Rights Commission of Sri Lanka Act, No. 21 of 1996 (the Act). The Act sets out the legal basis and operational principles of the HRCSL. The HRCSL is a scheduled commission under the 19<sup>th</sup> amendment to the Constitution of Sri Lanka but it is not formally established by the Constitution. The Chairperson and Members of the Commission are appointed by the President on the recommendation of the Constitutional Council. The Commission is answerable to Parliament.

Under the Act Commissioners hold office for a period of three years and are eligible for reappointment. Under Section 4 of the Act, Commissioners are guaranteed security of tenure with removal made possible only after following procedure akin to the removal of Justices of the Supreme Court and Court of Appeal.

The Act recognizes the jurisdiction in the Commission in terms of fundamental rights and human rights. Fundamental rights are certain civil and political rights as well as economic, social and cultural rights guaranteed in Chapter III of the Constitution of the Democratic Socialist Republic of Sri Lanka. Human rights are defined in the Act as "rights declared and recognized by the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)" thus empowering the Commission to ensure national standards are in compliance with international legal obligations of Sri Lanka.

The statutory functions of the Commission (as set out in Section 10 of the Act) are:

- to inquire into, and investigate, complaints regarding procedures, with a view to ensuring compliance with the provisions of the Constitution relating to fundamental rights and to promoting respect for, and observance of, fundamental rights;

- to inquire into and investigate, complaints regarding infringements or imminent infringements of fundamental rights, and to provide for resolution by conciliation and mediation;
- to advise and assists the government in formulating legislation and administrative directives and procedures, in furtherance of, the promotion and protection of fundamental rights;
- to make recommendations to the Government regarding measures which should be taken to ensure that national laws and administrative practices are in accordance with international human rights norms and standards.
- to make recommendations to the Government on the need to subscribe or accede to treaties and other international instruments in the field of human rights; and
- to promote awareness of, and provide education in relation to, human rights.

To carry out the statutory functions, the HRCSL is empowered to (as set out in Section 11 of the Act);

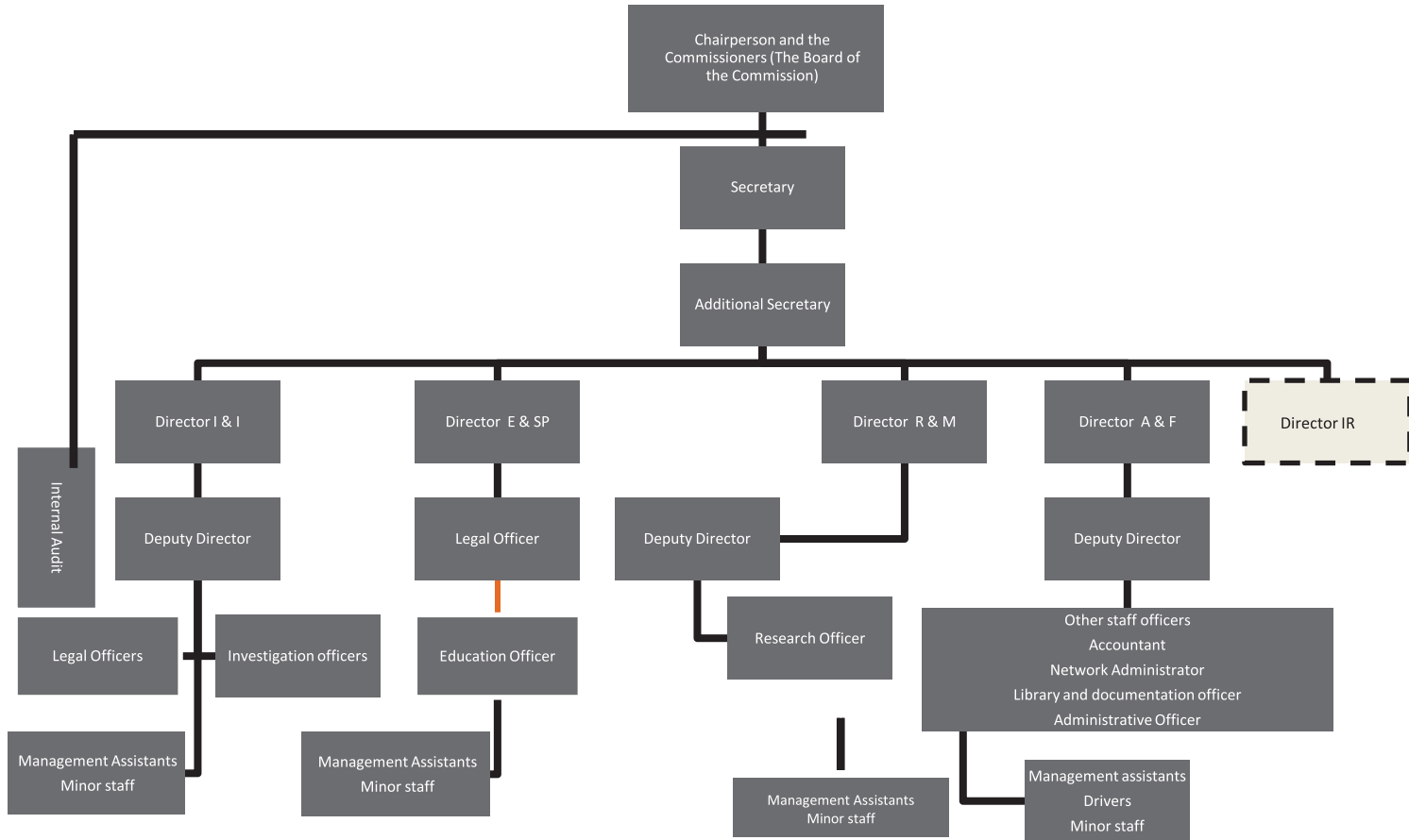
- investigate, any infringement or imminent infringement of fundamental rights;
- appoint such number of sub-committees at provincial level, as it considers necessary to exercise such powers of the Commission as may be delegated to them, by the Commission;
- intervene in any proceedings relating to the infringement or imminent infringement of fundamental rights, pending before any court, with the permission of such court;
- monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make recommendations necessary for improving their conditions of detention;
- take such steps as it may be directed to take by the Supreme Court, in respect of any matter referred to it by the Supreme Court;
- undertake research into, and promote awareness of, human rights, by conducting programs, seminars workshops and to disseminate and distribute the results of such research;
- award in its absolute discretion to an aggrieved person or a person acting on behalf of an aggrieved person, such sum of money as is sufficient to meet the expenses that may have been reasonably incurred by him in making a complaint to the Commission.
- do all such other things as are necessary or conducive to the discharge of its functions.

## 1.3 Organizational Structure

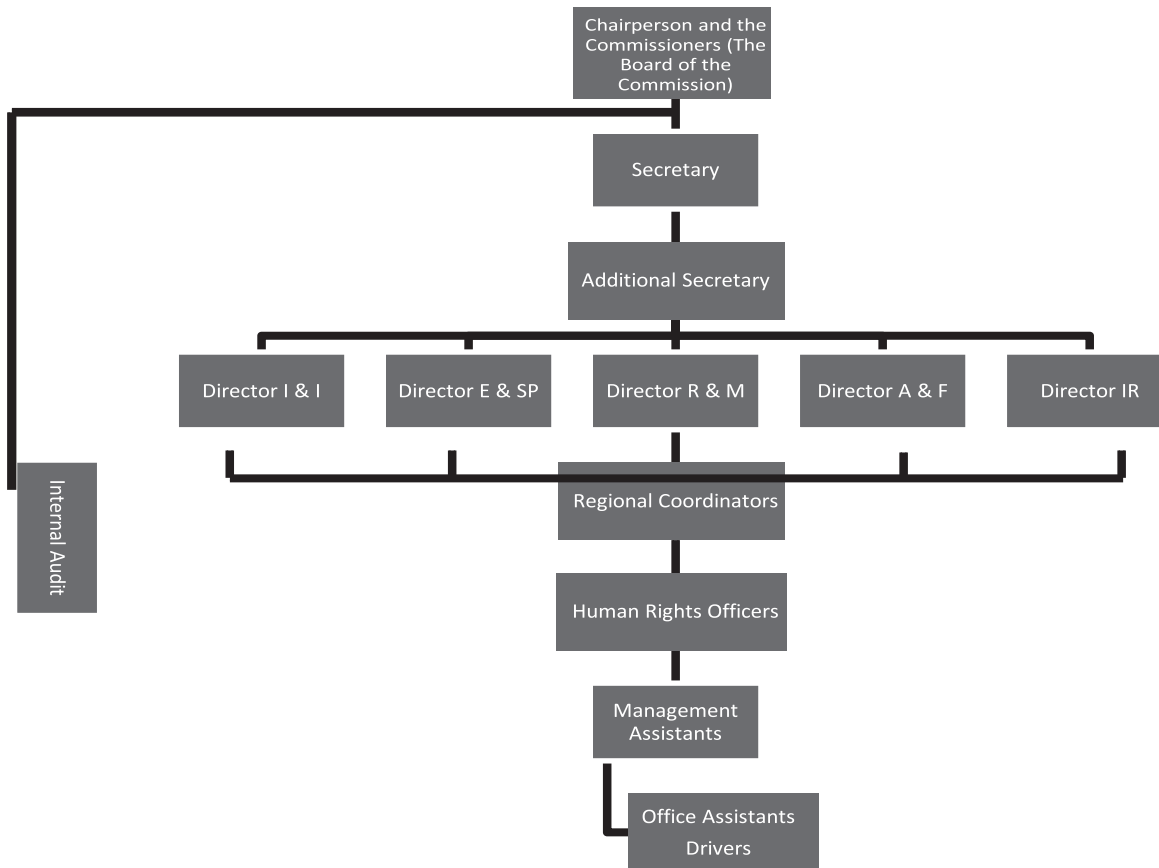
At the apex of the organization is the Board of the Commission, comprising the Chairperson and Commissioners. It takes policy decisions for the discharging of the statutory mandate of the Commission. Board Meetings are held each month. The term of the Commission appointed in 2015 lapsed in 2020. As a result, a new Chairperson and Commissioners were appointed to the Commission on 10 December 2020 by His Excellency, the President.

At present, the Commission functions with 148 staff members. It consists of 04 Divisions namely: Inquiries & Investigations (I&I), Education & Special Programmes (ED&SP), Research & Monitoring (R&M), and Administration & Finance (A&F) Divisions. A Division on International Relations (IR) will be operationalized as soon as the Commission is in a position to recruit requisite staff. Each Division is headed by a Director and supervised by the Chairperson and/or a Commissioner/ Commissioners.

In addition, the Commission operates through 10 Regional Offices (Ampara, Anuradhapura, Badulla, Batticaloa, Jaffna, Kalmunai, Kandy, Matara, Trincomalee and Vavuniya), and three sub-offices (Kilinochchi, Mannar, and Puttalam) to carry out its functions (See appendix 1). Each regional Office is headed by a Regional Coordinator and supervised by the Chairperson and/or a Commissioner/ Commissioners. The HRCSL operates at regional level in order to increase protection of human rights and bring the work of the Commission closer to the people. The majority of the population accesses the Commission through the Regional and Sub-Offices. Regional and Sub-Offices therefore play a crucial role in the effective discharge of the Commission's mandate, going beyond that of a mere conduit between the Head Office and the people in the regions. These offices conduct a full range of activities including receiving complaints, investigating into allegations of violations, providing consultations on alleged violations of human rights, mediating in the settlement of disputes, referral of violations to the Head Office for recommendations, carrying out monitoring activities, conducting awareness raising at regional level, and collaborating and coordinating with civil society organizations.



Organogram of the HRCSL Head Office



Organogram of HRCSL Regional Offices

## **CHAPTER 2: YEAR IN REVIEW**

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- 2.1. Key achievements
  - 2.1.1. Investigations and inquiries
  - 2.1.2. Outreach programmes
  - 2.1.3. Institutional development
- 2.2. Recommendations to the Government
- 2.3. Other advocacy for reform
- 2.4. Vetting of Sri Lankan Military personnel  
to be deployed as UN peacekeepers
- 2.5. Challenges

## YEAR IN REVIEW

### 2.1. Key achievements

This Chapter provides a summary of some of the Commission's key achievements in the year 2020.

#### 2.1.1. Investigations and inquiries

As in previous years, the Commission assisted a plethora of people through its individual complaints mechanism and *suo motu* action (see chapter 3 for more details on types of complaints). While the Commission was able to provide assistance in many cases, where the Commission felt it was not the most appropriate forum for the grievance, complainants were directed to the appropriate institution for remedies. As much as the Commission is empowered by Section 15 of its parent statute to issue recommendations directing authorities to take action to remedy violations of human rights, the Commission also attempts to facilitate settlement of disputes through mediation and conciliation by providing a forum for all parties to an issue to come together and discuss their issues and identify redress quickly and informally.

In 2020, the Commission received 6417 complaints and concluded 3657 cases (which includes complaints accepted in previous years). Out of the 3657 concluded cases the Commission was able to successfully mediate settlements in 635 cases. The Commission issued 60 recommendations in response to individual complaints made to the Commission. While it is a decrease from previous years, it could be explained by the office closures necessitated by the COVID-19 pandemic and the increased intervention of the Commission in related matters such as monitoring activities which necessarily diverted the attention of relevant officials.

■ **Action taken on the incidents of violence at the Mahara prison**

The Commission commenced a *suo motu* inquiry pursuant to news reports received regarding an incident of prison unrest at the Mahara prison which culminated in the deaths of several prisoners and serious injuries to other prisoners and prison officers. It was reported that unrest occurred following rumours of COVID-19 infected prisoners being transferred to the Mahara Prison from other prisons which were overcrowded. Two fact-finding and monitoring missions were conducted to the Prison on 30 November and 01 December 2020 to ascertain the nature of the incidents which occurred. Despite the statutory mandate of the Commission which provides it unimpeded access to places of detention for monitoring purposes, on both occasions the officials of the HRCSL experienced delays in entering the facility and speaking to the prisoners. Based on the findings of these visits the Commission issued interim recommendations for immediate implementation to the relevant authorities.

Further, the HRCSL notified the Commissioner General of Prisons (CGP) to compile and furnish a list of the deceased prisoners, the injured, the COVID-19 infected prisoners, and of the prisoners who were directed to quarantine. The Judicial Medical Officer (JMO) of the Colombo North hospital was also directed to send in the postmortem reports of the 11 deceased prisoners and the reports of the injured prisoners treated by him. The Commission in this correspondence noted that the bodies form part of an investigation that has already commenced and therefore, they should be preserved in a manner compatible with health requirements but not be cremated or destroyed even though the regulations in relation to disposal of bodies of those infected by the COVID-19 virus requires cremation. It also requested the JMO to seek permission from the Magistrate to transfer the bodies to the mortuary at the Infectious Diseases Hospital at Kotikawatte as it has the expertise and facilities to perform autopsies on people infected with COVID-19. The JMO informed the Commission that the postmortems of the 11 deceased prisoners were not yet concluded due to magisterial order to transfer the remains of the deceased to the Infectious Diseases Hospital in Kotikawatte and for the postmortems to be conducted by a multidisciplinary committee. The JMO further requested for time to submit the required report to the Commission as a similar report has been requested by the magistrate, which



therefore requires additional time to compile. Additionally, he also informed that the injured prisoners were treated by multiple doctors while others were transferred to the Welikada prison hospital and as such only the reports of prisoners treated at Ragama Teaching Hospital could be produced after consulting with individual doctors who treated the patients. This inquiry was ongoing at the end of 2020.

### 2.1.2. Outreach programmes

Despite restrictions necessitated by the COVID-19 pandemic, the Commission successfully conducted a variety of outreach programmes in order to promote human rights awareness and educate the public on human rights issues. Outreach programmes included in-person and virtual public lectures, workshops, awareness campaigns and discussions.

#### ▪ Virtual events to mark commemorative days in 2020

The International Day in Support of Victims of Torture in 2020 was important for the Commission as it marked the first time the HRCSL hosted a virtual event necessitated by the COVID-19 pandemic related health guidelines. Two webinars in Sinhala and Tamil languages were held on 26 June 2020 on the theme “Torture and other Forms of Societal Violence in Sri Lanka: Parts of One Spectrum?” This theme was chosen in light of the understanding that often, various forms of social violence have common roots and that the HRCSL must work on all fronts to address endemic violence in society in view of the linkages between different types.



A message displayed on the Facebook page on equal access to education during the COVID-19 pandemic

In a pioneering move for the Commission, the International Human Rights Day 2020 was marked with the launch of a digital awareness campaign. Thematically focused on the COVID-19 pandemic, the campaign was designed to draw attention to the centrality of human rights in post pandemic recovery

efforts. The campaign was launched on the new Facebook page and Instagram account set up by the Commission using the hashtags #recoverbetter #standup4humanrights.

### **2.1.3. Institutional Development**

- **Launch of the new website**

The HRCSL launched its new website on 25 February 2020. The new and improved website, with an improved user-friendly interface, is intended to enable enhanced sharing of information and to improve the visibility of the interventions of the Commission. The high functionality of the website allows visitors to interact with the Commission without difficulty and allows complainants to submit complaints successfully.

- **Absorption of existing staff**

Pursuant to the HRCSL obtaining final approval for the Scheme of Recruitment (SoR) for all its cadre positions in May 2018 and authorization for the absorption of existing staff under the scheme from Department of Management Services (DMS) in 2019, the Commission absorbed the entirety of its entire existing staff to cadre positions approved by the SoR during 2020. As a result, the Commission commenced new recruitments for vacancies in 2020 in order to improve human resources and the efficiency of the Commission. (See chapter 7.2 for more information on Employment and Vacancies)

- **Further Improvement of the monitoring of the non-implementation of recommendations**

Continuing the success achieved through the reorganization of the I&I division in the previous years, the Commission wrote to the Minister of Ministry of Public Services, Provincial Councils and Local Government proposing the amending of the Establishment Code to remove obstacles faced in implementing the recommendations of the Commission. The Commission stated that it is mandated under its constituent Act to require any authority or person in respect of whom a recommendation is made by

the Commission to report to the Commission on action taken to give effect to such recommendation and that it is the duty of every such person to report to the Commission accordingly. In the event of the failure to report or the action taken, or proposed to be taken is in the view of the Commission inadequate, the Commission is empowered to report such to the President of Sri Lanka. The Commission observed that some public officials fail to give effect to the recommendations of the Commission. As a means of redressing this situation, it proposed an amendment to the Establishment Code which will enable disciplinary action for serious misconduct against the errant officer who fails to give effect to the recommendations of the Commission without a justifiable reason. (Please see Chapter 4.3 for more information on the monitoring of non-implementation of recommendations)

## 2.2. Recommendations to the Government

During 2020 HRCSL made recommendations to the Government on human rights issues of concern, which the Commission viewed as requiring its intervention.

- **Use of sign language on television channels during the telecast of special news items, regular news telecasts, and government notifications**

The Commission formally requested the Director General of the Government Information Department to inform all television channels to telecast simultaneous sign language translations of special news items, regular news telecasts, and government notifications. This request was made pursuant to a complaint received from the hearing impaired community in Sri Lanka, that they are deprived of information on the containment measures taken by the government to curb the spread of COVID-19 as sign language translations do not accompany such news. The Government Information Department was further requested to keep the Commission informed of the interventions it made in this regard.

- **The need for strict action as required by the law against hate speech**

While acknowledging and thanking the Sri Lanka Police for its tireless service to curb the COVID-19 pandemic, the Commission urged the acting IGP to take strict action against incidents of hate speech during the COVID-19 pandemic. HRCSL in its correspondence noted that it has received a number of complaints of hate speech directed against the Muslim community in the context of the COVID-19 pandemic. The Commission requested the IGP to take stern legal action against the perpetrators of such acts regardless of their status, in terms of Section 3 of the ICCPR Act No. 56 of 2007, as it is imperative to prevent any unrest that can result from such hate speech. It also drew attention to the guidelines on the application of the hate speech law issued by the Commission in the previous reporting year.

- **Limiting Freedom of Expression in a Democracy: The Need to Strike a Lawful Balance**

By letter dated 25 April 2020 the Commission stated that it observes a spate of arrests by the police on the basis of statements made over social media, especially in the context of the spread of COVID-19 virus in the country and pointed out to the acting IGP that any action taken to limit freedom of expression and other such rights in a democracy, even during a period of emergency, must be within the framework of the law, namely, the Constitution and Sri Lanka's international human rights obligations. It further stated that those laws require that limitations on rights should comply with the tests of legality, proportionality, and non-discrimination and guidance in this regard could be sought from the rich body of authoritative jurisprudence developed by the Supreme Court of Sri Lanka. It further emphasized that both the Constitution and our international human rights obligations permit adoption of extraordinary measures during emergencies without compromising human rights protection or the Rule of Law. As such, HRCSL recognized the need to lawfully curb misinformation that can cause panic and pose a serious threat to public order and public health when the entire country is facing an unprecedented public health crisis. However, the Commission underscored that such arrests must be legally valid, must not be arbitrary and disproportionate, and must not be

carried out in a discriminatory manner. It therefore, recommended the IGP to review the legal bases for recent arrests for misinformation to ensure that due process requirements are complied with and also ensure that any future arrests are strictly within the law. The Commission commenting on the warning issued by the Police Media Division to media institutions that legal action would be taken against those who criticize officials, stated that the said warning is deep concerning as it is bound to have a serious chilling effect on people's freedom of expression. Therefore, the Commission pointed out that any arrest for the mere criticism of public officials or policies would be unconstitutional. Further, in relation to curbing hate speech, the letter pointed out that it is essential to ensure that Section 3 of the ICCPR Act is invoked in a non-discriminatory manner providing protection to all communities.

▪ **Escalation of deaths of persons in police custody**

HRCSL observed an escalation of deaths of suspects while in police custody. The Commission exercising its *suo motu* powers directed the IGP to submit a comprehensive report explaining his observations regarding this matter by way of letter dated 21.10.2020. The Commission also highlighted the fact that the HRCSL is statutorily empowered to make recommendations regarding the wellbeing of detainees in custody. The *suo motu* inquiry into this matter continues.

▪ **Request to ensure the security of a remandee**

The Commission wrote to the Commissioner General of Prisons by letter dated 10.11.2020 requesting the prison authorities to take all possible measures to ensure the safety of remandee Fathima Sadiya. This letter was written pursuant multiple complaints the Commission received alleging that Ms. Sadiya's life was at risk after she gave evidence at the Presidential Commission of Inquiry on the Easter Sunday attack. Fathima Sadiya is the wife of Sahran Hashim. HRCSL also requested the Department of Prisons (DoP) to inform the Commission of the whereabouts and the authority temporarily in charge of Ms. Sadiya after she was transferred to a treatment facility outside the prison for treatment after contracting COVID-19. The

Commission further directed the DoP to submit their observations and details of action taken including preventive measures in this regard.

- **Recommendations regarding the protection of prisoners from the COVID-19 pandemic**

HRCSL made recommendations to the DoP on the subject of safeguarding health of prisoners during the COVID-19 pandemic. The recommendations were specifically to address the issue of overcrowding that is of particular concern during a pandemic. The Commission stated that as per its statutory mandate, it pays special attention to the rights of those who have been deprived of liberty as they are more vulnerable to disease than the general population. Acknowledging that the Commission was pleased to learn that the DoP has already paid attention to the matter, the recommendations called on the DoP to take urgent action, in consultation with relevant authorities, to release those who continue to remain in remand custody due to their inability to post bail in the required sum. It was also recommended to take necessary steps to release under the licensing system permitted under the law certain categories of convicted prisoners. The Commission recognized the challenges facing the prison system, particularly during a period when there is a grave threat to health. The DoP was requested to report back to the HRCSL on an urgent basis of action taken regarding the recommendations.

Simultaneously, the Commission also wrote to His Excellency, the President on 27 March 2020 on the necessity to take urgent action to prevent the possible spread of the COVID-19 virus within the prison system in Sri Lanka. The letter drew attention of the President to the WHO issued special guidelines on preparedness, prevention and control of COVID-19 virus in prisons and other places of detention (dated 15 March, 2020) which recommend that non-custodial measures be used at all stages of the criminal justice process (including pretrial, trial, sentencing and even post-sentencing stages) in view of the pandemic. The guidelines also recommend special consideration be given to those prisoners with low-risk profiles and caring responsibilities (e.g., pregnant women and those with young children). Commending the President for action already taken to find ways and means of providing legal assistance to those convicted of minor offences and remand prisoners who are unable to fulfill bail conditions as reported

by the media, in view of the contingencies of the pandemic, the HRCSL urged His Excellency to grant a general amnesty as permitted under Article 34 of the Constitution of Sri Lanka to certain categories of prisoners which, the Commission assured will not jeopardize the goals of the correctional system.

▪ **Recommendations on regularizing the imposition of curfew**

In view of the large number of persons arrested and vehicles confiscated for violation of curfew imposed from March, 2020 and thereafter in view of the COVID-19 pandemic and pursuant to expressions of public concern received by the Commission in this regard, the HRCSL issued recommendations to the IGP to regularize the imposition of curfew. Acknowledging the need to restrict freedom of movement in the interests of public health and public order during an extraordinary health emergency such as the COVID-19 pandemic, the Commission was of the view that it is incumbent on the Commission to examine whether such restrictions are imposed in a manner that is compatible with relevant constitutional and legal provisions and international human rights obligations of Sri Lanka and to make necessary recommendations to the government in that regard.

After a comprehensive analysis of the situation, the Commission recommended curfew be regularized in one of two ways, i.e. by Order made by the President and gazetted under Section 16 of the Public Security Ordinance (PSO), is the most authoritative manner in which curfew could be declared and does not require a declaration of a state of emergency; OR by regulation made by the Minister under Section 2 read together with Section 3 (2) of the Quarantine and Prevention of Disease Ordinance. The Commission observed that it is essential that there is transparency in the declaration of curfew and all other forms of restriction of movement which requires all declarations of curfew to be formally made and be available in the public domain. The Commission emphasized that nothing in the recommendations it made should be construed by any member of the public to act contrary to health guidelines issued by the public health authorities in regard to the COVID-19 pandemic or act in a manner that would be harmful to public health in general.

■ **Guidelines on regularising quarantine processes**

The HRCSL issued guidelines to the Minister of Health and the Head of the National Operation Centre for Prevention of COVID 19 Outbreak on regularizing the quarantine process. The Commission reiterated that it recognises the need to restrict freedom of movement and liberty of people in the interests of public health and public order during an extraordinary health emergency such as the COVID-19 pandemic. However, the Commission observed that it has received a variety of complaints relating to the process of quarantine which a large number of persons were subject to in view of the resurgence of the fear of spread of COVID-19 pandemic. The guidelines included transparency in the process of delegation of powers by the “Proper Authority”; listing the places designated as quarantine centres and the designating authority; creating a receipt system for quarantined persons including the reason for quarantine, the place they are being taken to and the length of isolation; external scrutiny of quarantine centres; and prohibiting those handling quarantine from informing the media of the proposed quarantining efforts, exposing those being quarantined to public gaze as though they were offenders rather than unfortunate victims of a virulent virus.

The Commission is also recommended that the hardships imposed by the quarantining process can be ameliorated by measures such as ensuring quarantined period is considered paid/ duty leave; ensuring financial or any other assistance to families of those in quarantine; and in the event vulnerable dependents in the families are left behind due to quarantine process, the Grama Niladhari to ensure provision of all necessary support to vulnerable persons including alerting the proper authorities.

■ **Repatriation of Sri Lankan Migrants stranded overseas due to COVID-19 travel restrictions in fulfilment of Sri Lanka’s human rights obligations**

Pursuant to numerous complaints received from Sri Lankan migrants and their families who are stranded overseas due to COVID-19 travel restrictions, the Commission requested His Excellency the President by letter dated 26 November 2020 to intervene in the matter. The letter pointed out that these complainants have paid the airfare, subjected themselves to necessary PCR tests, but are still stranded overseas without even basic



amenities to survive, despite the promise made by the Government to repatriate them in early November. Further, many of them have either had their visas canceled or expired, thereby converting them into illegal immigrants. Reiterating the state's obligation to guarantee the right of migrant workers and their families to return to their state of origin in terms of the Constitution, and various international treaties which Sri Lanka has ratified, the Commission urged the Government to take immediate action to secure the safe repatriation of the migrants and their families stranded overseas in fulfillment of Sri Lanka's national and international human rights obligations. Drawing attention to the importance of migrant remittances to the economy, the Commission observed that their services to the economy and country cannot be ignored and they deserve the strongest support in their hour of need.

■ **Recommendations on the disposal of dead bodies in the context of COVID-19**

The Commission forwarded its observations and recommendations on the disposal of dead bodies in the context of COVID-19 to the Secretary to the Ministry of Health and the Director General of Health Services on 25 November 2020. These observations and recommendations were issued pursuant to the Commission receiving complaints and expressions of concern from persons of various religious groups including Muslims, Christians, and Buddhists on their inability to perform final religious rites after the death of persons in the context of COVID-19. The recommendations stated that the performance of final religious rites such as those performed at burial ceremonies is a form of manifestation of religion or beliefs and cannot be restricted except according to Constitutional and international human rights obligations. The mandatory requirement for cremation imposed under Extraordinary Gazette No.2170/8 dated 11 April 2020 was thus identified as an invalid restriction of the freedom to manifest religion or belief. It *inter alia* recommended that burials as well as cremations of bodies of persons who succumb to the COVID-19 virus must be permitted while adhering to required health guidelines.

- **Granting of a Presidential Pardon to Former Army Corporal Sunil Ratnayake**

By letter dated 29 March 2020, the HRCSL expressed its deep concern on the reported grant of a Presidential Pardon to Corporal Sunil Ratnayake who was convicted of eight counts of murder by a Trial-at-Bar and which conviction was subsequently confirmed by a unanimous judgment of a five-judge bench of the Supreme Court of Sri Lanka on 24 April 2019. The Commission stated that its concern stems from the serious nature of the charges brought by the Hon. Attorney-General against Mr. Ratnayaka, which included the killing of three children, and the strength of the Supreme Court judgment which upheld the conviction. It further stated that the granting of a presidential pardon to a person convicted of such a heinous offence and whose conviction was upheld unanimously by the Supreme Court sends a negative message that reinforces allegations of impunity and lack of justice for victims of violations in Sri Lanka. Further, the Commission opined that it has been resolute in its opposition to the death penalty and has repeatedly called for its abolition and replacement with suitable alternate punishment, and the expression of concern about the pardon in this instance does not in any manner amount to an acceptance of the death penalty. It stated that a commutation of the death penalty to long term imprisonment would have been acceptable given the serious nature of the offence.

- **Interventions to ensure a free and fair election at the Parliamentary election 2020**

The Commission made several interventions to ensure that the parliamentary election 2020 was a free and fair process that left no one behind. Please see 4.4.2 for details of interventions.

## **2.3. Other advocacy for reform**

- **An appeal to the public regarding the COVID-19 pandemic**

The Commission issued an appeal to the public requesting the general public to act with determination and self-restraint to overcome the challenges brought on by the COVID-19 pandemic, which is the greatest challenge facing

mankind in recent times after World War II. The statement further urged the people to act responsibly in protecting their own health as well as the health of all fellow citizens at this critical juncture. The Commission also extended its sincere gratitude to all the authorities, especially the healthcare professionals working tirelessly during the pandemic and assured the full cooperation of the Commission for all their efforts in fighting the pandemic. Further, the statement specifically noted that the pandemic situation is further aggravated by the development of anti-Muslim sentiments on social media as well as in the mainstream media, to the effect that the virus is likely to spread through the activities of the Muslim community. Regardless of the purpose or background of these irresponsible acts, the consequences could lead to ethnic or religious disharmony. The Commission emphasized that experiences here and abroad have clearly demonstrated that the spread of the virus cannot be traced to any one community or social class and therefore, we, as a civilized society, must unite all citizens and take responsibility collectively.

▪ **Public appeal to political parties/independent groups and candidates contesting the 2020 Parliamentary Election**

Drawing the attention of all candidates of political parties/independent groups contesting the 2020 Parliamentary Election to the Code of Conduct for contesting political parties/independent groups and candidates of the elections issued by the Election Commission by way of Gazette Extraordinary No. 2178/25 dated 03 June 2020, the Commission urged all political parties and candidates to abstain from hate speech. The Code of Conduct stipulates that any form of hate speech or action which threatens, insults, prejudices, or discriminates communities or social groups, especially women, persons with special needs or disabled, those of different sexual orientation and other religious or ethnic groups should be avoided. The Commission emphasized that violating the said provision is not only a violation of the Code of Conduct but also a violation of Article 12(1) of the Constitution which guarantees the right to equality and non-discrimination. The HRCSL also underscored the fact that candidates have a particular responsibility to ensure that the content of the Code of Conduct must be respected beyond the election period in order to ensure the spirit of democracy.

- **Appeal to media institutions on their role to ensure free and fair elections**

The Commission urged all media organizations to necessarily comply with the Media Guidelines issued by the Election Commission under Article 104b(5)(a) of the Constitution of Sri Lanka by way of Gazette Extraordinary No. 2178/24 dated 03 June 2020. Reiterating the guidelines, the HRCSL requested every media institution to refrain from broadcasting, telecasting or publishing material that may promote or induce hatred and intolerance among Sri Lankan people on various grounds including religious beliefs, faith, language, ethnicity, customs, and caste; and to avoid broadcasting, telecasting or publishing propaganda activities that promote hateful politics among political activists and within society. The Commission noted that media organizations have an obligation to provide accurate, balanced, and impartial information to assist the voting public form informed opinions and to refrain from publishing distorted or exaggerated news.

## **2.4. Vetting of Sri Lankan military personnel to be deployed as UN peacekeepers**

The HRCSL began the human rights vetting of military personnel to be deployed for United Nations peacekeeping operations in February 2017 at the invitation of the Government of Sri Lanka. This process ensures that individuals to be deployed meet the highest standards of integrity, including respect for and commitment to human rights. As there was a lack of procedural rules that govern the vetting process it was decided at a round table discussion in 2018, to formulate Standard Operating Procedure (SOP) in order to streamline the vetting process. The vetting process was halted until the SOPs were agreed upon by all stakeholders, which ultimately came into effect in December 2018. Due to the halting of the process which resulted in a backlog of applications it was decided by all stakeholders to conduct a double vetting i.e. for the applications were vetted by the Commission as well as the Office of the UN High Commissioner for Human Rights (OHCHR) in Geneva in order to expedite the vetting process. This

procedure continued until August 2020. The Commission vetted and confirmed 571 military personnel for deployment in the reporting year i.e. 346 Sri Lanka Army personnel, 218 Sri Lanka Air Force personnel, 2 Sri Lanka Navy personnel, and 5 Sri Lanka Police personnel.

## 2.5. Challenges

The year 2020 saw many achievements for the Commission. However, long standing challenges hampering the Commission continued in 2020 with additional challenges against the backdrop of the unprecedented COVID-19 pandemic. The main challenge was the closure of office premises during the first lockdown of 2020 and subsequent resumption of activities with limited staff in attendance which delayed inquiries and the issuance of recommendations. The persistent shortage of staff to carry out increased monitoring activities due to the pandemic and the inadequate levels technological skills of existing staff to facilitate seamless Work From Home (WFH) arrangements hindered the efficient and effective functioning of the Commission.

Another recurrent challenge for the Commission was administrative difficulties encountered due to archaic administrative and financial regulations in the public sector and the lack of innovative administrative solutions to address these problems which prevented the Commission from achieving progress on administrative matters at the level anticipated.

Further, despite the Non-implementation Monitoring Unit of the I&I division diligently following up on the implementation of HRCSL recommendations, non-compliance by public officials of a sizeable percentage of recommendations remained a perennial concern. This adversely impacted the Commission in fully realizing its mandate to protect human rights. The Commission remained steadfast in its view that seeking disciplinary action against errant officials was the best method of ensuring compliance as against seeking an amendment to the parent Act in order to have its recommendations implemented by the courts as this would burden the parties with legal fees and protracted delays.

## CHAPTER 3: INVESTIGATIONS AND INQUIRIES

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### 3.1 Overview

- 3.1.1. Strengthening working methods
- 3.1.2. Statistics of complaints received
- 3.1.3. Statistics of cases concluded in 2020
- 3.1.4. Recommendations

### 3.2 Examples of individual complaints by category of rights

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- 3.2.2. Equality and non-discrimination (Article 12 of the Constitution)
- 3.2.3. Multiple rights violations

### 3.3 *Suo Motu* inquiries

### 3.4 Interventions by the Chairperson's Office

## INVESTIGATIONS AND INQUIRIES

### 3.1. Overview

The Commission receives complaints from the public while at the same time the Commission is empowered under section 14 of its parent statute to, on its own motion, inquire into issues which reveal violations of fundamental rights.

#### 3.1.1. Strengthening working methods:

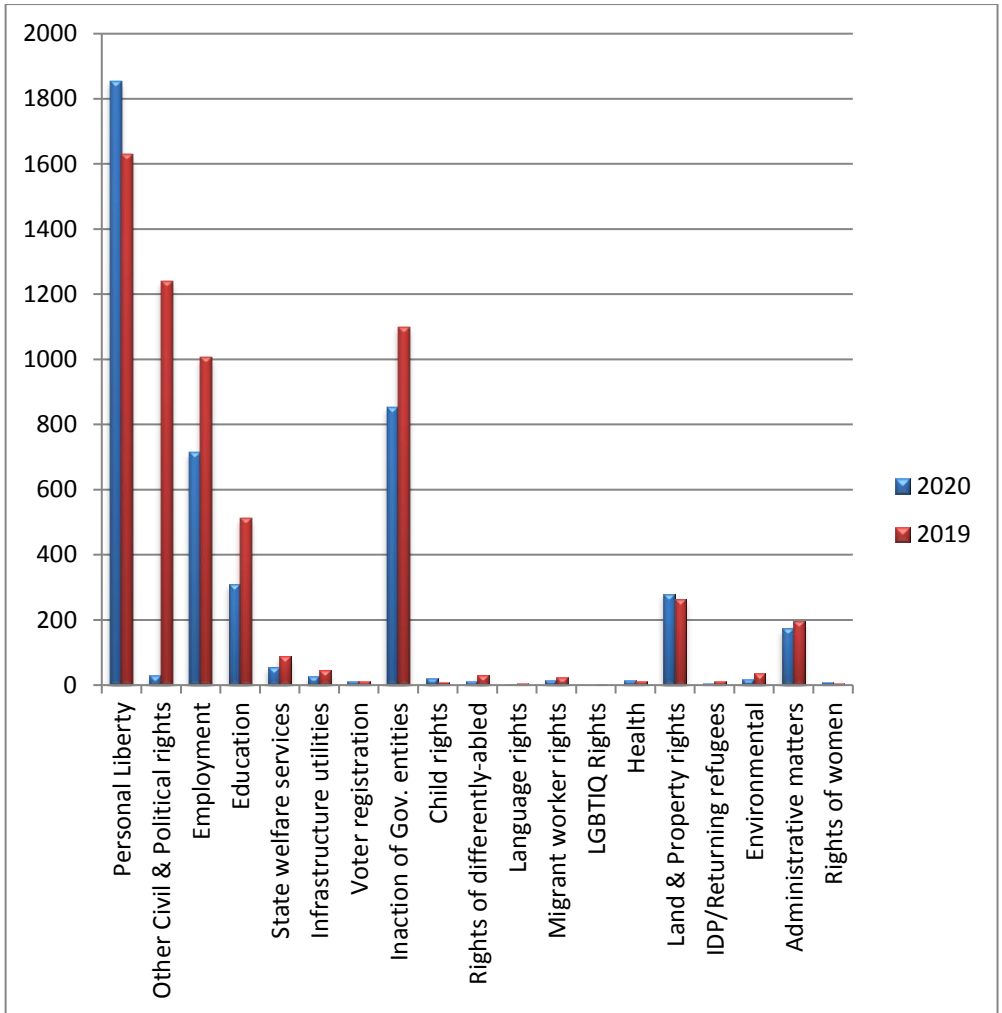
The Commission introduced and implemented new working methods and enhanced existing mechanisms in order to increase the efficiency and responsiveness of the Inquiries and Investigations division (I&I).

- The Commission launched the Human Rights Information System (HURIN) to streamline the complaints mechanism and to facilitate receiving complaints electronically. The HURIN system enabled complainants to make complaints without visiting the Commission in person, especially during the COVID-19 related lockdown periods.
- The thematic cluster method adopted by the non-implementation monitoring unit of the I&I division in 2019 to efficiently follow up on the recommendations not implemented by government institutions has been successfully active in 2020. (See chapter 4.3. for further information on this unit)
- The appeals mechanism introduced in 2018 for all disposed complaints other than for finalized complaints on which recommendations were issued was successfully active in 2020. Despite challenging working conditions resulting from the pandemic, a significant number of appeals were reviewed during 2020 in order to determine if there were grounds for re-entertaining complaints.

### **3.1.2. Statistics of complaints received:**

In total, the HRCSL received 6417 complaints in 2020. This is compared to 8983 complaints received in the previous year. The significant decrease in the total complaints could be due to the lockdowns and travel restrictions resulting from the COVID-19 pandemic, which may have prevented people from accessing the Commission. Even though the HURIN system was operational, not many complaints were received through the system perhaps due to the unfamiliarity with technology of potential complainants (See 3.1.1 above for more information on the HURIN system). As in the previous years, the highest number of complaints for any individual category amounting to 29% of received complaints was in relation to violations of personal liberty, including torture in custody and arbitrary arrest and detention. Despite the overall decrease in the numbers, it is interesting that complaints in relation to the violation of personal liberty have increased from 1629 in 2019 to 1869 in 2020. Within the broader category of violations of personal liberty, complaints relating to violations of arbitrary arrest and detention have increased from 775 in 2019 to 910 in 2020. The second highest number of complaints (at 853) relates to the inaction of government entities out of which 502 were complaints against the police. The third highest category of complaints is in relation to employment at 717 amounting to 11% of the total complaints. Out of the 6417 complaints received, 3205 were received by the regional offices, while the remainder was received by the Head Office.





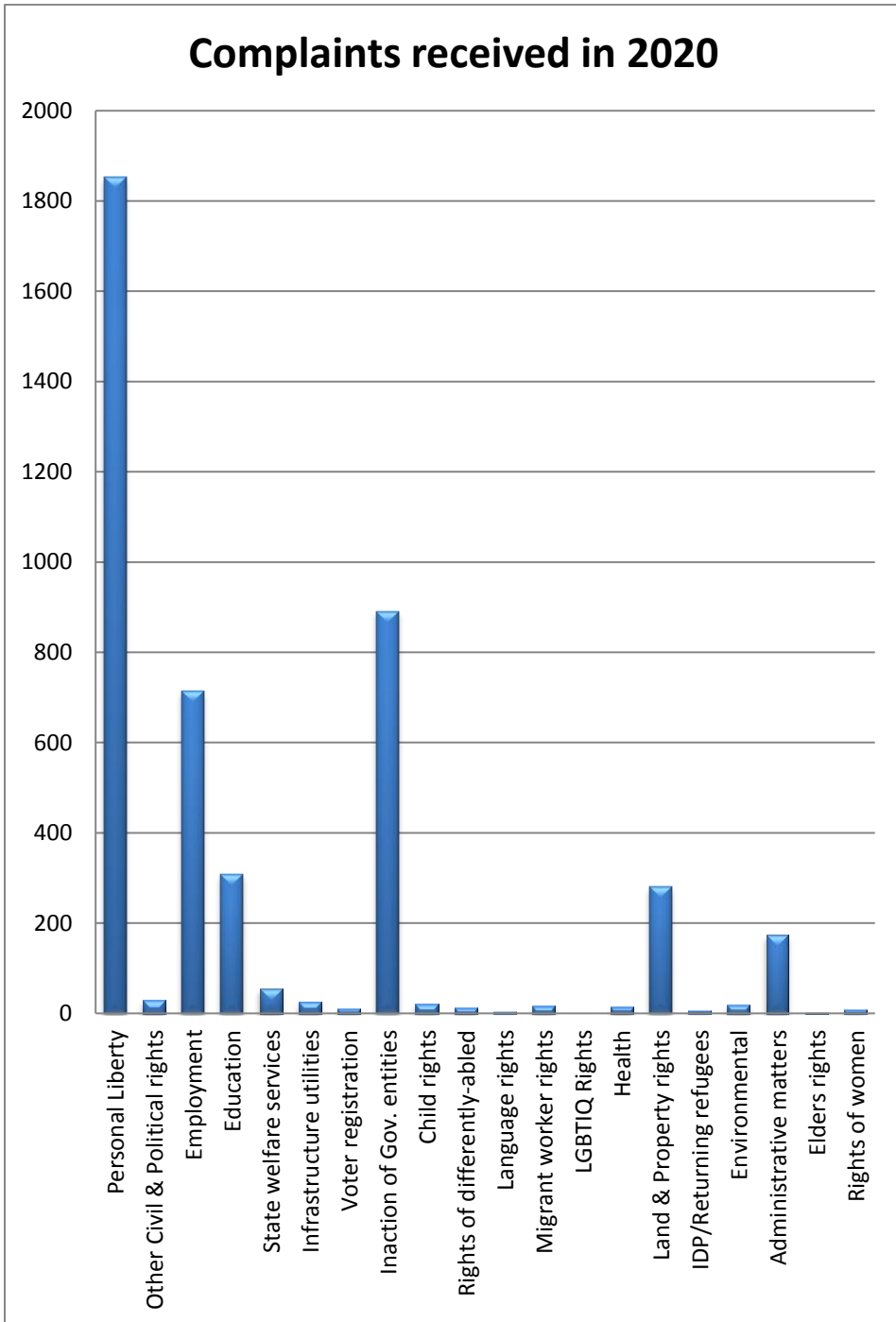
**Comparison of the number of complaints received in each category  
in 2020 with those of 2019**

### Types of complaints received to the Head Office and the Regional Offices

Types of Complaints	Region													Regional Offices	Head Office	Grand Total
	Ampara	Anuradhapura	Badulla	Batticaloa	Jaffna	Killinochchi	Kalmunai	Kandy	Matara	Trincomalee	Vavuniya	Mannar	Puttalam			
<b>Personal Liberty</b>	21	124	18	67	114	40	31	99	142	28	56	16	119	875	994	1869
(a) Torture (Physical and Mental)	9	48	--	--	47	1	2	15	12	2	9	3	18	166	249	415
(b) Degrading Treatment	--	1	4	2	1	1	21	--	--	1	1	1	3	36	--	36
(c) Harassment	2	--	9	8	21	1	--	21	--	7	14	4	15	102	213	315
(d) Sexual Harassment	--	--	--	1	--	--	--	--	--	--	--	--	--	1	2	3
(e) Threats	--	7	--	2	22	8	1	1	28	3	15	3	45	135	--	135
(f) Arbitrary Arrest/Detention	10	63	4	53	22	29	7	58	98	15	17	5	38	419	491	910
(g) Death in Custody	--	3	1	1	--	--	--	--	3	--	--	--	--	8	21	29
(h) Extra-Judicial Killings	--	--	--	--	1	--	--	--	--	--	--	--	--	1	4	5
(j) Prisoners Rights	--	2	--	--	--	--	--	4	1	--	--	--	--	7	14	21
<b>Other Civil &amp; Political Rights</b>	--	1	--	2	2	--	6	1	--	1	5	3	--	21	11	32

<b>Employment</b>	26	57	38	23	28	1	37	136	51	8	18	8	17	448	269	717
<b>Education</b>	--	13	14	8	16	1	11	43	60	--	1	2	4	173	138	311
<b>State Welfare Services</b>	--	17		5	4	2	1	11	3	--	2	7	6	58	1	59
<b>Infrastructure &amp; Utilities</b>	1	4	2	--	--	--	2	5	2	1	3	--	--	20	6	26
<b>Complaints Relating to Voter Registration</b>	--	--	--	3	2	--	--	1	--	--	2	--	1	9	2	11
<b>Complaints about Inaction of Gov. Entities</b>	26	116	53	92	74	13	97	137	33	17	39	22	31	750	103	853
(a)Police	14	38	35	66	59	11	73	48	28	5	29	12	21	439	63	502
(b)Other Gov. Authorities	12	78	18	26	15	2	24	89	5	12	10	10	10	311	40	351
<b>Child Rights</b>	--	1	--	1	4	--	7	--	--	--	--	--	7	20	--	20
<b>Rights of Differently-abled</b>	--	7	--	1	1	--	1	1	1	--	--	--	--	12	1	13
<b>Language Rights</b>	--	--	--	--	1	--	--	--	--	--	1	--	--	2	2	4
<b>Migrant Workers' Rights</b>	--	3	--	--	--	--	1	6			2			12	4	16
<b>LGBT(Lesbian,Gay,Bi-sexual,Transgender)Rights</b>	--	--	--	--	--	--	0	1	--	--	--	--	--	1	--	1
<b>Health Rights</b>	--	2		1	--	2	1	--	--	--	2	--	6	14	--	14
<b>Land &amp; Property Rights</b>	23	34	14	23	3	8	18	27	5	5	24	24	40	248	30	278
<b>IDP/Returning Refugees</b>	--	--	--	--	1	--	--	--	--	--	5	--	--	6	--	6
<b>Environmental Rights</b>	1	1	--	4	--	--	2	1	3	--	1	--	1	14	5	19

<b>Administrative Matters</b>	2	--	28	8	7	1		44	5	11	--	--	12	118	50	168
<b>Elders Rights</b>	--	--	--	--	--	--	--	--	--	--	--	--	--		2	2
<b>Woman Rights</b>	--	--	--	2	2	--	3	--	--	--	--	--	1	8	--	8
<b>Other Categories (including the complaints not within the mandate)</b>	--	118	22	27	4	2	9	38	134	8	19	1	--	382	1594	1990
<b>Total</b>	100	498	189	267	263	70	227	551	440	79	181	99	245	3205	3212	6417



### 3.1.3. Statistics of cases concluded in 2020:

Categories by outcome of complaints	Ampara	Anuradhapura	Badulla	Batticaloa	Jaffna	Kilinochchi	Kandy	Kalmunai	Matara	Trincomalee	Mannar	Vavuniya	Puttalam	Head Office
Settlement	10	195	22	221	115	49	16	29	2	5	29	18	--	45
No FR violation	11	58	34	27	86	71	211	10	153	56	18	29	--	112
Not within the mandate	--	--	15	--	19	10	38	--	120	8	5	--	195	70
Complainant lacks interest	24	60	25	25	11	10	98	30	75	41	10	7	--	231
Withdrawn	1	7	--	3	11	--	11	1	18	4	2	4	--	62
Referred to other Institutions	--	21	36	4	9	1	19	6	11	--	--	2	--	2
Pending judicial proceedings	24	12	--	3	3	4	35	3	6	--	--	--	--	60
Relief Granted	7	--	9	86	6	5	59	33	44	11	24	28	--	52
Directives given	--	--	--	1	--	--	36	--	--	--	--	--	--	1
Time barred (prescribed)	--	--	--	--	1	--	6	--	20	--	--	1	--	--
Recommendations issued	--	--	--	--	--	--	--	--	--	--	--	--	22	60
Subtotal	77	353	141	370	261	150	529	113	449	125	88	89	217	695
Total														3657

### 3.1.4. Recommendations:

In 2020 the Commission issued a total of 60 recommendations. The reason for the decrease in numbers from previous years is the COVID-19 pandemic which disrupted the routine activities of the Commission and necessitated increasing monitoring activities to ensure human rights violations stemming from the pandemic did not occur during the latter three quarters of the year.

The majority of the recommendations were on the violation of equality and non-discrimination provisions in the Constitution in the context of complaints pertaining to economic and social rights, such as the right to education. Similar to the previous year, the highest number of recommendations (at 24) was issued in relation to admission to public schools which remains a perennial problem the Commission has to intervene in each year. Of the total recommendations, only 14 were on complaints of torture and unlawful arrest and detention (For a full list of Recommendations issued in 2020 see appendix 2). All recommendations are posted on the HRCSL website for public reference.

#### Recommendations issued in 2020

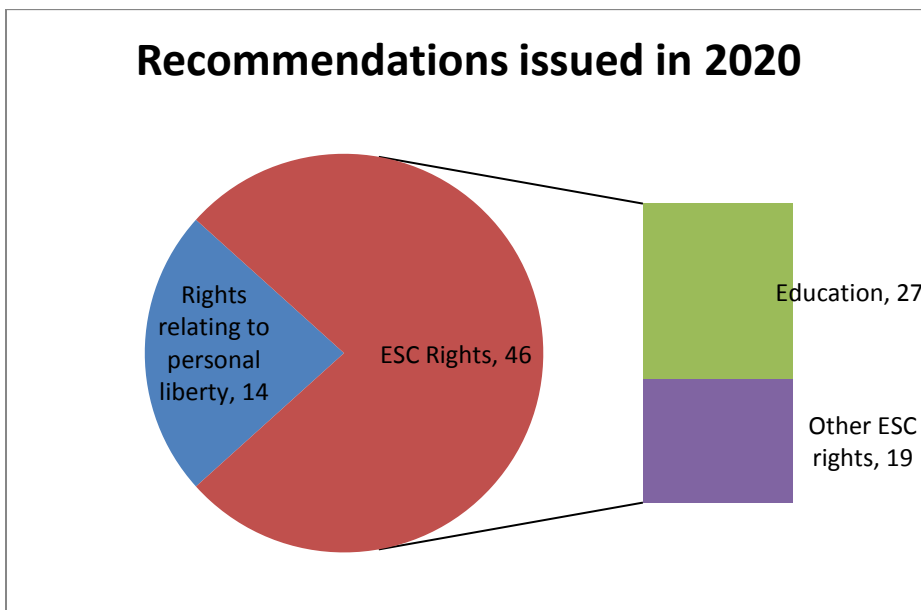
Subject/Area	No. of recommendations
<b>Economic Social &amp; Cultural Rights</b>	<b>63</b>
- Rights relating to education*	27
- Other ESC rights**	19
<b>Rights relating to Personal liberty***</b>	<b>14</b>
<b>TOTAL</b>	<b>60</b>

Source: Database of Human Rights Commission of Sri Lanka

\*These recommendations pertain to violations in school admissions, in students' disciplinary matters, in university admissions, in harassment in educational institutions, and job promotions in educational institutions.

\*\*The other recommendations pertaining to economic social & cultural rights comprise violations relating to pensions, livelihood, salary increments, transfers, recruitment, service conditions in employment, interdiction from service, terminations, compensations, and misuse of power.

\*\*\*Rights relating to personal liberty consist of violations such as illegal arrests and detention, torture, and deaths in custody.



## 3.2. Examples of individual complaints by category of rights

### 3.2.1. Custodial violence (Article 11 of the Constitution)

- **Torture or cruel, inhuman or degrading treatment in police custody (Complaint No: HRC/AP/473/2014)**

The HRCSL found a violation of Article 11 of the Constitution in respect of the two petitioners and directed the 1st and 3rd respondents to pay Rs. 10,000/= as compensation to the 1st Petitioner



and 6th and 9th respondents to pay Rs. 10,000/= as compensation to the 2nd Petitioner. The Commission did not find a violation of Article 13(1) of the Constitution in the procedure followed leading to the arrest of the petitioners by the Anuradhapura police. The arrests had been made consequent to intelligence information received in respect of the two petitioners' involvement in illegal liquor making and selling. Torture had allegedly been inflicted on the petitioners at the time of arrest. The HRCSL, supported by medical evidence contained in the JMO's report, found that the injuries found on the two petitioners corroborated with the way in which the petitioners alleged that the injuries were inflicted. Further, the Commission recommended a copy of the recommendation to be sent to the IGP and the Chairman of the National Police Commission to take suitable disciplinary action against the respondents.

### **3.2.2. Equality and Non-discrimination (Article 12 of the Constitution)**

- **Admission to Grade 1 of a public school  
(Complaint Nos: HRC/2571/18 and HRC/2572/18)**

Responding to two complaints by the petitioner against two leading national schools in Colombo on the ground that the petitioner's child has been unfairly deprived of the opportunity to take part in the Grade 1 admission interviews of these schools, the Commission found a violation of Article 12(1) of the Constitution and recommended the child be awarded the opportunity to face the admission interviews of the said public schools. The petitioner, whose husband is a lieutenant commander of the Navy, has submitted applications to both schools to admit her child to grade 1 under the category of official transfers. Both schools have informed the petitioner in writing that the applications were rejected. She has thereafter appealed against the said decisions of the schools but neither the respondent schools nor the Board of Appeals of the Ministry of Education has responded to her appeal. The respondent schools state that the application in issue was rejected as the documents required as proof of the petitioner's husband's transfer in terms of Circular No.24/2018 have not been furnished together

with the application. However, the Commission noted that such a requirement is not stipulated in the provisions of the said Circular and that the particulars of the transfer in question could have been established had the petitioner's child given the opportunity to face the admissions interview. The Commission found that the petitioner's application had been rejected erroneously and recommended the petitioner's child to be afforded the opportunity to face the interview by both respondent schools. The Commission recommended that if the child scores the required marks above the cut-off mark at the interview, the child should be admitted to the school of the petitioner's choosing.

- **Admission to Grade 1 of a public school  
(Complaint No: HRC/300/19)**

Responding to a complaint that the petitioner's child has been unfairly deprived of admission to a leading national school in Colombo, the Commission found a violation of Article 12(1) of the Constitution. The petitioner has submitted the application to admit her child to Grade 1 of the respondent school under the category of 'proximity'. Subsequent to the interview, the panel of interviewers has rejected her child's application stating that there are issues pertaining to the ownership of the house in question. The petitioner had appealed against the said decision to the Board of Appeals of the Ministry of Education. Entertaining her appeal, the Board has awarded her 70.4 marks thereby placing the child well beyond the cut-off mark of 57. Nevertheless, the respondent school has failed to include the child of the petitioner in the final admission list to Grade 1. Considering the evidence placed before it, the Commission recommended the child be admitted to the relevant grade in the said public school as there has been a violation of the rights guaranteed under Article 12 (1) of the Constitution.

- **Enforcement of a disciplinary order  
(Complaint No. HRC/1859/15)**

The Commission found that the negligent conduct of the respondent in the discharge of their administrative and executive duties has violated the petitioner's rights guaranteed under Article 12(1) of the Constitution. The grievance arose from a disciplinary hearing, following which a disciplinary order has been issued by the respondent against the petitioner. However,

contravening the established procedure the order was made to take effect from the date of the order rather than from the date of the wrongdoing, which resulted in the period of punishment being calculated from 2010-2013 instead of from 2008-2011. The Petitioner contended that such deviation from established procedure led to the petitioner being deprived of multiple opportunities for promotions and thereby salary increments. The respondents admitted that the enforcement of the disciplinary order should have taken effect from the date of wrongdoing and informed the Commission that the respondent had already obtained the advice of the Public Service Commission on the correct procedure. The Commission found that said conduct of the respondent was in violation of procedure stipulated under Section 23.9, Chapter XLVIII of Volume II of the Establishments Code; Section 186(2) of Chapter VIII of the Procedural Rules No. 1589/30 dated 20.02.2009 of the Public Service Commission; and provisions of Circular No. 03/2015 of the Public Service Commission. The Commission recommended the petitioner to be promoted to the post of “Assistant Labour Commissioner” and to backdate the promotions leading up to the said position. It further recommended salary and other allowances to be awarded to the petitioner accordingly. The Commission did not find a violation of Article 14(1)(g) of the Constitution, as pleaded by the petitioner.

▪ **Computation of Pension of permanently disabled public servants (HRC/3397/17)**

Responding to a complaint made by 20 petitioners who were permanently disabled consequent to the terrorist attack on the Central Bank of Sri Lanka on 31. 01. 1996 the Commission found a violation of Article 12(1) of the Constitution pertaining to the enforcement of the pension scheme stipulated by Circular No. S/N/COM/C/1 dated 13.10.1996. The petitioners before the Commission were among the 28 people who were permanently disabled consequent to the said terrorist attack. Taking the special circumstances into consideration, the respondent Central Bank introduced a special pension structure under which the petitioners had the choice to opt for one out of two schemes proposed. The petitioners have chosen scheme ‘D’ (“අ”). Under the said scheme, the petitioners were hypothetically deemed to have reached the age of retirement of 55 years and the pension had been calculated by taking into consideration the basic salary increments that the petitioners were entitled to receive until they reached the age of 55. The

petitioners alleged that such calculation failed to take into account other increments and special allowances that were awarded to employees in active service such as the triennial salary increment, the salary increase due on the triennial salary increment, and the salary increase pursuant to being promoted upon reaching the maximum salary increment in their current salary scale. The respondent argued that if such special allowances and increments awarded to employees in active service were to be taken into consideration, the petitioner should have opted for the pension scheme stipulated as 'C' ("අ") in the circular in issue.

The Commission found that the petitioners had a legitimate expectation recognized in judgments such as *Samaraweera v. People's Bank and Other 2* SLR 2007, for their pensions to be calculated as it would have been calculated upon naturally reaching 55 years in active service. The Commission further opined that the persons who obtained their pensions according to the circular, should be entitled to similar benefits regardless of the scheme for which they opted. The Commission recommended for the petitioners' pensions to be recalculated taking into consideration all allowances, increments, and other benefits that employees in active service obtains until they reach 55 years of age and further to award the pension and arrears to be paid within a time period of 4 months.

### **3.2.3. Multiple rights violations**

#### **▪ Physical punishment meted out to a school student (Complaint No: HRC/AP/535/2017)**

The HRCSL found a violation of articles 11 and 12 (1) of the Constitution by the Principal and a teacher of a public school in Rabawa, Anuradhapura for meting out physical punishment on a student for disciplinary purposes. The principal was accused of caning the victim for disobeying instructions regarding the school uniform and physical appearance as the student has allegedly come to school with an unfit uniform and a grown-out beard. The teacher was accused of using profanity and threatening to hit the student. The Commission took cognizance of the testimonies of three eye witnesses which corroborated the facts alleged by the complainant. Further, the victim student has allegedly been sent out from the school during school hours without a custodian to get his beard shaved in a nearby salon. The

Commission found that the teacher and principal in question have acted in violation of circular No. 12/2016 which prohibits corporal punishment being inflicted on students even for disciplinary purposes and concluded that Articles 11 and 12(1) of the Constitution had been violated. The Commission noted that teachers are loco-parents of their students and should conduct themselves as stipulated by Circular No. 37/2012. The Commission recommended disciplinary action be taken against the 1st and 2nd respondents by the Ministry of Education and further recommended the Secretary to the Ministry to take necessary action to raise awareness among school principals and teachers on the content of the above circulars. It was also recommended that as the Circular No.12/2016 only takes physical punishment into consideration, measures should be taken by the Ministry of Education to include punishments affecting the mental well-being of the students in the said procedure stipulated by the circular.

- **Arbitrary Arrest of a person without a proper investigation  
(Complaint No. HRC/AP/220/14)**

In this case, the Commission concluded that the Fundamental Rights of the petitioner guaranteed under Articles 12(1) and 13 of the Constitution were violated by the Anuradhapura Police when he was arrested without conducting a proper investigation for the possession of Cannabis with the intention to sell. The respondents contended that the arrest was made after finding Cannabis in the Trishaw of the victim upon searching it pursuant to information received from a private informant of the police. The victim claimed that the Cannabis found by the police was planted by a decoy of the said private informant with the intention of framing the victim. Two eye-witnesses testified to having witnessed a third party (who had later been identified as the decoy) place an object in the victim's Trishaw on the day of the arrest while the victim had gone in search of a traffic police officer to report the same third party who had allegedly harassed him asking to purchase drugs. The Commission noted that despite receiving statements regarding the irregularities surrounding the arrest in question from other police officers involved in the raid (such as the traffic police officer at the scene), the 6<sup>th</sup> respondent, the Headquarters Inspector (HQI), had filed charges against the victim in the Magistrate's Court without investigating the matter further. The said charges have been withdrawn by the police subsequently as it had come to light that the said complaint had been made

with the intention of misleading the police, and the case has been dismissed. The Commission recommended the 1<sup>st</sup> and 6<sup>th</sup> respondents to pay Rs. 5000/= each as compensation to the victim. Further, the Commission recommended a copy of the recommendation to be sent to the Inspector General of Police (IGP) and the Chairman of the National Police Commission to take suitable disciplinary action against the respondents.

▪ **Promotion of a Naval officer (HRC/2314/15)**

Responding to a complaint that the petitioner has been unfairly and maliciously prevented from being promoted, the Commission found a violation of Articles 12(1) and 14(1)(g) of the Constitution. The Petitioner who at the time of filing his complaint was a naval officer with 30 years of active service experience, alleged that his fundamental rights have been violated as he was not promoted to the post of Commodore at the time of filing his complaint on 02.07.2015 whereas officers who were junior to him in seniority have been awarded promotions to the same vacancy over him. The respondents claimed that although the Petitioner obtained the requisite marks for the promotion in July 2015, it was the practice of the Navy not to award any promotions if an officer had pending litigation before a court of law. Consequently, the Petitioner was not promoted as he was involved in an investigation conducted by the Criminal Investigation Department (CID) relating to a pending case before court. In fact, in February 2015, the petitioner had been participating in a training programme in the United States when he had been made to come back to Sri Lanka mid-programme to obtain his statement regarding the incident and had not been allowed to return to the programme. The respondents claimed that although they have sought the advice of the Attorney General and the CID about the possibility of awarding the Petitioner his promotion, they are yet to receive instructions. The Petitioner denied having any pending litigation against him and further alleged that the respondents' conduct has also resulted in depriving him of foreign training programmes. During the investigation, it was also revealed that the Petitioner's name was included in a recommended promotions list of 71 officers dating back to 2009 in recognition of their extraordinary service in the field during the war.

The Commission found that the Petitioner's fundamental rights have been continuously violated from the year 2009. It also found that the Petitioner

had not had any pending litigation during the time period from 2009 to 2015 against him and that the appeals made by the petitioner had also not been heard by the respondents. Accordingly, the Commission recommended the petitioner be awarded his promotion and corresponding salary and other allowances, and correct his subsequent promotions upon confirming the recommended in-field promotion list of 2009. It also directed the respondents to take legal action in terms of the Navy Act against the officers who unfairly and intentionally deprived the petitioner of his seniority and promotions and against the parties responsible for the misplacement of documents and those who had intentionally acted in a manner which brings disrepute to the Navy. HRCSL further made a recommendation to the Ministry of Defence to take any necessary steps pertaining to the violation of the Petitioner's Fundamental Rights guaranteed under Articles 12(1) and 14(1)(g) of the Constitution.

### 3.3. *Suo Motu* inquiries

The Commission intervened in several issues exercising its own initiative (*suo motu*) under Section 14 of the Act. Often, issues meriting intervention are identified through media monitoring and individuals or organizations bringing such issues to the attention of the Commission. This activity sees close collaboration between the Investigations and Inquiry Division, the Research and Monitoring Division, and regional offices of the HRCSL. In total, the Commission launched 49 *suo motu* inquiries into different incidents during 2020 (for a full list of *suo motu* inquiries see appendix 3).

- **Refusal admission to a public school on the basis of religion (HRC/SUO/MOTU/01/20)**

HRCSL initiated an investigation pursuant to a newspaper article regarding the refusal to admit a child to a national school despite obtaining the requisite marks at the Grade 5 scholarship examination due to his father being a Hindu. The Secretary to the Department of Education was directed to take necessary administrative action against the violators and to submit a report to the Commission detailing the action taken.

- **Protest carried out by victims of micro finance schemes (HRC/SUO/MOTU/03/20)**

The Commission launched a *suo motu* investigation in to the violation of the right to peaceful protest under Article 14(1)(b) of the individuals victimized by micro credit schemes when it drew the attention of the Commission through its media monitoring activities. The Commission continued this investigation to the end of 2020.

- **Suspicious death of a suspect in police custody (HRC/SUO/MOTU/19/2020)**

An investigation was launched into the suspicious death of Samarasinghe Arachchige Madush Lakshitha alias 'Makandure Madush' who was killed while in police custody in October 2020. Madush Lakshitha was deported from Dubai and subsequently detained under the Prevention of Terrorism Act at the CID for investigations. Four days before his demise he was moved to the Colombo Crime Division on their request for further investigations. The commission was informed by various sources that Madush Lakshitha's life was in danger, which prompted the Commission to take immediate action to look extensively into the matter. The Commission notified the Colombo Crime Division of the possible threat to the victim's life and requested a copy of his detention order be sent to the Commission. Two days after this the victim sustained fatal injuries during an alleged crossfire between the police and another party. Subsequent to the death of the victim, the Commission summoned the Director and the Officer-in-Charge of the Colombo Crime Division for an inquiry, which they failed to comply with. The Commission requested a comprehensive report from the IGP regarding this matter. The inquiry into the death continues.

- **Beach nourishment programme of the Mount Lavinia Coastline (HRC/SUO/MOTU/06/20)**

Pursuant to information released in electronic media, an inquiry was launched into the environmental impact of the beach nourishment programme of the Mt. Lavinia beach. The Commission requested the Coast Conservation and Coastal Resource Management Department, Divisional



Secretariat of Ratmalana, Geological Survey and Mines Bureau, Central Environmental Authority, Municipal Council of Dehiwala and Mount Lavinia, Urban Development Authority, and the National Aquatic Resources Research anation submitted by the above authorities.

- **Deduction of employee wages as contributions towards the COVID-19 relief fund (HRC/SUO/MOTU/11/20)**

All public sector employees were given an opportunity to voluntarily contribute a certain amount of their daily or monthly wages to the COVID-19 relief fund set up by the Government. HRCSL observed that various departments and institutions have, in their correspondence to staff, erroneously mentioned that such contribution to the relief fund is mandatory. It also observed that certain employees had to face direct or indirect intimidation over contributions to the fund. As this is an infringement of Article 12 of the Constitution, the Commission made a recommendation in writing to the secretary of the Ministry of Public Administration that the most prudent course of action is to directly communicate with the employees and to strictly respect their consent regarding this matter, without leaving the decision to the discretion of the heads of departments or institutions.

- **Assaulting of a minor by Police Officers (HRC/SUO/MOTU/12/20)**

An investigation was initiated pursuant to news reports in to the incident of police officers assaulting a mentally disabled child aged 15 at the 'Ambagaha Handiya' road barricade in Aluthgama in May 2020. The Commission directed a letter to the Senior Superintendent of Police of the Kalutara Division requesting a detailed report to be submitted on the incident to the Commission. It also took the necessary steps to refer the he chief judicial medical officer of the Institute of Forensic Medicine and Toxicology. The medical report stated that the wounds and abrasions observed on the victim's body were compatible with the allegations of torture. By the power vested under section 20(3) of the Act, the OIC of the Aluthgama Police station was summoned to the Commission thrice, but failed to appear before the Commission on each occasion. The inquiry into the incident continues.

- **Search and seizure of professional equipment from the residence of a journalist (HRC/SUO/MOTU/13/20)**

The HRCSL launched its own investigation into the search and seizure of a laptop from the residence of a journalist in June 2020, which came to the notice of the Commission through its media monitoring activities. The Commission requested the CID to submit an explanatory report to the Commission regarding the investigation. The Director of the CID informed the Commission that the investigation was conducted in relation to the alleged abduction of an employee of the Embassy of Switzerland in the immediate aftermath of the 2019 Presidential Elections and that the laptop was recovered pursuant to a court order issued by the Colombo Magistrate in terms of the Code of Criminal Procedure Act.

- **Assault on a female public sector employee by a male colleague (HRC/SUO/MOTU/21/20)**

A video of a battery committed by a male officer attached to the Road Development Authority (RDA) on a fellow female officer was brought to the attention of the Commission through social media and the daily news bulletin. The HRCSL sought for the RDA to conduct an investigation and submit a comprehensive report on the incident. The report was submitted to the Commission.

### **3.4 Interventions by the Chairperson's Office**

As was customary in the previous years since taking office, the Chairperson intervened to provide relief to complainants who are aggrieved by delays and other issues relating to the investigation and inquiry process.

Further, direct interventions are made by the Chairperson with relevant authorities when it is deemed appropriate. Generally, such direct interventions are made in regard to complaints received on serious violation of economic and social rights via administrative action or inaction, e.g. complaints of pensioners on non-payment of pensions as it is a critical livelihood issue for senior citizens.

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## **CHAPTER 4: RESEARCH AND MONITORING**

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- 4.1. Thematic sub-committees
- 4.2. National Prison Study
- 4.3. Monitoring the non-implementation of recommendations
- 4.4. Other monitoring activities
  - 4.4.1. Monitoring places of detention and care homes
  - 4.4.2. Parliamentary Elections- 2020
  - 4.4.3. Other monitoring activities

## RESEARCH AND MONITORING

### 4.1. Thematic sub-committees

In 2016 HRCSL appointed 9 sub-committees on specific thematic issues. The Sub-Committees were expected to review legislation, policies, and official practices pertaining to each theme in order to make recommendations to the Commission on the policy interventions to be made to the Government of Sri Lanka pursuant to its mandate under section 10 of HRCSL Act No 21 of 1996. Further, the Sub-Committees were expected to advise the Commission on required policy and practical interventions on respective issues. The sub-committees are;

1. Sub-Committee on Persons with Disabilities
2. Sub-Committee on Education Policy (from a human rights perspective)
3. Sub-Committee on the Rights of LGBTIQ Persons
4. Sub-Committee on Plantation Workers' Rights
5. Sub-Committee on Prevention of Torture and Custodial Violations
6. Sub-Committee on Gender
7. Sub-Committee on Rights of Elders
8. Sub-Committee on Economic, Social, and Cultural rights
9. Sub-Committee on Migrant Workers' Rights

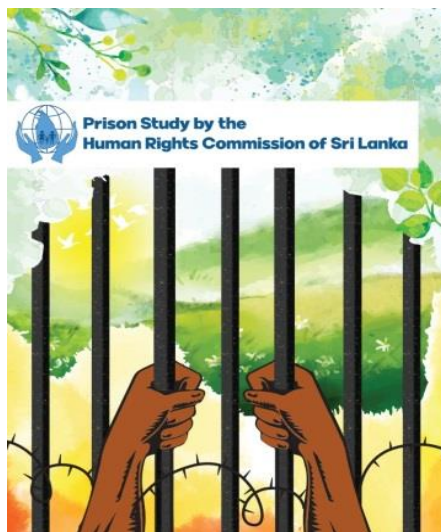
The membership of the sub-committees comprises experts and civil society activists. Each Committee is chaired by one or more Commissioners while HRCSL staff members act as secretaries to each sub-committee.

During 2020, the members of the sub-committees could not meet to discuss thematic issues due to the pandemic. However, individual members assisted the Commission on matters pertaining to the above thematic areas. Accordingly, sub-committee members took part in the meeting held with the Foreign Ministry, Ministry of Foreign Employment Promotion, and the Ministry of Labour to discuss interventions in relation to the safety and

wellbeing of Sri Lankan migrant workers in destination countries and foreign migrant workers currently employed in Sri Lanka during the COVID-19 pandemic. Members were also involved in the assessment carried out by the Commission of the disruption to education of school children as a result of the COVID-19 pandemic, especially of the children sitting for the Grade 5 scholarship examination, the Ordinary Level examination, and Advanced Level examination and a review of the online teaching activities introduced by the private sector in response to the disruption of education.

## 4.2. National Prison Study

In accordance with the power vested in the HRCSL to visit any place of detention to monitor the conditions of detention and make recommendations for the improvement of such conditions (Section 28(2) of the Act) the Commission commenced the first national study of prisons in Sri Lanka in 2018. The Study intended to evaluate the treatment and conditions of prisoners and make recommendations in order to promote compliance with international human rights standards, primarily the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). The team of researchers visited 20 prisons in Sri Lanka to collect information and data for the report.



The Study concentrated on the following key areas: treatment and conditions, rehabilitation process, special categories of prisoners, prison management, the criminal justice process, the continuum of violence, and alternatives to incarceration. The three main findings of the study are:

- the prison system in Sri Lanka is overcrowded and under resourced;
- it emphasises the correctional/ punitive aspect over the preferred correctional/ rehabilitative model;

- officials are well aware of the shortcomings and are open to change.

The findings and recommendations of this Study address the gap that exists in the understanding of prisons, penal and correctional system as well as the broader criminal justice system in Sri Lanka and increase the general understanding of the prison system, while also highlighting the shortcomings of the framework. These are expected to lead to the formulation and implementation of better practices and policies, to protect and promote prisoners' rights and strengthen the correctional system.

The recommendations corresponding to the areas of concern identified during the study are mainly threefold:

- (1) Improve physical conditions and administration of prisons
- (2) Enhance the welfare of prisoners
- (3) Reform the criminal justice system

This Study was conducted with the financial assistance provided by the United Nations Development Program (UNDP). The electronic version of this Study was published in 2020 and is available for access on the HRCSL website at <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>. An implementation plan for the recommendations contained in the Study was also formulated with short, medium, and long term activities.

### **4.3. Monitoring the non-implementation of recommendations**

In keeping with one of the identified Goals in the Strategic Plan of the Commission to “Provide prompt and effective remedies by strengthening the inquiry, investigation and monitoring mechanism of the HRC”, the non-implementation unit of the I&I Division, which was established to monitor the implementation of the Recommendations issued by the Commission, was successfully active in 2020. Following the approach introduced in 2019, this year the Non-implementation Unit compiled lists of institutions failing to implement HRCSL recommendations and clustered the recommendations that have not been implemented according to subject matter. Even though

the COVID-19 pandemic did not allow for many cluster inquiries to be held for non-implemented recommendations, recommendations not implemented by the Police were followed-up as a cluster. Several meetings were held with the IGP and the NPC to raise issues of non-implementation of recommendations directed to the Police and seek explanations. The clustered approach was more efficient in yielding positive results than inquiring into the non-implementation of individual recommendations as government institutions were called to account for the non-implementation of multiple recommendations at once. While this highlighted the extent of non-implementation thereby justifying the intervention by the Commission, officials were also more responsive as the Commission was able to dispense with summoning officials multiple times with regards to the non-implementation of different recommendations.

As a result of the efforts of the Non-implementation Unit, many of the institutions have taken cognizance of these directions and have responded to the Commission setting out the initiatives they have taken to implement the said recommendations. The year 2020 continued to show a gradual increase in the implementation of recommendations from previous years, which is a testimony to the success of the Unit.

#### **4.4. Other Monitoring activities**

Under its mandate, the Commission is empowered to visit places of detention to monitor the wellbeing of detainees and to make recommendations to improve conditions of detention with the objective of ensuring the rights of detainees are respected and protected. Exercising its powers, the Commission conducts unannounced (surprise) visits to places of detention throughout the year. These visits are carried out by the head office as well as by regional offices. Apart from regular monitoring of police stations, the Commission made visits other places of detention such as prisons, remand homes, receiving homes, rehabilitation centers, homes for children, homes for the disabled, and immigration detention centers. The Commission conducts unannounced visits throughout the week, including the weekend, and conducts investigations into allegations of torture and illegal treatment made by detainees during these visits.

#### **4.4.1. Monitoring places of detention and care homes**

The Commission, through its head office and regional offices, made 1003 visits to police stations during 2020. The objective of these visits is to prevent incidents of torture and other forms of custodial violations in Sri Lanka through efficient proactive and reactive measures, to initiate steps to identify officers who commit such violations, and recommend remedial action, in addition to coordinate and collaborate with other relevant government and non-governmental institutions to prevent the incidence of torture.

Certain common issues were identified during these visits, including:

- Failure to follow due process during arrest
- Ill-treatment and torture in custody
- Delay in producing suspects before courts
- Overcrowding and lack of basic amenities in the cells

HRCSL repeatedly highlights these observations in its policy interventions to address torture, ill-treatment, and conditions of detention.

In addition, the Commission made 102 visits to other places of detention and care homes. Usually, these visits are conducted mostly through the regional offices. The monitoring activities of the regional and sub-offices are crucial in expanding the reach of the Commission in terms of its mandate to monitor places of detention to ensure the rights of detainees. However, again as a result of staff shortages due to the pandemic, the head office carried out the majority of visits in the reporting year.

Despite the fewer number of visits than in the previous years due to staff shortages stemming from the COVID-19 pandemic, the Commission made successful interventions to prevent the incidence of torture and improve conditions in places of detention. Accordingly, the HRCSL held the following meetings in relation to conditions of detention:

- Several meetings with the Terrorist Investigation Division (TID), CID, and Colombo Crimes Division (CCD) regarding the conditions of



detention and long term detention of persons detained under detention orders.

- Meeting with the IGP and the NPC on 27 August 2020 in relation to the recent upsurge in complaints relating to custodial violation, complaints of torture complaints against police, arrest under ICCPR Act & hate speech, administrative detentions by the TID, CID, and CCD, and encounter killings.
- Meeting with the Commissioner General of Prisons on 17 September 2020 on conditions of detention of prisoners, complaints regarding torture, and management of health and wellbeing of prisoners and their communication with family during the COVID-19 pandemic.

## Detentions in 2020

Places of detention and care homes	Ampara	Anuradhapura	Badulla	Batticaloa	Jaffna & Kilinochchi	Kalmunai	Kandy	Matarra	Trincomalee	Vavuniya & Mannar	Head Office	Total
Police Stations	44	100	105	60	71	42	97	100	26	27	331	1003
Prisons	05	--	3	6	4	1	9	--	--	1	12	41
Children's homes and rehabilitation centres for children	--	15	1	4	--	10	--	1	--	--	--	31
Foreign national holding centres	--	--	--	--	--	--	--	--	--	--	02	02
Rehabilitation centres	--	--	--	--	--	--	--	--	--	--	--	--
Women's homes	--	--	--	01	--	--	--	--	--	--	01	02
Elders homes	--	02	--	01	--	--	--	--	--	--	--	03
Disability homes	--	01	--	--	--	--	--	--	--	--	--	01
TID/CID	--	--	--	--	--	--	--	--	--	02	08	10
Special/ Other	--	--	--	--	--	--	--	--	--	02	10	12
Total	49	118	109	72	75	53	106	101	26	32	364	1105

#### **4.4.2. Parliamentary Elections- 2020**

- **Complaints Unit for the Parliamentary Elections- 2020**

A Complaint-receiving unit was established by the Human Rights Commission of Sri Lanka to receive complaints of allegations of human rights violations by government officials relating to the Parliamentary Elections in 2020. In addition to written complaints accepted via post, email, or fax, the Commission also received complaints relating to the elections through its 24-hour hotline.

- **Request for paid leave for public and private sector employees to cast their votes**

On 13.07.2020 the Commission wrote separately to the Ministry of Labour, Ministry of Public Administration and Home Affairs, and Board of Investment requesting for paid leave without an impact on the leave balance to be granted to both public and private sector employees (including casual and contract-based employees in public institutions) to cast their votes at the parliamentary election. The Commission recommended that a public notice be issued through newspapers etc. declaring that all employees are granted a holiday to cast their vote, in order to ensure that the citizens sovereign right to vote is protected. This recommendation was copied to the Election Commission.

- **Recommendations to the Election Commission to 'leave no voter behind'**

The Commission wrote to the chairperson of the Election Commission providing recommendations to ensure that the parliamentary election of 2020 was a "Leave No Voter Behind" election especially in the context of the COVID-19 pandemic. It emphasized the importance of issuing clear health guidelines to the officials on election related duties and the voters as there may be some hesitancy in exercising their right to franchise on the part of the general public due to the COVID-19 pandemic. The Commission underscored the responsibility of the state to provide for special allowances to guarantee the right to vote of persons with disabilities or with special needs and persons who are geographically isolated. The Commission also

raised the issue of the non-inclusion of names of constituents in the Voter Registers at the 2019 election and urged the Election Commission to address such issues prior to the parliamentary election. The recommendations further required selecting neutral public places as polling centres instead of places that could be under the custody of certain ethnic or religious groups, such as places of religious worship; to ensure that Bikkhunies (female Buddhist clergy) were not deprived of the opportunity to cast their vote due to the issues they face relating to the National identity Card application procedure; to provide additional security however ensuring that such additional security will not prevent voters from exercising their right but to assure the people of a free and fair election; strict implementation of election laws; ensure compliance with media guidelines issued by the Election Commission; and taking steps to prevent harassment and violence against supporters of defeated parties at village and institution level post-election.

- **Guidelines for police officers and directives pertaining to activities of officers in the Public Service and the Provincial Public Services in connection with the Parliamentary election 2020**

Taking into consideration the right of every citizen to vote, to freely engage in political activities, and the right to free and fair elections under the Constitution of Sri Lanka, the HRCSL issued guidelines to be observed by all police officers during the run-up to the election, on the day of the election, and the period immediately following the election. The Commission monitored compliance with these guidelines issued under powers vested in the Commission under the Act of the Commission.

The Commission also issued directives to public officers and public officers in the provincial public service in relation to the presidential election to ensure that the election is conducted freely and fairly. The Directives emphasized that the non-implementation of the law and the abuse of authority including the use of powers in a politically partial manner result in violation of fundamental rights, and that in addition to holding the state responsible, individual officers will also be held personally responsible for violations.

#### **4.4.3. Other monitoring activities:**

##### **■ Impact of the COVID-19 pandemic on education**

The Commission conducted an assessment of the disruption to education of school children who are confined to home due to closure of schools in view of the COVID-19 pandemic, especially of the children sitting for the Grade 5 scholarship examination, the Ordinary Level examination, and Advanced Level examination. A review of the online teaching activities introduced by the private sector as a response to this issue also formed part of this assessment. The Research and Monitoring Unit conducted this assessment with the support of the regional offices.

##### **■ Monitoring of news reports**

The Commission also continued to monitor news reports in the electronic and print media with regard to the violation of human rights falling within the purview of the Regional and sub-Offices. This activity assists the Commission in making *suo motu* interventions as well as following-up on the progress of remedial action by respondent parties.

##### **■ Interventions requiring further monitoring**

A series of discussions were conducted with relevant authorities and affected parties and interventions made in matters which in the opinion of the Commission required intervention and continuous monitoring. The following are selected examples:

- A discussion on possible interventions in relation to the safety and wellbeing of Sri Lankan migrant workers in destination countries and foreign migrant workers currently employed in Sri Lanka during the COVID-19 pandemic was held with the Foreign Ministry, Ministry of Foreign Employment Promotion, and the Ministry of Labour in attendance.
- Pursuant to a complaint received from a civil society organization regarding the detention of a Pakistani national who is an asylum-seeker registered with the United Nations High Commissioner for

Refugees (UNHCR) at the Mirihana Detention Center, the HRCSL formally informed the Controller General of Immigration and Emigration to intervene in the matter and take appropriate action.

- Written intervention directing the Ministry of Foreign Employment Promotion and the Sri Lanka Bureau of Foreign Employment to take necessary action in relation to a complaint received from the attorney-at-law of a Sri Lankan female migrant worker in Saudi Arabia who is facing workplace harassment since February 2019.
- Acting on a newspaper article with regards to the alleged molestation of a refugee girl from Pakistan at the Mt. Lavinia beach, the Commission informed the Senior DIG of the area in to intervene in the matter. The Commission continues to monitor the progress of the investigations.

## CHAPTER 5: EDUCATION AND OUTREACH

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- 5.1. Public awareness raising
  - 5.1.1. Celebration of International Commemorative Days
  - 5.1.2. Human Rights Awareness and Training Programmes for Various Focus Groups
- 5.2. Sharing Knowledge with Other Public Institutions/Programmes
- 5.3. Engagement with the media
  - 5.3.1. Engagement with traditional print and electronic media
  - 5.3.2. Use of online platforms
- 5.4. Engagement with civil society
  - 5.4.1. Regional civil society coordinating committees
  - 5.4.2. Community Task forces for Human Rights (CTF4HR)
  - 5.4.3. Civil Society representatives as members of the thematic sub-committees
  - 5.4.4. Participation at events organized by civil society organizations
  - 5.4.5. Discussions with civil society
  - 5.4.6. Training for civil society
- 5.5. Mentoring

## EDUCATION AND OUTREACH

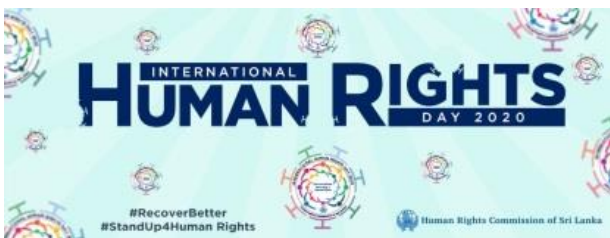
### 5.1. Public awareness raising

As mandated by Section 10 of the parent Act, the Commission strives to actively engage in raising public awareness and sensitivity on issues of human rights. The Commission considers the public an integral part of their work as the very purpose for its existence is to promote and protect the human rights of the citizenry. Therefore, the year 2020 is marked by many important events in realizing this objective, at times adopting innovative approaches against the backdrop of the COVID-19 pandemic.

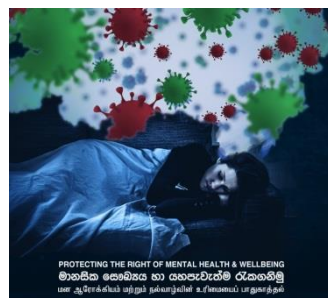
#### 5.1.1. Celebration of International Commemorative Days

##### ▪ International Human Rights Day – 2020

Thematically focused on the COVID-19 pandemic, the HRCSL launched a digital awareness campaign based on ensuring human rights are central to our recovery efforts in commemoration of the International Human Rights Day 2020. The campaign continued for a month beginning from 08 December 2020 on the newly launched Facebook page and Instagram account in



Cover image of the Facebook page



A message displayed on the Facebook page on protecting the right of mental health during the COVID-19 pandemic

commemoration of International Human Rights Day 2020 using the hashtags #recoverbetter #standup4humanrights. The importance of Human Rights and the need for global solidarity for pandemic recovery initiatives were emphasized during the campaign. UNDP provided financial support to successfully conduct this initiative. Regional Offices of



the Commission conducted radio programmes on the same theme in parallel to the national programme to mark the Day.

### ▪ International Women's Day 2020

A public event themed 'countering technology based Violence Against Women' was organized by the Commission on 06 March 2020 at the National Disaster Management Center to commemorate International Women's Day. Justice Shirani Thilakawardena, retired judge of the Supreme Court was the chief guest while Ms. Jaomi Lokuliana, Chairperson of the Sri Lanka Digital Women's Chamber of Commerce was the Guest of Honor. The audience consisted of OICs of all police stations in the Western Province, officers of the police Children and Women's Bureau, government officials, civil society representatives, school teachers, representatives of UN agencies, youth, and subcommittee members (See 4.1 above for more information on Thematic sub-committees). Mr. Hans Bilimoria of the Grassrooted Trust; SSP Darshika Kumari, Director, Cyber Crimes Division of the CID; Mr. Wijesena Withana, Advisor to the Law Enforcement Division of the NCPA; and Ms. Manoli Wijetunga, Co-Editor, Groundviews provided resource expertise while the Mind Adventure theatre company performed a dramatized version



**Chief guest Justice Shirani Thilakawardena addressing the audience**



**Participants actively contributing to the discussion**

of their forum show Consent & Complicity for the audience at the invitation of the Commission. The event was aimed at educating the public and relevant officials on the concepts and incidence of technology-based violence against women, how to prevent and combat such violence, available support for survivors, and responsible institutions. Attention was drawn to the issues of lack of awareness and education of technology-based violence against women among government officials as well as the general public and the existing lacuna in the legal system to address these issues.

Parallel programmes were held at regional level by the regional offices of Matara, Kalmunai, Badulla, and Kandy on the same theme to commemorate the International Women's Day.

- **International Day in support of victims of torture 2020**

HRCSL hosted its first webinar to mark the International Day in Support of Victims of Torture 2020 on the theme "Torture and other Forms of Societal Violence in Sri Lanka: Parts of One Spectrum?" Two webinars in Sinhala and Tamil languages were held on 26 June 2020.

The theme was chosen in light of the understanding that often, various forms of social violence have common roots and that the HRCSL must work on all fronts to address endemic violence in society in view of the linkages between different types. The webinars explored the interlink between on

one hand domestic violence perpetrated in the private sphere and ragging perpetrated by private individuals in the public sphere and on the other hand violence such as torture in custody perpetrated by state officials against citizens under cover of state power. The webinars were conducted by an experienced panel of resources persons which also provided space for victims of domestic violence, bullying, and police torture to share their experiences.



The backdrop of the webinars

### **5.1.2. Human Rights awareness and training programmes for various focus groups**

- **Awareness programmes**

The Commission also conducted several other awareness-raising programmes such as:

- Two awareness programmes for Grama Niladharis of Ambagamuwa Divisional Secretariat in Sinhala and Tamil were organized on 12 March 2020. A discussion was held on how to adopt a people friendly approach to providing services to the public in the plantation sector and ensure their rights are protected.

- Training Programme on child rights for newly recruited school teachers by the Kalmunai regional office on 27 January 2020.

- **Community mobile services**

The Commission and the Regional Offices provided assistance to mobile services organized by the Ministry of Justice and Law Reform for marginalized groups in several parts of the country. As such, the HRCSL Regional Office in Matara provided assistance to mobile services in Ratgama and Bope. Due to the prevailing COVID-19 pandemic the Commission was not in a position to conduct community mobile services under its own auspices as in the previous years.

## **5.2. Sharing knowledge with other public institutions/programmes**

The Commission, through its Head Office and the Regional Offices, also provides assistance by way of resources persons to programmes conducted by other public institutions and actively contributed to discussions of relevance to the Commission convened by other public institutions. During 2020, the head office and regional offices of the HRCSL conducted lectures and participated in discussions on topics of interest such as:

- a) A lecture on minority rights as part of periodic workshops organized by the Directorate of Humanitarian Law and Human Rights of the Sri Lanka Army.
- b) The discussion on constitutional reforms organized by the Department of Law, University of Peradeniya on 29 September 2020.
- c) An awareness session on fundamental rights, child rights, and the role of the HRCSL for the students of the College of Technology, Badulla on 28 February 2020.

**Total No. of Human Rights awareness and training provided by the Head Office and Regional Offices of the HRCSL in 2020**

	Head Office	Regional Offices
<b>Trainings</b>	04	09
<b>Lecture Assistance</b>	2	59
<b>Meeting/Workshops</b>	2	14
<b>Mobile Services</b>	-	9
<b>Webinars</b>	1	2

**No. of Human Rights awareness and training provided by Regional Offices of the HRCSL in 2020**

Head Office/ Regional Office	Target Groups			
	Armed Forces	Public Officers	Students/Yout h groups	General public/civil societies/religiou s leaders/journalis ts/others
<b>Badulla</b>	--	--	1	--
<b>Kandy</b>	1	--	--	1
<b>Kalmunai</b>	--	4	--	
<b>Matara</b>	--	--	1	1

**No. of Human Rights resource assistance for lectures provided by the Regional Offices of the HRCSL in 2020**

Head Office/ Regional Office	Target Groups			
	Armed Forces/ Police	Public Officers	Students/Y outh groups	General public/civil societies/religi ous leaders/journa lists/others
<b>Ampara</b>	1	1	1	--
<b>Anuradhapura</b>	7	--	--	6
<b>Badulla</b>	4	--	3	11
<b>Batticaloa</b>	2	2	6	4
<b>Jaffna</b>	--	--	1	--
<b>Kandy</b>	--	--	1	--
<b>Kalmunai</b>	--	1	2	--
<b>Matara</b>	1	1	--	1
<b>Trincomalee</b>	2	--	--	--
<b>Puttalam (Mobile Office)</b>	--	--	--	1

## 5.3. Engagement with the media

As part of its outreach efforts, the Commission engaged with the media to keep the public informed of critical issues, as well as on the activities of the Commission. The Commission employs traditional print and electronic media well as online platforms for promotional activities.

### 5.3.1 Engagement with traditional print and electronic media

The Commissioners and staff of the Commission took part in a series of electronic media programmes to mark the International Women's Day in 2020. Accordingly, the chairperson was invited for a talk on technology-based violence against women on the Lake House digital YouTube channel on 05 March 2020. Commissioner Ambika Satkunanathan was invited for a radio talk on the SLBC Morning Show on 04 March 2020 and another talk on the Udayan Television Morning Show on 06 March 2020 while Director (acting) E&SP attended the *Jeevithayata Ida Denna* programme on Sirasa TV on 04 March 2020 on the same theme of technology-based violence against women.

Further, Director (acting) E&SP was invited to a discussion on the Sirasa TV *Ahareenna* Programme on issues of access to services including education faced by the people of Dothaluoya in Aranayake on 21 February 2020.

The chairperson's statement on the position of the HRCSL in relation to the cremation of Muslim victims of covid-19 in response to a query from The Island was published in The Island newspaper on 7 April 2020.

### 5.3.2 Use of online platforms

All policy recommendations, interventions, and advocacy statements as well as the directives of the Commission are uploaded on the Commission's website and made publicly accessible. In appropriate cases, this information is also shared electronically with Civil Society Organizations, Members of the thematic sub-committees of the Human Rights Commission of Sri Lanka, Diplomatic Missions in Sri Lanka, International Human Rights

Organizations, and Asia Pacific Regional National Human Rights Institutions. The website of the Commission is updated regularly (33 updates in 2020) which therefore is a reliable source of up to date information about the HRCSL.

The Commission also uses the Asia Pacific Forum's (APF) bulletin to disseminate its work to a wider audience in the region and globally.

## **5.4. Engagement with civil society**

The Commission, especially via the Regional Offices, engages closely with civil society. It views civil society as a great resource, which enriches the work of the Commission, while the Commission in turn contributes to the work of civil society on human rights.

### **5.4.1 Regional civil society coordinating committees**

The close cooperation fostered by the Commission through the civil society coordinating committees at regional level assists the Commission in identifying human rights violations or situations warranting the intervention of the Commission. These coordinating committees also assist the Commission in monitoring the protection of human rights in the regions. In 2020, the Commission continued to facilitate these meetings.

### **5.4.2 Community Task forces for Human Rights (CTF4HR)**

The Community Task forces for Human Rights established by the Regional Offices of the HRCSL to facilitate communities to protect their rights at the grass-root level and agitate against any violations of these rights were active during 2020. The members of the CTF4HR comprise volunteer members of the community who indicated an interest to work with the Commission. The task forces act as a conduit between the Commission and the communities, enabling timely interventions in situations of rights violations which are brought to the attention of the Commission by CTF4HR members.

### **5.4.3 Civil Society representatives as members of the thematic sub-committees**

Active members of the civil society and civil society organizations are members of the thematic sub-committees, further contributing to the work of the Commission. The sub-committees are an opportunity for the Commission to benefit from the expertise and experience of civil society members in enriching the policy level efforts of the Commission.

### **5.4.4 Participation at events organized by civil society organizations**

- The Commissioners and staff of HRCSL participated in many events organized by civil society organizations such as:
  - Launch of the South Asia State of Minorities report by the Law and Society Trust.
  - Commemorative radio programme to mark the International Women's Day-2020 organized by the Women and Media.
  - Lecture on the role of the HRCSL as part of an awareness program for law students organized by the USAID Coherent, Open, Responsive and Effective Justice Program (CORE Justice).
  - Workshop organized by Right to Life organization for its regional coordinators at the Hector Kobbekaduwa Agrarian Research Institute.
  - The expert consultation organized by the SLYCAN Trust on the impact of climate change on migration.
  - A discussion between civil society organizations and trade union representatives on the situation of migrant workers during the COVID-19 pandemic organized by the Migrant Voice Coalition.
  - An online discussion on Migrant Workers' Issues organized by the Migrant Forum in Asia (MFA). In addition to the Human Rights Commission of Sri Lanka, representatives of the Human Rights Commissions of Nepal, Maldives, and the Philippines were also present at the discussion.
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### 5.4.5 Discussions with civil society

During the reporting year, the Commission held several discussions with civil society entities on different issues.

- A discussion with civil society organizations on the 2020-2022 Work Plan and the current work of the Commission was held on 05 February 2020. The following issues were discussed during the session:
  - The possibility of the HRCSL's intervention to dispel negative views in the society regarding the text book 'Hathe Ape Potha', which contains important information on sexuality published by the Ministry of Education for school children.
  - Intervention of the Human Rights Commission of Sri Lanka in relation to the new rules for the regulation of NGOs.
  - The need for immediate action regarding the non-implementation of recommendations issued by the HRCSL.
  - Appointment of officers with knowledge of Tamil language in the Regional Offices of the Human Rights Commission.
  - The need to expedite the release of the final report of the Commission's inquiry into the 2018 Sinhala-Muslim conflict in Kandy.
  - Collaborating with civil society organizations to enhance the strength and efficiency of the Commission.
- A hybrid discussion on monitoring the human rights situation in the country was held with civil society organizations across the country on 24.08.2020 at the head office of the Commission. It was the first time for the Commission holding a hybrid meeting, which saw representatives of civil society organizations invited to the Commission following public health guidelines while regional civil society organizations joined the discussion via Zoom technology. The meeting highlighted the new foci of the Commission such as climate change and Business and Human Rights. Against the backdrop of the COVID-19 pandemic, civil society organizations requested the Commission to pay special attention to the rights of migrant workers, environmental rights, social, cultural and economic rights, as well as the adverse effects of development on the population.



- The Commission held a special discussion with civil society organizations working on environmental rights on 19.08.2020 at the Commission premises. The catalyst for this discussion was the beach nourishment programme of the Mount Lavinia beach, where additional sediment was placed on the Mount Lavinia beach during a COVID-19 lockdown period. The newly added sediment was washed away by the waves, leading to controversy over the intentions behind the programme. At the same time, the media reported several incidents of forest clearance and the construction of a road through the Sinharaja forest reserve, which led to public outcry. Civil society organizations requested the Commission to pay attention to matters such as the removal of the requirement for sand and soil transportation permits; need to repeal circular 02/2005 which empowers divisional secretaries to acquire forests designated 'reserve forests' for other purposes; environmental damage caused by building a road through the Sinharaja forest reserve, the Mount Lavinia beach nourishment programme; and unauthorized clearing of Anavilandawa wetland lands in Puttalam. The Commission agreed to recognize environmental rights as an area for a thematic sub-committee and to formulate an intervention strategy for environmental issues as a matter of urgency.
- HRCSL held a discussion on 16.09.2021 with civil society organizations working on migrant rights on the safety and rights of Sri Lankan migrant workers working abroad during the COVID-19 pandemic. Issues such as the need for information kiosks at the Mattala airport for returning migrant workers, the cost of quarantining upon return which workers have to bear personally, including a COVID-19 cover in insurance policies for migrant workers, need to strengthen the Commission's ties with the Abu Dhabi Dialogue and the Colombo Process, were highlighted during this discussion. As these were matters of urgency, the Commission informed that it will promptly raise these concerns with the responsible agencies.

### **5.4.6 Training for civil society**

During 2020, the Commission strived to conduct training and sensitization programmes for members of the civil society despite the limitations imposed by the COVID-19 pandemic. The following is a snapshot of such trainings:

- An awareness-raising programme on principles of Human Rights International Human Rights standards and the Sri Lankan legal framework on disability rights organized by the Matara Regional Office was held on 27 February 2020 for the benefit of persons with disabilities.
- Training Programme on Reconciliation and Good Governance for religious leaders and members of the community organized by the Kalmunai Regional Office was held on 27 June 2020 in Kalmunai.

In addition, a wide cross section of people such as school and university students, Officers of armed forces, police officers, government officials, and representatives of non-governmental organizations call over at the Commission in person to collect Human Rights publications such as hand-bills and posters published by the Commission. In such instances, the Commission welcomes the opportunity to conduct awareness raising-discussions for these groups of persons at its premises. Even though the Commission conducted some sessions during 2020, such opportunities were few due to the pandemic.

## **5.5 Mentoring**

The Commission continued the HRCSL internship programme which was revived in 2017 due to the conviction that investing in the youth of the country, especially in the promotion and protection of human rights, is a right step forward. Applications were called from undergraduates and recent graduates of any discipline to serve on a voluntary basis throughout 2020. The objective of the programme was to give the successful candidates exposure to the role of HRCSL, promotion and protection activities of the Commission including research, and to foster commitment to public interest activities in the youth. The internships were for a minimum period of 3

months, and the interns had the choice of undergoing training at the Head Office or at a Regional Office under the close supervision of Directors or Regional Coordinators. However, due to the COVID-19 pandemic interns were only deployed during the first quarter of 2020. As such, 26 interns served internships during the first quarter of 2020 throughout the country. Upon the successful completion of the program, interns are issued an official certificate of participation.

### **Distribution of Interns for 2020**

<b>Relevant Office</b>	<b>No. of Interns</b>
Head Office	15
Matara Regional Office	1
Kandy Regional Office	5
Batticaloa regional office	3
Kalmunai regional office	2

## **CHAPTER 6: INTERNATIONAL COLLABORATION**

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- 6.1. Promoting compliance with international obligations
- 6.2. Strengthening ties with regional human rights alliances
- 6.3. Appointment of HRCSL as the National Preventive Mechanism under OPCAT
- 6.4. Other collaborations with international organizations and experts
  - 6.4.1. Bi-lateral meetings
  - 6.4.2. Foreign funding received

## INTERNATIONAL COLLABORATION

### 6.1. Promoting compliance with international obligations

In 2020 the Commission continued to actively communicate and cooperate with international and regional human rights organizations and protection mechanisms in promoting compliance with international human rights obligations of Sri Lanka as required by the Commission's statutory mandate.

The Commission received the Office of the United Nations High Commissioner for Human Rights (OHCHR) delegation on their visits to Sri Lanka. The chairperson and Commissioners discussed issues of mutual relevance with the delegation and acknowledged certain issues highlighted by them as needing immediate responses. The 2020 Report of the OHCHR to the Human Rights Council at its Forty-third session pursuant to resolution 40/1 of the Human Rights Council assessing the progress made by Sri Lanka in the implementation of Council resolution 30/1 on promoting reconciliation, accountability and human rights in Sri Lanka acknowledged that the "The Human Rights Commission of Sri Lanka has continued its proactive and outspoken defence of human rights in an independent and professional manner". The High Commissioner commended the HRCSL's timely interventions in the aftermath of the attacks of April 2019, which played an important role in preventing resort to excessive or discriminatory measures.

### 6.2. Strengthening ties with Regional Human Rights Alliances

As customary, the Commission participated in the Annual General Meeting of the APF held on 9 September 2020. For the first time in the organisation's history, the APF Annual Meeting was held as a virtual event due to the

COVID-19 pandemic. The APF is the regional umbrella organization for National Human Rights Institutions that provides technical support. HRCSL is a member of the APF and could participate in decision making at the 2020 AGM as an 'A' Status accredited Human Rights Commission.

### **6.3. Appointment of HRCSL as the National Preventive Mechanism under OPCAT**

Pursuant to Sri Lanka acceding to the Optional Protocol to the International Convention Against Torture (OPCAT) in December, 2017, HRCSL was nominated by the Government of Sri Lanka to be the National Preventive Mechanism (NPM). Under the OPCAT the State is obligated to set up one or more national preventive mechanisms to attempt to prevent torture and other forms of custodial abuse through preventive visits. HRCSL is already mandated and empowered to visit places of detention without prior permission under its parent statute.

In June 2020, the UN Sub-Committee on the Prevention of Torture held its forty-first session online, making it the first treaty body of the UN to undertake a full session and full programme of work in an online environment and using a variety of platforms. The Commission participated in the joint meeting of the NPMs in the Asian region held during the session.

### **6.4. Other collaborations with international organizations and experts**

#### **6.4.1 Bi-lateral meetings:**

HRCSL broadened its international collaborations through bi-lateral meetings with multiple entities:

- The Commission participated in several meetings and engagements with different UN organizations in Sri Lanka such as:
  - Participating at the workshop organized by UNDP together with Law and Society Trust to collect data from civil society organizations on

the theme of “Responsible Business and Human Rights” on 10 February 2020.

- Meeting with Ms. Julia Cabassi, International Consultant - Gender Equality & Sexual Reproductive Health and Rights at the request of United Nations Population Fund on 20 February 2020.
- The Commission met a visiting European Union delegation to discuss the HRCSL’s action in promoting and protecting human rights on 11 February 2020.
- During 2020, HRCSL also held in-person or virtual meetings with:
  - The Norwegian Ambassador to Sri Lanka
  - Ms. Brahmy Poologasingham, Senior advisor to the US Department of State
  - Mr Thierry Mathou, Asia and Oceania Director of the Ministry for Europe and Foreign Affairs in France
  - The Australian High Commissioner to Sri Lanka
  - First Secretary, Political Affairs of the Embassy of Switzerland in Colombo
  - Representatives of the Business and Human Rights Resource Center on the theme of "Responsible Business and Human Rights".

#### **6.4.2 Foreign funding received**

HRCSL received a majority of its funding from the treasury to carry out core activities. However, the Commission was also able to secure financial support for its activities through collaborations fostered between the HRCSL and international development partners. As such, HRCSL acknowledges and appreciates the cooperation extended by the UNHCR, the Government of the Swiss Confederation, and the UNDP for programmatic work of the Commission in 2020, which enabled the Commission to carry out its mandate effectively.

The Swiss Confederation continued to support the Commission to strengthen its capacity. Through the grant, the Commission was able to garner resources to tackle the complaints backlog and provide remedies to complainants. This enabled the Commission to increase public confidence

and trust in the institution, and also illustrate its ability to respond to the needs and concerns of the people of Sri Lanka, which is integral to its effectiveness.

UNHCR supported a project aimed at strengthening sub-offices through the provision of infrastructure as well as capacity building. The objective of the project was to enable and strengthen the access of returnee populations, particularly vulnerable and marginalised groups, to the HRCSL to seek remedies for human rights issues, including violations of fundamental rights.

The UNDP provided direct financial assistance for the HURIN system, the social media campaign for the International Human Rights Day, formulation of brand guidelines for the Commission, and the development of the new website for the Commission. These activities enabled the HRCSL to strengthen its capacity to effectively respond to the needs of the community and increase its digital reach in order to be accessible to more people.



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## **CHAPTER 7: HUMAN RESOURCES, ADMINISTRATION, AND FINANCE**

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### **7.1. Staff development programmes**

#### **7.1.1. Local training opportunities**

#### **7.1.2. International programmes**

### **7.2. Employment and vacancies**

### **7.3. Annual financial statements**

## **HUMAN RESOURCES, ADMINISTRATION, AND FINANCE**

### **7.1. Staff development programmes**

Since the tenure of the outgoing Commission began in October 2015, HRCSL has strived to develop professional excellence and capacity of the staff. The newly appointed Commission too has striven to maintain the same momentum. The Commission understands that institutional excellence is essential to respond effectively to violations of human rights and promote human rights. Therefore, the staff of both the head office and regional offices are encouraged and required to benefit from the many training opportunities available, both locally and internationally, to improve their professionalism, efficiency, understanding of challenges, and the ability to utilize their skills to provide assistance to the communities they serve. Due to international travel restrictions imposed at the onset of the COVID-19 pandemic, the staff could not avail of international training opportunities.

#### **7.1.1 Local training opportunities**

- A Training of Trainers workshop on gender was held from 24-28 February 2020 under the theme “women’s rights are human rights”. The objective of the workshop was to enhance the knowledge and capacity of the HRCSL staff of both the Head Office and regional offices on issues of gender. The training benefited from experienced resource persons who have had extensive exposure as trainers.
- A training programme on countering technology-based violence against women was held for regional coordinators of the HRCSL on 06 March 2020. The objective of the training was to sensitize the participants on the implications of the rapid advancements in and accessibility of technology on violence against women and how electronic communication technology could be used to enhance intervention and prevention efforts to end violence against women.

- In recognition of the need to enhance the capacities of the regional staff of the Commission, who are integral to the efficient functioning of the institution, a series of virtual workshops on Zoom on digital literacy was conducted for the staff of regional offices of the HRCSL. The workshops were held for the staff of the Trincomalee, Anuradhapura, Jaffna, and Ampara regional offices during August-September 2020.
- A training programme on filing was conducted for the staff of the HRCSL on 30 September 2020 with the resource contribution of an experienced administrative officer of the Commission.
- Another workshop on accounting and administrative strategies was held for the staff of the Kandy and Badulla regional offices in March 2020 in order to enhance the capacities of these staff.

### **7.1.2 International programmes**

Staff of both the head office and regional offices of the Commission have benefitted from many international training programmes in the past years, which have served to enhance the capacity and efficiency of the Commission. However, due to the onset of the COVID-19 pandemic, the staff could not take part in any international training programmes during the reporting year.

## **7.2. Employment and vacancies**

The Commission received final approval for all the cadre positions in the approved SoR from the Department of Management Services (DMS) in May 2018. According to the directions received on the absorption process during last quarter of 2019, in 2020 the Commission began granting promotions under phase I of the new SoR to those officers who became eligible for promotions from 18.09.2017 to 17.09.2020. Salary arrears related to the absorption process was also prepared and finalized during 2020. The scheme of promotion prepared for officers in posts approved as personal to them was submitted to the DMS and is pending approval.

In the previous reporting year, the staff of HRCSL was afforded the opportunity to submit appeals in respect of grievances regarding the process

of staff absorption. The Appeals Committee appointed by the HRCSL Board to consider these appeals held discussions with the DMS and the National Salaries Commission on further action to be taken prior to responding to the appeals. The Appeals Committee comprised two HRCSL Commissioners and a retired senior civil servant as an external member. Following recommendation of the Committee to absorb the full strength of staff with effect from 01 January 2020 in accordance with the new SOR, payment of applicable salaries to the full strength of staff in accordance with the salary codes applicable to the semi-government sector in compliance with DMS circulars commenced on 01 January 2020.

Applications were called during the year for 05 positions of directors i.e. for Administration & Finance, Inquiries & Investigations, Education & Special Programmes, Research & Monitoring, and International Relations; an accountant; and an internal auditor under the new SoR approved for the Commission. In addition, applications were called from internal applicants for positions of legal Officers. Interviews were held for all positions and granting of appointments for internal candidates selected for the positions of legal officers began in December 2020.

### 7.3. Annual financial statements

The Commission received a majority of its funding from the treasury to carry out core activities. The Commission also acknowledges and appreciates the corporation extended by the UNHCR and the Swiss Confederation for programmatic work of the Commission in 2020.

The financial support extended by external donors is as follows:

<b>Funding agency</b>	<b>Amount Received</b>	<b>Expenditure</b>	<b>Balance</b>
<b>Swiss Confederation</b>	1,351,000.00	341,810.92	1,009,189.08
<b>UNHCR</b>	4,545,750.00	1,482,552.52	3,063,197.48

(Please see 6.4.2 for more information on financial support extended by external donors)

▪ **Total Annual financial provisions:**

<b>Opening Balance</b>	<b>Rs. 0.00</b>
<b><u>Imprest Received from Treasury</u></b>	
<b>Recurrent</b>	201,445,000.00
<b>Capital</b>	4,920,736.00
<b>Net change in deposit account</b>	1,970,575.93
<b>Other Receipts</b>	1,059,525.89
<b>Total Receipts</b>	<b>209,395,837.82</b>
<b><u>Expenditure</u></b>	
<b>PERSONNEL EMOLUMENTS</b>	128,184,522.72
<b>TRAVELING EXPENSES</b>	668,056.00
<b>SUPPLIES</b>	4,644,935.27
<b>MAINTENANCE EXPENDITURE</b>	2,442,922.68
<b>SERVICES</b>	65,617,808.55
<b>TRANSFERS</b>	1,758,606.50
<b>HUMAN RIGHTS PROGRAMS</b>	2,272,659.01
<b>REHAB. &amp; IMPR. OF CAPITAL ASSETS</b>	301,828.65
<b>ACQUISITION OF CAPITAL ASSETS</b>	1,446,135.00
<b>CAPACITY BUILDING</b>	234,000.00
<b>Catalytic Support to Peace Building in S.L (UNDP)</b>	-
<b>Enabling Returnees to access their rights (UNHCR)</b>	1,482,552.52
<b>Strengthening the Capacity of HRC (SWISS)</b>	341,810.92
<b>TOTAL EXPENDITURE</b>	<b>209,395,837.82</b>

## APPENDICES

### Presence of HRCSL in Sri Lanka: Map



**List of recommendations:**

	<b>Case number</b>	<b>Issued date</b>	<b>Type of complaint received</b>	<b>Constitutional Article/s violated</b>	<b>Respondent</b>
<b>1</b>	HRC/AP/272/17	3/1/2020	Service promotion	Article 12(1)	Sri Lanka Broadcasting Corporation (SLBC)
<b>2</b>	HRC/2066/16	3/1/2020	Delay in disciplinary inquiry	Article 12(1)	University of Colombo
<b>3</b>	HRC/1915/15	24/1/2020	Admission to schools	Article 12(1)	Richmond College, Galle
<b>4</b>	HRC/5033/14	24/1/2020	Admission to schools	Article 12(1)	Richmond College, Galle
<b>5</b>	HRC/AP/535/17	24/1/2020	Admission to schools	Article 12(1)	Rabewa Central College, Anuradhapura
<b>6</b>	HRC/AM/61/18/B	24/1/2020	Service conditions	Article 12(1)	I.G.P /Badulla Police
<b>7</b>	HRC/AM/25/17 HRC/AM/26/17 HRC/AM/27/17	24/1/2020	Service promotion	Article 12(1)	Ministry of Health and Ministry of Public Administration
<b>8</b>	HRC/AM/75/17	19/2/2020	Service promotion	Article 12(1)	Sri Lanka Mahaweli Authority
<b>9</b>	HRC/260/19	3/3/2020	Admission to schools	Article 12(1)	Ferguson High School, Ratnapura
<b>10</b>	HRC/3756/16	10/3/2020	Service conditions	Article 12(1)	Department of Rubber Development

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<b>11</b>	HRC/3088/18	2/7/2020	Admission to schools	Article 12(1)	D.S. Senanayaka College, Colombo 07
<b>12</b>	HRC/2501/17 HRC/2503/17	2/7/2020	Torture	Article 11	Eheliyagoda Police
<b>13</b>	HRC/AP/23/18 HRC/AP/24/18	2/7/2020	Termination of employment	Article 12(1)	Road Transport Service Authority, North Central Province
<b>14</b>	HRC/K/130/SUO/MOTU/18	2/7/2020	Torture	Article 11	Nayapana Maha Vidyalaya, Kothmale Zonal Director of education , Kothmale
<b>15</b>	HRC/K/685/16	2/7/2020	Admission to schools	Article 12(1)	Kingswood College, Kandy
<b>16</b>	HRC/3258/18 HRC/3256/18	2/7/2020	Admission to schools	Article 12(1)	Thurstan College, Colombo 03 Royal College, Colombo 07
<b>17</b>	HRC/AP/220/14	1/7/2020	Arrest/Detention	Article 13(1)	Anuradhapura Police
<b>18</b>	HRC/K/502/16A	1/7/2020	Admission to schools	Article 12(1)	Kingswood College, Kandy
<b>19</b>	HRC/K/577/16	1/7/2020	Admission to schools	Article 12(1)	Kingswood College, Kandy
<b>20</b>	HRC/300/19	17/7/2020	Admission to schools	Article 12(1)	Royal College, Colombo 07 Mahanama Vidyalaya, Colombo 03
<b>21</b>	HRC/3298/18	17/7/2020	Admission to schools	Article 12(1)	Ananda College, Colombo 10
<b>22</b>	HRC/4537/14 HRC/83/16	17/7/2020	Pension	Article 12(1)	Department of Railways



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23	HRC/155/13	17/7/2020	Service conditions	Article 12(1)	IGP
24	HRC/BD/146/12	12/8/2020	Retirement benefits	Article 12(1)	Provincial General Hospital, Badulla Ministry of Health
25	HRC/2304/18	12/8/2020	Torture	Article 11	Moronthuduwa Police
26	HRC/3397/17	24/8/2020	Pension	Article 12(1)	Central Bank of Sri Lanka
27	HRC/MT/286/18	7/9/2020	Admission to schools	Article 12(1)	Rahula College, Matara
28	HRC/1859/15	15/9/2020	Service promotion	Article 12(1)	Department of Labour
29	HRC/3506/16	15/9/2020	Inaction of public authority	Article 12(1)	Divisional Secretariat, Hanwella/ Department of Valuation
30	HRC/K/692/18	15/9/2020	Admission to schools	Article 12(1)	Dharmaraja College, Kandy
31	HRC/AM/34/19	15/9/2020	Pension	Article 12(1)	Department of Agriculture
32	HRC/3767/15	15/9/2020	Torture	Article 11	Kohuwala Police
33	HRC/AM/97/17	15/9/2020	Service promotion	Article 12(1)	Ampara General Hospital /Ministry of Health
34	HRC/1373/16	15/9/2020	Cancellation of a liquor License	Article 12(1)	Department of Excise
35	HRC/269/19	16/9/2020	Admission to schools	Article 12(1)	Royal College, Colombo 07
36	HRC/2195/17	14/10/2020	Admission to schools	Article 12(1)	Yashodara Devi Balika Vidyalaya, Gampaha
37	HRC/AM/123/16	14/10/2020	Termination of employment	Article 12(1)	Amisiri Gunaratne Piriwena, Mahaoya

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38	HRC/AP/384/16	14/10/2020	Torture	Article 11	Anuradhapura Police
39	HRC/V/25/19	16/11/2020	Arrest/Detention	Article 13(1)	Vavuniya Police
40	HRC/1450/19	11/11/2020	Admission to schools	Article 12(1)	Kegalle Balika Vidyalaya, Kegalle
41	HRC/4347/16	11/11/2020	Arrest/detention	Article 13(1)	Kuliyapitiya Police
42	HRC/AP/104/16	11/11/2020	Recruitment	Article 12(1)	Ceylon Electricity Board
43	HRC/K/541/16	11/11/2020	Admission to schools	Article 12(1)	Kingswood College, Kandy
44	HRC/51/18	11/11/2020	Admission to schools	Article 12(1)	Nalanda Vidyalaya, Colombo 10
45	HRC/K/30/11	14/12/2020	Torture	Article 11	Wilgamuwa Police
46	HRC/BD/62/15	14/12/2020	Arrest/detention	Article 13(1)	Kalutara North Police
47	HRC/887/15	14/12/2020	Torture	Article 11	Maradana Police
48	HRC/5244/16	14/12/2020	Admission to schools	Article 12(1)	Maliyadewa Boys School, Kurunegala
49	HRC/2763/19	14/12/2020	Admission to schools	Article 12(1)	Royal College, Colombo 07
50	HRC/AP/473/14(I)	9/12/2020	Torture	Article 11	Anuradhapura Police
51	HRC/1025/19	9/12/2020	Admission to schools	Article 12(1)	Dhammissara National School, Nattandiya
52	HRC/3010/18	10/12/2020	Admission to schools	Article 12(1)	Sirimavo Bandaranayaka Vidyalaya, Colombo 07
53	HRC/760/20	9/12/2020	Admission to schools	Article 12(1)	Mahamaya Girls College, Kandy
54	HRC/757/17	9/12/2020	Recruitment	Article 12(1)	National Youth Service Council

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<b>55</b>	HRC/639/17	23/12/2020	Arrest/detention	Article 13(1)	I.G.P /Siyambalanduwa Police
<b>56</b>	HRC/2314/15	10/12/2020	Service promotion	Article 12(1)	Sri Lanka Navy
<b>57</b>	HRC/1925/13	9/12/2020	Torture	Article 11	Buthpitiya Maha Vidyalaya, Buthpitiya
<b>58</b>	HRC/1148/19	9/12/2020	Discrimination	Article 12(1)	University of Colombo
<b>59</b>	HRC/2404/28	3/12/2020	Abuse of power	Article 12(1)	Ministry of Sports
<b>60</b>	HRC/2571/18 HRC/2572/18	3/12/2020	Admission to schools	Article 12(1)	Sirimavo Bandaranayaka Vidyalaya, Colombo 07

**List of *suo motu* inquiries undertaken (The interventions of the Commission exercising its own initiative under Section 14 of the Act):**

	Date	Case Number	Subject matter	Respondent
<b>HRCSL Head office</b>				
<b>1</b>	17/2/2020	HRC/SUO/MOTU/01/2020	Discrimination based on ethnicity	Nalanda Vidyalaya, Colombo 05
<b>2</b>	4/3/2020	HRC/SUO/Motu/02/20	re-instatement of service	National Housing Development Authority
<b>3</b>	4/3/2020	HRC/Suo/Motu/03/20	Arbitrary arrest and assault	Sri Lanka Police
<b>4</b>	6/3/2020	HRC/SUO/MOTU/04/20	Torture	Siri Sivali Primary School and Panadura South Police
<b>5</b>	14/5/2020	HRC/SUO/MOTU/05/20 HRC/TEM/SUO/MOTU/01/20	Torture	Grandpass Police
<b>6</b>	14/5/2020	HRC/SUO/MOTU/06/20 HRC/TEM/SUO/MOTU/16/20	Environmental impact of the beach nourishment programme	Coast Conservation and Coastal Resource Management Department, Divisional Secretariat of Ratmalana, Geological Survey and Mines Bureau, Central Environmental Authority, Municipal Council of Dehiwala and Mount Lavinia, Urban Development Authority, and the National Aquatic Resources Research and Development Agency

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7	14/5/2020	HRC/SUO/MOTU/07/20 HRC/1391/20	Torture	Department of prisons Mahara prison
8	20/5/2020	HRC/SUO/MOTU/08/20	Harassment by police	Veyangoda Police
9	20/5/2020	HRC/SUO/MOTU/09/20	Arrest/detention	Modara Police
10	20/5/2020	HRC/SUO/MOTU/10/20	Torture	Hanwella Police
11	20/5/2020	HRC/SUO/MOTU/11/20 HRC/903/20	Salary contributions to the COVID-19 Fund	Ministry of Public Administration
12	20/5/2020	HRC/SUO/MOTU/12/20	Torture	Ambagaha Junction Police Post
13	20/5/2020	HRC/SUO/MOTU/13/20	Harassment	CID
14	20/5/2020	HRC/SUO/MOTU/14/20	Arrest/Detention	Port Police
15	20/5/2020	HRC/SUO/MOTU/15/20	Death in custody	Narahrenpita Police
16	17/7/2020	HRC/SUO/MOTU/16/20	Extrajudicial killing	Agulana Police
17	3/9/2020	HRC/SUO/MOTU/17/20	Death in custody	CID, Monaragala, Gampaha, Agulana, Mulleriyawa, Oruthota, and Nawagamuwa Police
18	21/9/2020	HRC/SUO/MOTU/18/20 HRC/2202/20	Torture	Welikada Police
19	14/10/2020	HRC/SUO/MOTU/19/20 HRC/2564/20 HRC/2510/20	Death in custody	CCD
20	5/11/2020	HRC/SUO/MOTU/20/20	Death in custody	Nawagamuwa Police
21	25/11/2020	HRC/SUO/MOTU/21/20	Torture	Road Development Authority (Western Province)

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22	1/12/2020	HRC/SUO/MOTU/22/20	Rights of prisoners	Department of Prisons and Mahara prison
23	14/10/2020	HRC/SUO/MOTU/23/20	Torture	Pugoda Police
<b>HRCSL Regional Offices</b>				
24	21/01/2020	HRC/JA/SUOMOTU/001/2020	Torture	Kayts Police
25	07/02/2020	HRC/JA/SUOMOTU/002/2020	Ragging in universities	University of Jaffna
26	10/02/2020	HRC/JA/SUOMOTU/003/2020	Inflicting corporal punishment on a child	Zonal Education Office - Vadamarachchi
27	18/02/2020	HRC/JA/SUOMOTU/004/2020	Ragging in universities	University of Jaffna
28	04/03/2020	HRC/JA/SUOMOTU/005/2020	State Welfare	Samurdhi Development Officer and, DS Maruthankerny DS Division
29	12/04/2020	HRC/JA/SUOMOTU/006/2020	Torture	Sri Lanka Navy at Poonagary Sea
30	20/04/2020	HRC/JA/SUOMOTU/007/2020	Misuse of Power	Sathosa - Kilinochchi
31	20/04/2020	HRC/JA/SUOMOTU/008/2020	Torture	Vaddukoddai Police
32	22/04/2020	HRC/JA/SUOMOTU/009/2020	Freedom of Movement	Sri Lanka Army
33	26/04/2020	HRC/JA/SUOMOTU/010/2020	Torture	Vaddukodai Police
34	15/05/2020	HRC/JA/SUOMOTU/011/2020	Abuse of a child	
35	21/05/2020	HRC/JA/SUOMOTU/012/2020	Torture	Sri Lanka Navy
36	21/06/2020	HRC/JA/SUOMOTU/013/2020	Extra Judicial Killing	Sri Lanka Army
37	21/08/2020	HRC/JA/SUOMOTU/014/2020	Right of the Differently abled to access to buildings	Bank of Ceylon, Urumpirai branch
38	16/04/2020	HRC/SUOMOTU/01/95/20(S)	Deaths in custody	Superintendent of Prison, Anuradhapura

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39	16/04/2020	HRC/SUOMOTU/02/96/20(s)	Death in Custody	Officer-in-Charge of Polpithigama Police
40	08/12/2020	HRC/SUOMOTU/03/355/20(s)	Forcible demolition	Department of Wildlife
41	06/01/2020	HRC/K/20/SUOMOTU/20-W	Death in Custody	Prison Officer, Kegalle Prison
42	03/02/2020	HRC/K/58/SUOMOTO/20-A	Torture	Prison Officer, Dumbara Prison
43	26/10/2020	HRC/K/441/SUOMOTO/20-W	Torture	Poojapitiya Police
44	03/01/2020	HRC/MT/SUOMOTO/01/20/V	Public nuisance	Proprietor of Weligama Cleaning Service, Officer-in-charge- Kotawila, PHI-Kamburugamuwa, Divisional Secretary- Weligama, Central Environmental Authority- Matara, Pradeshiya Sabha- Weligama
45	02/03/2020	HRC/MT/SUOMOTO/02/20/G	Assault	Police STF, Sooriyawewa
46	08/06/2020	HRC/MT/SUOMOTO/03/20/V	Arrest and detention	Officer-in-charge, Akuressa Police
47	19/06/2020	HRC/MT/SUOMOTO/04/20/V	Death in custody	Officer-in-charge, Hikkaduwa Police
48	04/12/2020	HRC/MT/SUOMOTO/05/20/N	Assault	Hungama Police
49	21/12/2020	HRC/MT/SUOMOTO/06/20/N	Police brutality	Officer-in-charge, Gandara Police

JPA/E/HRC/2020/FA/25

14<sup>th</sup> June 2021

Secretary  
Human Rights Commission

**Auditor General's Summary Report on the Financial Statements of the Human Rights Commission for the year ended as at 31<sup>st</sup> of December 2020 in terms of section 11(1) the National Audit Act No. 19 of 2018**

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Herewith sent the said report and originals of the financial statement in all three languages.

**M.G.B.G.P. Fernando**  
Assistant Auditor General  
For Auditor General

Copy: Director General – Public Finance Department



JPA/E/HRC/2020/FA/25

Secretary (Chief Accounting Officer)  
Human Rights Commission of Sri Lanka

**Auditor General's Summary Report on the Financial Statements of the  
Human Rights Commission for the year ended as at 31<sup>st</sup> of December  
2020 in terms of section 11(1) the National Audit Act No. 19 of 2018**

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**1. Financial Statements**

**1.1 Qualified Opinion**

The audit of the financial statements of the Human Rights Commission for the year ended 31 December 2020 comprising the statement of financial position as at 31 December 2020 and the statement of financial performance, and cash flow statement for the year then ended, was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with provisions of the National Audit Act No. 19 of 2018. This report consists of my comments and observations on the financial statements issued to the Commission in terms of Section 11 (1) of the National Audit Act No. 19 of 2018. This report will be presented to Parliament in due course in terms of Section 10 of the National Audit Act No. 19 of 2018 which is read in conjunction with Article 154 (6) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

In my opinion, except for the effects of the matters described in the paragraph 1.6 of this report, the accompanying financial statements give a true and fair view of the financial position of the Human Rights Commission of Sri Lanka as at 31<sup>st</sup> December 2020 and of its financial performance and its cash flows for the year then ended.

**1.2 Basis for Qualified Opinion**

I conducted my audit in accordance based on the matters specified in the paragraph 1.6 of this report. My responsibilities, under those audit standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### **1.3 Responsibilities of Chief Accounting Officer for the Financial Statements**

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The Chief Accounting Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with generally accepted Accounting Principles and provisions in Section 38 of the National Audit Act, No.19 of 2018 and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

As per Sub-section 16(1) of the National Audit Act No. 19 of 2018, the Commission is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared.

As per Sub-section 38 (1) (c) of the National Audit Act, the Chief Accounting Officer shall ensure that effective internal control system for the financial control of the Commission exists, and carry out periodic reviews to monitor the effectiveness of such systems and accordingly make any alterations as required for such systems to be effectively carried out.

### **1.4 Auditor's Responsibilities for the Audit of the Financial Statements**

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My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Chief Accounting Officer regarding, significant audit findings, any significant deficiencies in internal control and other matters that I identify during my audit.

### **1.5 Report on Other Legal and Regulatory Requirements**

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I express the following matters in accordance with Section 6 (d) of the National Audit Act, No. 19 of 2018.

- (a) Financial Statements do not compatible with the previous year.
- (b) The recommendations I have made in the previous year on the observations included in the paragraph 1.6.2.1 (a) of this report have not been rectified when presenting the financial statements of the year under review.

### **1.6 Comments on financial statements**

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#### **1.6.1 Statement of Financial Performance**

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The following observations are made.

- (a) Even though the salaries, wages and other employee benefits of the Commission for the year 2020 was Rs. 128,852,579 as per the cost ledger, it had been under stated in the statement of financial Performance as Rs. 128,184,523.
- (b) Even though the expenditure on other goods and services of the Commission for the year 2020 was Rs. 74,978,326, it had been overstated in the statement of Financial Performance as Rs 75,646,381.

## 1.6.2 Statement of Financial Position

### 1.6.2.1 Non-financial Assets

The following observations are made.

- (a) Even though all the assets of the Commission should have been included in the statement of non-financial assets, only the assets acquired after 01<sup>st</sup> January 2004 had been entered in the statement of non-financial assets and the assets which existed before the year 2004 had not been included.
- (b) There was a difference of Rs. 7,552,881 between the treasury prints and the vehicle register of the Commission of the transport equipment of the Commission.
- (c) Cost of a vehicle which had been transferred to the Presidential Secretariat and a vehicle which had been disposed had not been removed from the statement of non financial assets.
- (d) Action had not been taken to capitalize the cost of vehicle purchased by the Commission even by 28<sup>th</sup> February 2021.

### 1.6.3 Not maintaining Documents and Books

Nevertheless two separate registers should be maintained by every public institute to record losses of Advance Account activities and other activities under F.R 102 in terms of F.R.110, the institute had maintained no such documents or books.

## 2. Financial Review

### 2.1 Non-compliance with laws, rules and regulations

The following instances of non- compliances were observed.

#### (a) Financial Regulations of the Democratic Socialist Republic of Sri Lanka

<u>Non- compliance with laws, rules and regulations</u>	<u>Non- compliance</u>
(a) F.R. 770 of the Democratic Socialist Republic of Sri Lanka	The Commission had not conducted a survey on vehicles.
(b) Paragraph 12 of the Public Finance Circular	The Commission had not identified the vehicles to be disposed.

No. 02/2015 dated 10<sup>th</sup> July  
2015

(c) **Public**  
**Administrative**  
**circular 30/2016**  
**dated 29<sup>th</sup>**  
**December 2016**

- |     |  |  |
|-----|--|--|
| (i) | Paragraph 3.1  | No fuel tests had been done on the vehicles.   |
| (i) | Paragraph 5.1  | Essential information which should be included in the vehicle log books had not been included. |
| (d) | Asset management circular No. 01/2017 dated 28th June 2017 | A register of vehicles consists of the updated information of vehicles had not been prepared.  |

### 3. Operational Review

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#### 3.1 Performance

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##### 3.1.1 Planning

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Annual Action Plan for the year 2020 had not been prepared in terms of Public Finance Circular No. 01//2014 dated 17<sup>th</sup> February 2014.

##### 3.1.2 Not achieving the expected output level

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The following observations are made.

- (a) 4,266 complaints remained as at 01<sup>st</sup> of January 2020 at the commission to be settled and 6,284 complaints had been received in the year 2020 only. Of those complaints only 3,812 complaints had been settled in the year 2020 and 6,738 complaints remained to be settled. Of these complaints 1,804 had been received within the past 3-10 years and 23 complaints had been received more than 10 years ago. Among them, 2,134 complaints had been received within 01-03 years.

### **3.1.3 Annual Performance Report**

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Annual Performance Report of the year 2020 that should be submitted in terms of the Paragraph 10.2 of the Public Finance Circular 02/2020 dated 28<sup>th</sup> August 2020 and section 16.2 of the National Audit Act No. 19 of 2018 had not been submitted for audit along with the financial statements.

### **3.2 Asset Management**

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The following observations are made.

- (a) Cost of 03 vehicles granted to the Commission by Non –governmental Organizations had not been capitalized and the cost of a vehicle which had been granted by a Non-Governmental Organization, but not available at present had not been removed.
- (b) 04 motor bikes had been parked at the Head Office Premises without running.
- (c) 02 photocopy machines had remained idle without using.
- (d) Even though the leasing period of the three motor vehicles granted in 2014 by the Treasury under the financial facilities of BOC, the commission has failed to acquire the ownership of those three vehicles.
- (e) Cost of 19 vehicles which had been registered in the name of the commission could not be ensured and cost of 20 vehicles had not been accounted under CIGAS programme.
- (f) Since at the Board of Survey of 2019, the goods of the Head Office had not been categorized division wise and could not verify the divisions where they are available.
- (g) In the Board of Surveys of 2018 and 2019, the items which had been recommended to be disposed had not been disposed and the reports had not been submitted to the Auditor General and as recommend at the Board of Survey of 2018, items had not been sold, repaired or removed from use. However such recommendations had not been stated in the report of the Board of Survey 2019.
- (h) 14 steel arm chairs and 01 Foot bicycle which had been identified as condemned items at the board of survey of 2019 had been misplaced.
- (i) The Regional Offices which the items had been issued had not been stated in the inventory of the commission.

### **3.3 Management Weaknesses**

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Nevertheless work plans and their progress should be reported to the Head Office monthly by 14 Regional Offices of the Commission; during the year under review such work plans and their progress had not been reported monthly to the Head Office by the regional offices. The Head Office had taken no action in this regard.

## **4. Human Resource Management**

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- (a) A Human Resource Development Plan had not been prepared in terms of paragraph 6.1 of the Public Administrative Circular No. 02/2018 dated 04<sup>th</sup> January 2018 and in terms of the paragraph 01 of the said circular, annual performance agreements had not been signed for the entire staff working in the institute.
- (b) Even though vacant posts should be filled immediately after they had been fallen vacant, in terms of paragraph 05 of the Chapter 11 in the Establishments Code of the Democratic Socialist Republic of Sri Lanka, there were 95 vacancies in the staff as at 31<sup>st</sup> of December 2020.
- (c) As per the section 13.3 of chapter 11 in the Establishments Code of the Democratic Socialist Republic of Sri Lanka, an appointment shall be made on acting basis only as a temporary remedy until an officer will be appointed on permanent basis. However, despite 02 years have already been passed from the recruitment procedure of the institute had been approved; action had not been taken to recruit officers to the post of Deputy Director (Investigations and Inquiries) and 02 posts of Regional Coordinating Officer.
- (d) From the officers who directly involve with the cases pertaining to violating of human rights, of the 22 posts of Legal Officers 12 posts and of the 47 posts of Human Rights Officers 42 posts had been fallen vacant.
- (e) Department of Management Services had approved 233 posts including the post of Director (Admin.) and 04 other director posts on 18<sup>th</sup> September 2017. However, the Commission had not taken action to recruit an officer for these director posts and officers had been appointed to attend duties for periods of 2-5 years. Approval of the Secretary to the

President had not been received to appoint Director (Admin) and Director (Investigations and Inquiries) based on attending to duties.

- (f) The Commission had appointed an Administrative Officer to attend the duties of Director (Admin.) with effect from 06<sup>th</sup> February 2018. However, the post of Director (Admin.) is a senior level post in terms of service clarification specified in terms of Schedule III of the Management Services Circular No. 02/2016 and the Department of Management Services has informed that the post of Administrative Officer which is a tertiary level post and it cannot be agreed about appointing a tertiary level officer to discharge duties in the senior level post which has fallen vacant. However, on 06<sup>th</sup> February 2019, Department of Management Services had informed that in case qualified persons are not available in the commission in compliance with the approved recruitment procedure and the vacant posts should be filled immediately, it is allowed to appoint suitable officers to discharge duties of such posts and to pay them in terms of the provisions of the Establishments Code. However, without considering the above, the said officer who is not an appropriate person to discharge duties in the particular post had been appointed and had paid allowances amounting Rs. 932,208 for discharging duties from 06<sup>th</sup> February 2018 to 05<sup>th</sup> February 2019 .
- (g) Department of Management Services had informed the Commission on 06<sup>th</sup> February 2019 that in case there are no qualified officers to be recruited as per the approved recruitment procedures of the commission and the vacant posts should be filled with immediate effect, most appropriate officers should be appointed to attend duties of such posts and their payments should be settled in terms of the provisions of the Establishments Code. However, despite there were more eligible officers in seniority list, a lady Investigation Officer of secondary level category had been appointed to attend duties of the post of Director (Investigations and Inquiries) and she had been paid an amount of Rs. 684,881 as allowances from 04<sup>th</sup> June 2018 to 05<sup>th</sup> February 2019.

M.G.B.G.P. Fernando  
Assistant Auditor General  
For Auditor General



Secretary  
Human Rights Commission of Sri Lanka

Annual Descriptive Management Audit Report pursuant to Section 11(2) of the National Audit Act No. 19 of 2018 on the Financial Statements of the Human Rights Commission of Sri Lanka for the year ended 31 December 2020

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The above report is sent herewith.

02. In accordance with the provisions of sub-section 39(1) of the National Audit Act, I shall be notified within 3 months from the date of this report of the proposed remedial measures or the measures taken.
03. According to sub-section 39(2) of the Act, if there are reasons for the implementation or impossibility of any course of action or matter that I have indicated in this report, please let me know.

M I Pushpa Hemamali  
Assistant Auditor General  
For Auditor General

Copy to: Minister of Finance, Ministry of Finance

Secretary  
Human Rights Commission of Sri Lanka

Annual Descriptive Management Audit Report pursuant to Section 11(2) of the National Audit Act No. 19 of 2018 on the Financial Statements of the Human Rights Commission of Sri Lanka for the year ended 31 December 2020

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The statement of financial position of the Sri Lanka Human Rights Commission as at 31 December 2020, the financial statements for the year ended 31 December 2020 consisting of the financial performance statement and cash flow statements for the year ended 31 December 2020 read in conjunction with the provisions of the National Audit Act No. 19 of 2018, The audit was conducted under my command in accordance with the provisions contained in the Constitution of the Democratic Socialist Republic of Sri Lanka. This report is issued in terms of Section 11(2) of the National Audit Act No. 19 of 2018 and the Chief Accounting Officer shall act in accordance with the provisions of Section 39 of the National Audit Act and within 03 months from the date of this report any remedial action or consideration action taken should be reported to me. If there are any reasons for the implementation or impossibility of any action or matter indicated in this report, that should also be communicated to me.

## 1.2 **Opinion on Financial Statements**

### 1.2.1 **Accounting deficiencies**

#### (a) Recurrent expenditure

The following deficiencies were observed while accounting for recurring expenditures related to financial statements.

	<b>Audit Observation</b>	<b>Recommendation</b>	<b>Comments of the Chief Accounting Officer</b>
(i)	Salaries, wages and other employee benefits for the year 2020 were Rs.128,852,579 according to the vote ledger, but in the statement of financial performance, it was stated as Rs.128,184,523.	The expenditure must be properly accounted for	The reason for this difference is travel expenses, which are shown under other recurring expenses.
(ii)	According to the vote ledger other goods and services in the year under review is Rs. 74,978,326 but in the statement of financial performance it is mentioned as Rs. 75,646,381.	The cost must be properly accounted for	Agree with the observation. Action will be taken to rectify the error in the future

(b) **Property, plant and equipment**

The following deficiencies were observed in accounting for property, plant and equipment

	Audit Observation	Recommendation	Comments of the Chief Accounting Officer
(i)	All assets should be included in the non-financial asset statement, but assets acquired before 2004 were not included.	All assets must be properly accounted for	Agree with the observation. Action will be taken to rectify the error in the future
(ii)	There was a difference of Rs. 7,552,881/- between the value of the vehicles in the financial statements and the vehicle register of the Commission	Differences must be identified and properly accounted for	Efforts are being made to identify the value of the vehicles correctly and accordingly the correction will be made in the future.
(iii)	02 vehicles assigned to the Presidential Secretariat in 2019 and 2015 worth Rs. 27,697,804/- had not been excluded from the statement of non-financial assets.	The cost of the disposed vehicle should be removed from the statement of non-financial assets.	Agree with the observation
(iv)	No action has been taken to capitalize a motor bicycle which was purchased in the previous year at the cost of Rs. 294,900/- even by the 28th of February, 2021	The cost of the motorcycle purchased should be capitalized	Agree with the observation. Action will be taken to rectify the error in the future

(c) **Failure to maintain records and books**

Audit Observation	Recommendation	Comments of the Chief Accounting Officer
According to Finance Regulation 110, every government agency shall maintain two separate books to record the losses incurred under Finance Regulation 102 or not, or losses in advance accounts and losses in other activities, but the Commission had not done so.	Records of losses shall be maintained as per Financial Regulation 110	Agree with the observation.

(d) Non-compliance with rules and regulations

Cases of non-compliance with the provisions of the rules and regulations observed during sample audits are analysed below.

#	Reference to rules and regulations	Value Rs.	Non Compliance	Recommendation	Chief Accounting Officer's Comment
(i)	Financial Regulations of Democratic Socialist Republic of Sri Lanka				
	Financial Regulations 104		In the year under review, one vehicle accident was not investigated.	In the case of an accident to a government vehicle, immediately after any loss or damage occurs, an inquiry should be initiated to determine the exact extent of the loss and to identify those responsible.	Agree with the recommendation
	Financial Regulations 751		Inventory books of 06 regional offices were not properly maintained	All goods received by government agencies must be recorded in the receipt book.	Agree with the recommendation. Action will be taken to update in the future
	Financial Regulations 770		No vehicle survey was conducted during the year under review	Vehicles should be surveyed in accordance with the Finance Regulations to identify dilapidated unusable vehicles in government institutions.	Agree with the recommendation. Action will be taken to update in the future
(ii)	Para 12 of Public Finance Circular No. 02/2015 dated		The vehicles to be disposed were not	The Public Finance circular should be dealt with.	Agree with the recommendation

	10 July 2015		identified and no further action was taken.		
(iii)	Public Administration Circular No. 30/2016 dated 29 December 2016  Para 3.1  Para 5.1		No fuel inspection was done on the vehicles.  Vehicle log books did not include basic information about the vehicle, amount of fuel burned, annual license details etc.	A fuel inspection should be done as per the circular  Vehicle log books should be maintained properly	Agree with the recommendation  Agree with the recommendation
(iv)	Asset Management Circular No. 01/2017 dated 28 June 2017		A list of vehicles was not prepared including updated information about the vehicles	A list of vehicles should be prepared as per circulars	Agree with the recommendation

## 2. Operational Review

2.1	<b>Planning</b>		
	Audit Observation	Recommendation	Chief Accounting Officer's Comment
(i)	As per Public Finance Circular	To be prepared as per	Agree with the

	No. 01/2014 dated February 17, 2014, no action plan was prepared for the year under review.	paragraph 10.2 of the Public Finance Circular dated 01/2014	recommendation
2.2	<b>Non achievement of the desired output level</b> The following observations are made:		
(i)	At the beginning of the year under review there were 4,266 unsolved complaints and during the year another 6,284 complaints were received. 3,812 complaints were resolved during the year and at the end of the year under review, 6,738 complaints remained to be resolved. Of these, 1804 complaints were received between 3 and 10 years, 23 complaints were received for more than 10 years and 2,134 complaints were received between 1 and 3 years.	An accelerated program should be prepared to resolve the complaints received	Due to the lack of staff and the Covid - 19 epidemic, it has not been possible to finish the number of complaints received. Necessary steps have been taken to resolve all outstanding complaints.
(ii)	During the year under review, the head office and regional offices had conducted 1,009 inspections of prisons, police and criminal investigations, children's homes and terrorism investigation offices, but no such inspection had been carried out by the Vavuniya regional office.	Inspection should be done covering every district	Agree with the recommendation
2.3	<b>Annual Performance Report</b> The following observations are made:		
	The performance report for the year 2020, which should be submitted in accordance with paragraph 10.2 of the Public Finance Circular No. 02/2020 dated August 28, 2020 and in accordance with section 16.2 of the National Audit Act No. 19 of 2018, was not submitted to the audit along with the financial statements.	Proceed as per paragraph 10.2 of Public Finance Circular dated 2/2020.	Accepted. Corrective action will be taken accordingly.
2.4	<b>Asset Management</b>		

	The following observations are made		
(i)	The cost of 03 vehicles provided by NGOs had not been capitalized and the cost of one vehicle that was not physically available had not been written off.	Physical existence and ownership of assets should be checked and assets should be accounted for.	Accepted. Action will be taken after getting the valuation report to capitalize and remove the cost of the vehicles that are not in the Commission from the books.
(ii)	For a long time, 04 motorcycles were parked in the main office premises without running.	Appropriate action should be taken in respect of non-running vehicles.	Accepted. Noted for update after annual goods survey.
(iii)	02 photocopiers remained idle for a long time without use.	Appropriate action should be taken on unused assets	Accept. Noted for disposal after annual verification.
(iv)	Although the lease period of the 03 cars acquired under the lease basis of 2014 had expired, they had failed to take ownership of those 03 vehicles by March 21, 2021.	Action should be taken to take ownership of those 03 vehicles.	Accept. Instructed to take immediate possession and update the books.
(v)	The cost of 19 vehicles registered in the name of the Commission could not be ascertained and the cost of 20 vehicles was not accounted for under the CIGAS programme.	The cost of all the vehicles owned by the Institute should be ascertained and accounted for.	Accept. It is advised to bring the books up to date as soon as the assessment is completed.
(vi)	In the last year's verification reports of the head office, the section where the relevant goods were not mentioned, so it was not possible to confirm the section where the goods are physically available.	The survey reports of the head office should also mention the section where the relevant goods are available.	Instructions have been given to rectify the situation immediately after the verification - 2020.
(vii)	Reports had not been submitted to the Auditor General by disposing assets as recommended by verification of 2018 and 2019. Also, 16 items of goods were not removed from use according to the verification recommendations of the head office in 2018 and no such recommendation was made in the verification report of 2019.	According to circulars, verification should be carried out and their recommendations should be implemented.	It is acknowledged that the verification has been done but not completed. Report will be submitted rectifying the deficiencies since the 2020 verification has already commenced,

(viii)	In the 2019 annual verification, there was a shortage of 14 steel-clad chairs and a bicycle that were identified as scrap goods.	Appropriate action should be taken in respect of deficiencies.	It is not possible to accurately identify whether these goods are missing and action will be taken in this connection after the goods survey in 2020.
(ix)	While issuing goods to regional offices, the commission's stock book did not clearly indicate the regional office from which the goods were issued.	The stock book should clearly indicate the regional office from which the goods were issued	Instructions have been given to rectify the situation after the verification.
2.5	<b>Management weaknesses</b> The following observations are made		
(i)	Although the regional offices were supposed to give their office work plans and the progress related to the plan to the head office on a monthly basis, during the review year, 14 of those regional offices did not give the work plan and progress on a monthly basis. No action was taken by the head office regarding the non-submission of these work plans.	Regional offices should provide monthly reports on work plans and progress accordingly.	Due to the Covid - 19 pandemic, it was not possible to present the work plans and action will be taken to correct this in the future.
(ii)	The Commission's vehicle files were not properly maintained.	Vehicle records should be properly maintained.	It has been instructed to carry out these activities under the supervision of the Administrative Officer.
3	<b>Human Resource Management</b> The following observations are made		
(i)	According to paragraph 6.1 of Public Administration Circular No. 02/2018 dated January 04, 2018, the human development plan was not prepared and according to paragraph 01 of the said circular, annual performance agreements were not signed for all the staff working in the institution.	Should be done according to the circular.	All officers have been informed to correct these deficiencies from the year 2021.
(ii)	Although, in terms of Chapter	Vacancies should be	Although the recruitment



	11, Paragraph 05 of the Establishment Code of the Democratic Socialist Republic of Sri Lanka, suitable officers should be appointed to the position as soon as a position becomes vacant. As of December 31, 2020, 95 positions in the Commission remained vacant.	filled.	procedures have been approved, the absorption process has been delayed due to non-receipt of final instructions to absorb the staff. Recruitment of new staff is unfair to the existing employees, so no new recruitment is done until the absorption process is completed.
(iii)	In terms of Chapter 11, Section 13.3 of the Establishment Code of the Democratic Socialist Republic of Sri Lanka, an interim appointment should only be made as a temporary remedy pending a permanent appointment. But even though 02 years have passed since the recruitment procedures of the institute were approved, officers were recruited for the post of Deputy Director (Investigation and Inquiries) and 02 Regional Coordinator on acting basis.	Action should be taken as per instructions of the Establishment Code.	Although the recruitment process has been approved, the process of absorption has been delayed due to non-receipt of final instructions for induction of staff. Recruitment of new staff is unfair to the existing employees, so no new recruitment is done until the absorption process is completed.
(iv)	Twelve (12) out of 22 legal officer posts and 23 out of 47 human rights officer posts who are dealing directly with complaints about violation of fundamental rights were vacant.	Vacancies should be filled	Only 10 posts of Legal Officer have been allowed to be recruited from the Department of Management Services. There are currently 23 vacancies for the post of Human Rights Officer.
(v)	On September 18, 2017, the Department of Management Services had approved 233 posts including Director (Administration) and 04 other director posts. Officers were not recruited for these director positions and although officers were appointed to perform duties for a period of 02 to 05 years, no formal approval was obtained for the respective appointments for	Appropriate approval should be obtained for the relevant appointment.	Although newspaper advertisements were published for recruitment in the years 2017, 2018, and 2020, the vacancies could not be filled due to applicants with 15 years of experience not applying. Therefore, officers have to be appointed to carry out the duties of the commission

	the posts of Director (Administration) and Director (Investigation and Inquiries).		without hindrance.
(vi)	For the post of Director (Administration) which is a senior level post of the Commission, a tertiary level officer was appointed to perform duties in the year 2018 and till February 05, 2019 and Rs. 932,208 had been paid. The Department of Management Services had informed in letters Nos DMS/1020/Vol iv and dated 25 June 2018, 10 October 2018 that they could not agree on this appointment.	To comply with the notification of the Department of Management Services	According to the Commission Act, the Commission has the power to appoint necessary officers for the functions of the Commission. Accordingly, the officer identified as the most suitable for the respective post has been appointed for the same. The Board decisions taken by the Commission regarding the Department of Management Services letter and the letter sent by the Public Service Commission and the Salary and Cadre Commission that they cannot agree on the appointment of that officer are submitted.
(vii)	For the position of Director (Investigations and Inquiries), a senior level post of the Commission, appointed to perform the duties of a secondary level officer in the year 2018 and till February 05, 2019, Rs. 684,881 had been paid. The Department of Management Services had informed in letter DMS/1020/Vol iv dated 18 October 2018 that they could not agree on this appointment.	To comply with the notification of the Department of Management Services	According to the Commission Act, the Commission has the power to appoint necessary officers for the functions of the Commission. Accordingly, the Commission has made this appointment as the appointing authority.

Sgd/

M I Pushpa Hemamali  
Assistant Auditor General  
For Auditor General

03.11.2021

Assistant Auditor General  
National Audit Office  
No. 306/72  
Polduwa Road  
Battaramulla

**Annual Detailed Management Audit Report dated 16.07.2021 in accordance with Section 11(2) of the National Audit Act No. 19 of 2018 on the financial statements of the Sri Lanka Human Rights Commission for the year ending 31.12.2020.**

02. Implementation of remedies, measures or actions taken under the provisions of Section 39(1) of the National Audit Act.

03. I mention below the reasons for not implementing the remedies, measures or measures taken in consideration as per the provisions mentioned in Section 39(2) of the National Audit Act.

**1.2 Opinion on Financial Statements**

**1.2.1 Accounting deficiencies**

**(a) Recurring expenses**

(I) According to the salary and allowances and other employee benefits expense ledger for the year 2020, it is stated Rs. 128,852,579/- but it is in the financial performance statement Rs. 128,184,523/- being stated.

Difference - Rs. 668,056/- (128,852,579/- - 128,184,523/-)

Under the heading of travel expenses Rs. 668,056/- is shown under other recurrent expenses.

**Reasons for non-implementation**

Inability to be corrected in 2020 as the appropriation account for 2020 has been closed

**Implementation**

From the year 2021, the relevant officials have been informed to avoid such deficiencies and submit the accounts.

**(b) Property fixtures and equipment**

- i. Although all assets should be included in the statement of non-financial assets, assets acquired before the year 2004 and provided under projects are not included. As all the assets will be revalued in the year 2021, the relevant officials have been informed to include all the assets of the commission in the year 2021.

- ii. The difference between the value of the vehicles in the financial statements and the vehicle register of the Commission is Rs. 7,552,881/- and it is based on the fact that the value of the vehicles is stated in accordance with the insured value of the vehicles in the vehicle register.  
Currently, a vehicle pricing committee has been appointed and since the pricing is done along with surveys, necessary steps have been taken to correct the vehicle register and keep it up-to-date and the relevant officials have been informed.
- iii. The amount vehicles assigned to the Presidential Secretariat in 2019 and 2015 was amounted to Rs. 27,697,804/- have taken necessary steps to remove the cost of 2 vehicles from non-financial asset statement.
- iv. Necessary steps have been taken to capitalize the motorcycle purchased at Rs. 294,900/-

#### **(c) Failure to maintain records and books**

According to Financial Regulation 110, the commission has maintained the loss register which should be maintained by every government agency under Financial Regulation 102, but according to the financial regulation, 2 separate loss registers have not been maintained to record the losses in the advance accounts and other activities.

Steps have been taken to prepare and update 2 registers from the year 2021.

#### **(e) Non-Compliance with Rules and Regulations**

##### **(i) Financial Regulations of the Democratic Socialist Republic of Sri Lanka**

- 104 - The concerned officials have been informed about the measures to be taken regarding vehicle accidents.
- 751 - Instructions have been given to properly maintain the inventory books in the regional offices and steps have been taken to correct them in the year 2021.
- 770 - Vehicle survey and pricing has been started now and necessary steps have been taken to update from the year 2021 onwards.

(ii) According to paragraph 12 of the Public Finance Circular No. 02/2015 dated July 10, 2015, the relevant officials have been informed to proceed in the year 2021.

(iii) Public Administration Circular 30/2016 dated 29.12.2016

- Para 3.1 - On 15.09.2020, the fuel consumption of 05 pooled vehicles has been checked at the head office. The concerned officials have been informed to update from the year 2021.
- Para 5.1 - Concerned officers have been informed and the log books have been corrected to keep the vehicle log books up to date.

(iv) The vehicle list is currently being prepared in compliance with Asset Management Circular No. 01/2017 dated 28 June 2017.

## **2. Operational review**

### **2.1. Planning**

As per Public Finance Circular No. 01/2014 dated February 17, 2014, the action plan was not prepared and was prepared for the year 2021. All regional offices are being informed to prepare the action plan for the year 2022 as per the relevant circulars.

### **2.2. Non Achievement of the expected output level**

- (i) As on 31.12.2020, there were 6738 unsolved complaints and the relevant officials are being informed and alternative methods are being used to update the resolution measures. This is also due to staff vacancies.

In the report of the Head office and the regional offices regarding the inspection of prisons, police, criminal investigations, children's homes, and terrorism investigation offices in 2020, the answers given by the Vavuniya Regional Office have been revised and informed to the Auditor General.

(Corrected on 11.05.2021)

### **2.3. Annual Performance Report**

According to paragraph 10.2 of the Public Finance Circular 02/2020 dated August 28, 2020, in accordance with section 16.2 of the National Audit Act No. 19 of 2018, the relevant officials are being informed to prepare the performance report for the year 2021 and the relevant officials have been informed to update very soon.

### **2.4. Asset management**

- (i) Necessary measures have been taken to capitalize the cost of 3 vehicles given by a non-governmental organization and the relevant officials have been informed.
- (ii) 04 motorcycles which have been parked without running at the head office for a long time, after the annual goods survey in the year 2021, necessary instructions

have been given to take appropriate action and the relevant officials have been informed.

- (iii) The two photocopiers lying idle without use have been instructed to remove them after the 2020 verification.
- (iv) Since the lease period of the 03 cars acquired under the term lease basis in 2014 has ended, arrangements have been made to take over the ownership.
- (v) As all the vehicles owned by the Commission are being registered and the prices are being determined, the relevant officials have been instructed to correct the CIGAS program immediately after completion.
- (vi) In order to verify the physical availability of goods, instructions have been given to complete the 2020 verification and the relevant officials have been informed.
- (vii) Due to not updating the inventory registers after annual verification in the reports of 2018 and 2019 and the process of bringing them to 2020, the relevant officials have been informed to complete the next step and update the books immediately after the verification of the year 2020.
- (viii) Necessary steps have been taken to take appropriate action after the survey of the year 2020 as scrap goods are piled up without taking steps like auctioning or destruction etc.
- (ix) After the verification of 2020, the relevant officials have been informed to update the 2021 books by giving necessary instructions.

## **2.5. Management weaknesses**

- (i) The Regional Offices have been informed the concerned departments and officers to prepare and maintain up-to-date work plans and progress on a monthly basis.
- (ii) The relevant officials have been informed and measures have been taken to keep all the vehicle files up to date.

## **(3) Human Resource Management**

- (i) According to paragraph 6.1 of the Public Administration Circular No. 02/2018 dated January 04, 2018, the Human Resource Development Plan for the year 2020 has been prepared.
- (ii) As on 31.12.2020, the number of vacancies in the commission is 95.
- (iii) Applications were invited on 04.06.2021 for the recruitment of 3 posts of Assistant Director including the post of Assistant Director (Investigation and

Inquiries). Documents were prepared for conducting interviews. But it has not been possible to proceed with the government's decision to temporarily suspend new recruitments.

For 02 Regional Co-ordinating Officer posts, the qualifications of the officers who were on acting posts have been checked and permanent appointments have been made.

Ms. W K S Priyanga - Anuradhapura 21.04.2021

Mr. A L Izadeen - Baticaloa 21.04.2021

- (iv) External and internal applications were invited and interviews were conducted to recruit 12 legal officers who deal directly with complaints about the violation of fundamental rights. Nevertheless, according to the Cabinet Memorandum No. 21/1596/304/134 dated 2021.08.28 on the Ministry of Finance Public Expenditure Review to temporarily suspend new recruitments, for the positions that have not yet been appointed even though preliminary work has been done to recruit employees. The government has taken a decision to postpone the recruitment. Therefore, the Director General of Budget was asked about the possibility of providing funds by explaining the need.

In response to that, considering the financial limitations, the Budget Department has been asked to inquire about the possibility of recruiting qualified graduate trainees for this position, instead of new recruitments according to the decision of the Cabinet of Ministers No. . 21/1596/304/134 dated 30.08.2021 . On the basis of service requirement, these posts have been re-inquired through the management of this year's allocations.

Applications for Human Rights Officer vacancies have also been invited and interview dates and schedules have been prepared and for that also according to the letter of the Director General of Budget and the decision of the Cabinet of Ministers, if there are candidates who have met the qualifications in the public service recruitment procedure, they will be assigned to the Human Rights Commission and the Ministry of Public Service and Local Government has been informed in this connection.

- (v) On September 18, 2017, a qualified Sri Lanka Administrative Service officer has been recruited and assigned duties for the position of Director Administration from approved positions by the Department of Management Services on secondment basis. Applications for three posts of Director including Director (Investigation and Inquiries) were invited on three occasions and as per the recruitment procedure, the qualified applicants did not appear. Letters have been forwarded to the Department of Management Services and the National

Salary and Cadre Commission for advice in this regard and a decision is to be taken on the same.

- (vi) Payments have been made as per approval of Management Services Department DMS/1020 Volume iv and letter dated 2019.02.06 for payment.
- (vii) Payments have been made as per the approval of Management Services Department DMS/1020 Volume iv and letter dated 02.06.2019.

Sgd.

Secretary  
Human Rights Commission of Sri Lanka