

HUMAN RIGHTS COMMISSION OF SRI LANKA

ANNUAL REPORT

***** 2015 *****

THIS REPORT IS PRESENTED IN ACCORDANCE WITH THE REQUIREMENTS SET OUT IN
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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VISION

Our vision is to ensure human rights for all and promote and protect the rule of law

MISSION

Our mission is to develop a better human rights culture in Sri Lanka through protecting and promoting human rights for all in law, policy and in practice, adhering to universally recognized human rights norms and principles with a special emphasis on the fundamental rights guaranteed under the Sri Lankan Constitution for the citizens of Sri Lanka, with the coordination and cooperation of all stakeholders that work towards protecting and promoting human rights for all.

LOGO

The logo of the Human Rights Commission of Sri Lanka 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 spread of human rights into the far corners of the earth 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 reflect that protection of human rights should be afforded equally to all.

Composition of the Commission (until 21 October 2015)

Chairman

Justice Priyantha R P Perera

Commissioners

Mr. T E Anandarajah

Mrs. Jezima Ismail

Dr. S W Parthiba Mahanamahewa

Dr. Bernard de Zoysa

The above Commission was succeeded by the present Commission consisting of:

Chairperson

Dr. Nelum Deepika Udagama

Commissioners

Mr. H Ghazali Hussain

Mr. Saliya Peiris

Ms. Ambika Satkunanathan

Dr. Upananda Vidanapathirana

Message of the Chairperson

Human Rights Commission of Sri Lanka

Annual Report – 2015

As the newly appointed Chairperson of the HRCSL I have the distinctly difficult task of providing a comprehensive summary of the previous Commission's activities for this year. The difficulty lies in discussing the activities capturing the essence of its policies and reasoning. Therefore, it is only fair that my message would focus on the new Commission's vision and plans for strengthening human rights promotion and protection in Sri Lanka.

The new Commission was appointed under the Nineteenth Amendment to the Constitution of Sri Lanka adopted by Parliament in April, 2015. The new Commissioners were appointed in October, 2015.

Earlier in the year people of Sri Lanka exercised their franchise in favour of a political dispensation that pledged democratization respect for human rights of all including setting in motion a process of transitional justice and post-civil war reconciliation. The Nineteenth Amendment was enacted in response to strong public demands for restoration of independence of the judiciary and oversight commissions. Under the Eighteenth Amendment, since repealed, appointments to the judiciary and oversight commissions were, in effect, centralized within the Executive Presidency.

The newly appointed Commission is acutely conscious of the significance of the Nineteenth Amendment to the democratization process in Sri Lanka and also of heightened public expectations on improved human rights protection.

The new Commissioners bring with them a strong commitment to strengthening the HRCSL and the human rights situation in Sri Lanka, many having years of experience as human rights advocates. We have consistently demanded democratic reforms, including the Nineteenth Amendment, as human rights advocates.

The composition of the new Commission also reflects the ethnic and religious diversity in Sri Lanka. Two of the five Commissioners are women, one of who is the Chairperson. As the Chairperson I count myself as being extremely fortunate to be able to work with fellow

Commissioners who bring with them such a wealth of human rights related experience and expertise.

Immediately after appointment the Commission held wide ranging consultations with all staff (including staff of the 10 HRCSL Regional Offices), civil society and media personnel. The consultations gave Commissioners an opportunity to share their proposed vision and proposed work plan and obtain feedback from vital stakeholders.

First, we pointed out that the guiding principles of the new Commission would be robust independence and serving in a people oriented manner. Public views would be of paramount importance. Similarly, maintaining strong links with civil society is a key policy priority.

Second, prioritized issues/activities were identified:

- providing human rights oversight to the proposed transitional justice process
- making interventions on the proposed constitutional reform process to strengthen constitutional protection of human rights
- focusing on torture and other violations by law enforcement personnel with a view to ending impunity
- focusing on the rights of marginalized groups in order to ensure the rights of all
- economic and social rights to underscore the Commission's commitment to the principle of indivisibility of rights

Third, the proposed reform of working methods at HRCSL was highlighted.

The Commission plans to develop a Strategic Plan through a consultative process in 2016.

The most important policy shift is in also prioritizing the advisory function of the HRCSL to advise the government in ensuring that legislation and administrative practices are in line with human rights standards (vide s.10 (c), (d) of parent statute). Similarly, a priority would be streamlining the investigation/inquiry process. Steps have to be taken to expeditiously process the existing large backlog of cases. The investigation and inquiry process must be simplified while complaints that do not fall directly within the mandate of HRCSL will be referred to the relevant redress mechanism.

Improved connectivity between the Head Office and the ten Regional Offices is a priority to guarantee institutional cohesion. Similarly, the need to modernize and encourage the use of ICT to expedite and upgrade work methods is identified.

Improving competencies of staff, particularly to accord with the new priorities is an imperative.

The new Commission fully recognizes the enormity of challenges it faces in reorganizing and reorienting the HRCSL. However, the Commission is confident that the personal commitment of the Commissioners and the support and goodwill it has received from all quarters, in particular from civil society organizations and the public would make the task less arduous.

Dr. Nelum Deepika Udagama

Chairperson

Human Rights Commission of Sri Lanka

Chapter One: Introduction

The year 2015 witnessed major changes in the country such as the Presidential Election in January and the General Election in August. The elections took place in a relatively peaceful atmosphere without major incidents of violence reported. The Human Rights Commission of Sri Lanka (HRCSL) played a very active role together with the Elections Commission and took many steps to ensure free and fair elections as illustrated in the section on the activities of the Monitoring and Review Division in chapter two of this report.

The 19th Amendment to the Constitution of Sri Lanka was passed curtailing the powers of the Executive President, strengthening the process of democracy in the country and providing for the re-establishment of independent commissions. The HRCSL too was reconstituted in October, 2015 as an independent Commission.

This report contains the activities carried out by the Human Rights Commission of Sri Lanka during the year 2015.

1.1 The Composition, mandate and functions of the Commission

The Human Rights Commission of Sri Lanka is an independent body established by **Act No.21 of 1996** to promote and protect human rights of the people of Sri Lanka.

The functions of the Commission are laid down in **Section 10** of the Act and are as follows:

- (a) 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,

- (b) Inquire into and investigate complaints regarding infringements or imminent infringements of fundamental rights, and to provide for resolution thereof by conciliation and mediation in accordance with the provisions hereinafter provided,
- (c) Advise and assist the government in formulating legislation and administrative directives and procedures, in furtherance of, the promotion and protection of fundamental rights,
- (d) 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,
- (e) 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,
- (f) Promote awareness and education of human rights.

In order to discharge its functions the Commission is vested with a wide range of powers. These are laid down in **Section 11 of the Act**. They include power to:

- (1) Investigate any infringement or imminent infringement of fundamental rights,
- (2) Intervene in any proceedings relating to the infringement or imminent infringement of fundamental rights, pending before any court, with the permission of such court,
- (3) Monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention,
- (4) 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,

- (5) Undertake research and promote awareness of human rights by conducting programmes, seminars, workshops and to disseminate and distribute the results of such research,
- (6) Award 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 under **section 14** of the Act,
- (7) Do all such other things as are necessary or conducive to the discharge of its functions.

The Commission is composed of five members chosen from among persons having knowledge of, or practical experience in, matters relating to human rights. **Section 3** of the Act provides for the appointment of the members of the Commission by the President, on the recommendation of the Constitutional Council. One of the Commission members is appointed as Chairman or Chairperson. With the adoption of the 19th Amendment to the Constitution in May 2015 the appointment of Commissioners to HRCSL is now governed by the Constitution. **Chapter VIIA** of the 19th Amendment provides that the members of the independent Commissions of Sri Lanka, including the HRCSL, shall be appointed by the President of Sri Lanka on the recommendation of the Constitutional Council.

During the year under review, the Commission which functioned in the previous year 2014 continued in office until 21st October 2015 with the exception of one Commissioner whose term of office ended on 12th February 2015.

The present Commission comprising a Chairperson and four Commissioners was appointed on 21st October 2015. The 5th member of this Commission was appointed on 13th November 2015.

The newly appointed Commission held a Press Conference on 16th November 2015 at the Commission's Head office in Colombo 08, Sri Lanka. The main purpose was to brief the media on the future work of the Commission.

The present Commission, appointed for a period of 3 years, commenced its functions on 30th October 2015 and continued with the functions of the Commission for the remainder of the year under review. In terms of **Section 22** of the Act, there is a Secretary appointed as well as other staff to carry out the functions set out in the Act.

The Commission has four Divisions

- **Inquiry and Investigations Division**
- **Monitoring and Review Division**
- **Education and Special Programmes Division**
- **Administration and Finance Division**

Each Division is headed by a Director.

In order to perform its functions more effectively, the Commission has 10 Regional Offices in Ampara, Anuradapura, Badulla, Batticaloa, Jaffna, Kalmunai, Kandy, Matara, Trincomalee and Vavuniya with each Regional Office comprising of a Regional Coordinator and other staff to discharge the mandate of the Commission. In addition, some Regional Offices conducted sub offices in different locations. Sub Offices functioned in Mannar, Kilinochchi, Mullaitivu, Puttalam, Nuwara Eliya and Polonnaruwa.

(Please refer to **Annex 1A** at the end of this report for a map of Sri Lanka containing the location of the HRCSL Head Office & Regional Offices)

In the year under review the Commission has had meetings with a wide array of institutions both local and overseas. Those include among others PAFFREL, USAID and the Election Commissioner.

(Please refer to **Annex 1B** at the end of this report for a detailed illustration of the meetings attended by Commissioners and Senior Officers of HRCSL in 2015).

The Commission also was assisted in its activities by a generous grant from UNDP (Please refer to **Chapter Six** of this report for a comprehensive account on the Commissions collaboration with the UNDP)

The Cadre approved by the Department of Management Services in 2015 was 233 but the absence of an approved Scheme of Recruitment prevented the Commission from recruiting additional officers. The total staff employed in 2015 at the Head Office and the Regional Offices were 161. The Government Treasury is the principal funder of the Commission. The Commission was allocated with Rs. 186,500,000.00 for the year 2015

(Please refer to **Annex 1C** at the end of this report for a comprehensive statement of the annual expenditure of the HRCSL in 2015)

Chapter Two: Inquiries and Investigation Division

2. 1. An Overview of the Complaints Received by the Head Office & Regional Offices in 2015

As per the previous years the Commission maintained a procedure for the receipt and registering of complaints at the Head Office and Regional Centers.

2. 1. 1. Head Office

With regard to complaints lodged in the Human Rights Commission by the members of the public which adds up to a total of 4724 on the year of 2015, the highest number related to matters connected to employment (22.30%). Next were complaints related to denial of personal liberty (19.97%) including complaints related to harassment (6.75%), arrest and detention (5.57%) and torture (4.72%). It is noted however that complaints on torture decreased in 2015. Further 15.79% of the complaints related to inaction by responsible public officers to the grievances of the public.

The number of cases concluded by the Head Office in 2015 is 1891.

2. 1. 2. Regional Offices

i. Ampara Regional Office

During the year 2015 the Ampara Regional Office received 141 complaints. The number of cases disposed during the year is 134. The remaining number of cases in hand as at the end 2015 is 78. The highest number of complaints once again relates to matters of employment (36.8%), Followed by Land and property matters (25.5%). Complaints with regards to Social Welfare matters occupy the third most number (12.76%) and Personal Liberty matters, the fourth at 9.21%.

ii. Anuradhapura Regional Office

In the Anuradhapura Regional Office, during the year 2015 the Anuradhapura regional office received 652 complaints. This office disposed 637 cases during the year. The number of cases in hand as at 31st December 2015 was 514. The highest percentage of complaints is on property related matters (22.69%), whereas matters on employment lie at a (21.62%). 17.48% of the total number of complaints are in relation to Personal Liberties and 18.25% on Complaints are regarded to inaction by responsible public officers.

iii. Badulla Regional Office

The Badulla regional office received 273 complaints during the year. The Badulla regional office concluded action on 191 cases during the year. The number of complaints in hand as at the end of the year was 177. The highest percentages of complaints are matters relating to employment. Followed by personal liberty violations consists at 18.31% and Land and property consists at 17.21%. Whilst complaints on inactions by responsible public Officers remains at 6.59%.

iv. Batticaloa Regional Office

The Batticaloa regional office received 433 complaints during the year. The office concluded action on 441 cases including cases which were brought forward from the previous year. 157 cases were brought forward to the following year. Complaints on inactions by responsible public Officers consists at 31.40% at the Batticaloa Regional Office. Personal Liberties lies at a rate of 28.17%, Employment matters at 11.17 % and property matters at 7.62 % as of 2015.

v. Jaffna Regional Office

The HRCSL Jaffna Regional office alone received 315 complaints during the year. 317 complaints were concluded in the year, which consisted of 234 cases submitted in 2015 and 83 submitted in previous years. The highest number of Complaints at the Jaffna Regional Office of a 23.49% of the total complaints received is on inactions by responsible public Officers. Personal Liberty is at a rate of 20.63% and 20.63% relates to social welfare matters. This is followed by educational matters at 14.92% while child rights disputes are at 0.63%.

(a) Kilinochchi – Sub Office

The HRCSL Jaffna Regional office opened a mobile office in Kilinochchi on 3 October 2012. The mobile office received 101 complaints during the year 2015. In the Kilinochchi Sub Office, a rate of 29.70% existed on matters relating to land and property. It also consisted of a rate of 22.77% on violations of Personal liberty and 11.88% matters on education. However a rate of 10.89% on employment matters and 7.92% on complains on inaction by responsible Officers were reported in 2015.

vi. Kalmunai Regional Office

The Regional office received 250 complaints during the year. Action on 262 complaints was concluded during the year, of which 126 complaints were those received in 2015. 154 complaints were brought forward to 2016. Complaints on Employment matters lies at 29.2% in and complain on inactions 19.2% as the highest number in Kalmunai Regional Office. Whereas matters regarding Personal liberty is at 16% and property disputes at 12.4%.

vii. Kandy Regional Office

As at 01st January 2015 the office had 146 complaints brought forward from previous years. During 2015 this regional office received 123 complaints forwarded by the Head office, 56 complaints received by the NuwaraEliya mobile office and 700 complaints received directly by the Kandy regional office. Thus, a total of 1024 complaints were handled by this regional office during the year. Of this number, 161 were found to be not within the mandate of the HRC. 684 complaints were concluded in 2015. Thus 179 complaints were brought forward to 1 January 2016. In the Kandy Regional Office, Employment disputes lies at 21.75%, Complains on inactions by responsible public officers at 23.23%, and Personal liberty at 10.59%. Matters regarding Education at 8.31%, property disputes at 6.94% and Social Welfare at 2.05%.

viii. **Matara Regional Office**

The office has 156 complaints as at 1st January 2015. 646 complaints were received by the office in 2015 and action was concluded on 621 complaints during the year. 181 complaints were brought forward for 2016. In the Matara Regional Office, there was a high rate on matters relating to Personal liberty (22.91%). Employment rests at 23.06%, Education at 10.37% and Property disputes at 15.94%. However we can see that matters such as social welfare (1.54%), Child rights (0.30%) and Environmental (2.63%) lie at a minimal rate.

ix. **Trincomalee Regional Office**

The Trincomalee regional office received 152 complaints in 2015 and 71 pending cases were brought forward for action from 2014 to 2015. Thus, the office handled a total of 223 cases during the year 2015. 166 cases were closed after conclusions of the necessary investigations and inquiries. There are 57 cases pending on 1 January 2016. In the Trincomalee Regional Office, the highest number of complaints relates to inaction by responsible officers (34.21%). Followed by Employment at (22.36%), Personal liberty (14.47%) and property disputes (12.5%). Whereas education was at 3.28% and Social Welfare 1.97%.

x. **Vavuniya Regional Office**

During the year 2015 the Vavuniya regional office received 284 complaints on Fundamental Rights violations. The highest number of complaints related to violations of personal liberty which lies at 39.43%, while property disputes at 19.36%, Employment matters rests at 13.73% and Complaints on inactions at 13.02%. However we can see that a minimal number of complaints were logged on matters such as Environment (1.05%) and Social welfare (3.87%).

(Please refer to Annexes **2A & 2B** at the end of this report for the tables that contain details of the complaints received by the Head Office and the Regional Offices of the Human Rights Commission of Sri Lanka in year 2015 and the classification of such complaints.)

2.2. Complaint Handling Process

A database is maintained by the division to identify the nature of the case, details of petitioners and respondents, name of the Inquiry Officer and status of the case. An officer or two officers are scheduled every day to give a hearing to complainants who visit the office and who seek advice. In addition, complaints are also received through the hotline. The relevant officer who accepts written complaints also gives advice on other institutions that may be more appropriate to inquire into the complaint. The Duty Officer attends to an average of 35 complainants during office hours per day.

The second stage of the complaint handling process is to decide which cases to proceed with by checking whether a case falls within the HRCSL mandate. If a complaint can be proceeded with, the preliminary steps of the investigation include obtaining reports from respondents, calling for their observations and scrutinizing of reports. Steps are then taken to issue and send summons to the parties concerned. HRCSL referred cases which did not come within the purview of the Commission to other institutions. Some of the referral institutions are the Public Service Commission, the National Police Commission, the National Child Protection Authority, the Official Languages Commission, Commissioner of Labour and the Legal Aid Commission.

The Commission is empowered to facilitate parties to obtain remedies through conciliation and mediation. The Commission conducts inquiries and investigations and makes recommendations to relevant respondent authorities in instances of violation of fundamental rights. Regional offices undertake preliminary investigations/inquiries into complaints referred by the Head Office or complaints directly filed at the regional offices

Requests for reconsideration of recommendations issued by HRCSL are considered and further inquiries are conducted into such cases when it is thought necessary. Such inquiries were generally conducted before the Chairperson of the Commission.

(Please refer to **annexes 2C (Complaints No: HRC/4429/09, HRC/1188/10) & 2D (Complaint No. HRC/630/15/1-14)** at the end of this report for an illustration of the complaint handling process of the HRCSL)

2. 3 Special interventions through inquiries

In addition, under **Section 14 of the Act**, the Commission may undertake on its own motion (*suo motu*) investigations and inquire in to any matter which in the opinion of the Commission reveals a prima facie infringement or imminent infringement of fundamental rights. The Commission generally does so on matters that have a serious impact on the public interest.

(Please refer to **annex 2E: Complaint No. HRC/3824/15 & 3827/15** for an illustration of the competencies vested on the commission by **Article 14**)

The HRCSL cannot inquire into matters where the same subject matter is pending before any court of law.

2. 4 Hotline service

A 24 hours hotline service is in existence and Investigation Officers who handle the hotline take immediate action regarding complaints of torture, arbitrary arrests and detention by contacting relevant authorities.

2. 5 Visiting and monitoring mechanism

The Commission undertakes visits to Police Stations, Prisons, Detention Centers and any other place in which any person is detained by a judicial order or otherwise and makes such examinations therein or makes such inquiries from any person found therein, as may be necessary to monitor their welfare and conditions of detention with the aim of ensuring the rights of detainees are protected. The Commission conducts investigations into allegations of torture and illegal treatment made by detainees.

2. 5. 1. Extended Night Visits to Police stations and Prison visits

The Inquiries & Investigation Division of HRCSL, as well as the regional offices, carry out unannounced visits to police stations, prisons and other government authorized places where persons are deprived of liberty. The police stations are located on a number of categorized routes around the island (a route consist of 8 - 12 police stations.) A total of 159 police stations are covered by the officers, in addition to visits to other detention places such as prisons, CID, TID etc.

The objective of Police Station visits is to eliminate incidents of torture in Sri Lanka through efficient proactive and reactive measures, to initiate steps to identify the responsible officers who commit these violations and recommend remedial action. Further, the aim is to also coordinate and act in collaboration with other relevant government and non-governmental institutions in order to combat incidents of torture. HRCSL makes special visits to the Terrorist Investigation Division (TID) and to Criminal Investigation Division (CID) which are within the purview of the Department of Police.

Common issues identified during Police Visits include the following:

- Failure to follow due process during arrest, including taking persons into custody on suspicion, but being unable to explain the offence/crime of which the detainees are suspected of
- Ill-treatment and torture in custody
- Delay in producing before courts
- Overcrowding of cells
- Lack of proper basic facilities, such as sanitary facilities, for detainees

The Commission also undertakes visits to prisons. During these visits the Commission observed overcrowding and lack of adequate access to health facilities. Some issues were addressed on the spot following consultations with the authorities.

Chapter Three: Education and Special Programmes Division

One of the core functions of the HRCSL under **section 10 (f) of the HRCSL Act** is to promote awareness and provide education in relation to human rights. The Education and Special Programmes Division of the HRCSL carries out awareness of human rights by conducting programmes, seminars, workshops and trainings throughout the island. It also prepares human rights related documents to distribute among the public.

Activities carried out by the Division in the year 2015 are discussed briefly as follows:

3. 1. Programme development

The Division developed and conducted the following programmes during the year.

- (i) Duty Bearers' Responsibility to Ensure Rights Based Public Service
- (ii) Minority rights protection for the Security Forces
- (iii) Workshop on Strengthening the Coordination between Government Officers and Civil Society to Protect and Promote Human Rights

3. 2 .Preparing human rights documents

The Division prepared and printed the following booklets in both Sinhala and Tamil Languages.

	Name of the Document	Printed copies	
		Sinhala	Tamil
1	Know about the Human Rights Commission of Sri Lanka (Revised)	5000	5000
2	Human Rights Mechanisms	5000	5000
3	Fundamental Rights	20000	10000
4	Sources of Human Rights and its Development	8000	5000

3. 3. Conducting Seminars, Workshops & Training Programmes for Military & Public Officers

3. 3. 1. With Resource Persons Provided

Date	Title / Subject	Target Group	Organized by
29 - 30.01.2015	Human Rights & Role of the Human Rights Commission	Excise Officers	Excise Department of Sri Lanka
12.03.2015	Policy Against Sexual Harassment in the Work Place	Staff	National Institute of Mental Health, Angoda
27.04.2015	Role of the HRCSL	Police Officers	National Police Academy, Katana
28.04.2015	International Instruments	Police Officers	National Police Academy, Katana
28.04.2015	Group Rights	Police Officers	National Police Academy, Katana
30.04.2015	Rights of Detainees	Police Officers	National Police Academy, Katana
30.04.2015	Public Interest Litigation	Police Officers	National Police Academy, Katana
30.04.2015	Trafficking of Women Workers	Govt. Officers	Community Development Services, Colombo 10
13.07.2015	Human Rights and the Government Officers	SLEAS Officers	National Institute of Education
10.07.2015	International Day in Support of Victims of Torture	Police Officers	Anuradhapura Regional Office / E & S P Division
20.07.2015	Problems faced by the Women in Public Service	Staff	Ministry of Women Affairs and National Languages and Social Integration, Rajagiriya
25-26.08.2015	Human Rights	Govt. Officers & Civil Society Members	Ampara Regional Office & Head Office
15.09.2015	Patients' Rights and Nursing	Nurses	Colombo South Teaching Hospital, Kalubowila
10.09.2015	International Day in	Police	Matara Regional Office /

	Support of Victims of Torture	officer	Head Office
03.10.2015	Child Abuse and Rights of Children (World Children's Day)	Students, Parents	Lions Club, Horana
12.10.2015	Patients' Rights and Nursing	Nurses	Colombo South Teaching Hospital, Kalubowila
04.11.2015	Patients' Rights and Nursing	Nurses	Colombo South Teaching Hospital, Kalubowila
14.11.2015	Family, Child Rights and Related Laws	Youth	Divineguma Community Based Bank, Ja-ela
18.12.2015	Gender Based Violence	Staff	Ministry of National Co-Existence, Dialogue and Official Languages

3.3.2. Human Rights Awareness Programmes For Army Officers

The Division developed modules and conducted human rights awareness programmes for army officers on the requests made by the Directorate of Human Rights and Humanitarian Law of Sri Lanka Army. The HRCSL Head Office provided Sinhala speaking resource persons to Jaffna, Batticaloa and Trincomalee due to lack of Sinhala speaking resource persons in those areas.

The programmes for which lecture assistance was provided were as follows:

Date	Title / Subject	Organized By
21.07.2015	Gender Based Violence and Human Rights	Institute of Peace Support Operation Training Sri Lanka, Kukuleganga
12.05.2015	Human Rights, Women's Rights & Child Rights	513 Brigade, Army Camp, Mawamkalladi, KKS, Jaffna
13.05.2015	Human Rights, Women's Rights & Child Rights	512 Brigade, Army Camp, Hospital Road, Jaffna
27.05.2015	Human Rights, Women's Rights & Child Rights	12 th Gajaba Regiment, Army Camp, Sinhala Mahavidyalaya, Manmunai North, Batticaloa
09.06.2015	Human Rights, Women's Rights & Child Rights	Gajaba Regiment, Fort Fredric, Army Camp, Trincomalee
10.06.2015	Human Rights, Women's Rights & Child Rights	222, Brigade, Army Camp, Jayanthigama, Kantale

3. 3. 3. Workshops on duty bearers’ responsibility to ensure rights based public service

The Division observed that the complaints received by the Commission from the general public related to the difficulties they faced obtaining services from various government institutions. Therefore, the Division developed a programme on Duty Bearers’ Responsibility to Ensure Rights Based Public Service and conducted programmes as follows:

Nos.	Date	Organized By
1.	12.05.2015	Jaffna Regional Office (Tamil Medium)
2.	26.05.2015	Batticaloa Regional Office (Tamil Medium)
3.	09.06.2015	Trincomalee Regional Office (Tamil Medium)
4.	09.07.2015	Anuradhapura Regional Office
5.	24.07.2015	Staff of the Ministry of Public Administration
6.	27.07.2015	National Youth Services Council, Panadura
7.	16.09.2015	Kandy Regional Office

3. 3. 4. Training Programmes on The Rights of Minorities

The Division took steps to create awareness of rights of minorities among security forces and the police. The programme consisted of international standards pertaining to rights of minorities, protection of rights of minorities in Sri Lanka and role and responsibility of security forces where protection of minority rights are concerned.

Date	Target Group	Organized by
10.03.2015	Officers of Army, Navy and Air Force	Institute of Peace Support Operation Training Sri Lanka, Kukuleganga
26.05.2015	Police Officers in the Batticaloa District	E & S P Division
09.06.2015	Police Officers in the Trincomalee District	E & S P Division
02.10.2015	Officers of Army, Navy and Air Force	Institute of Peace Support Operation Training Sri Lanka, Kukuleganga

3. 4. Staff Capacity Building

The staff of the HRCSL attended several foreign training programmes and seminars as well as participated in several local training programmes during the year 2015.

(Please refer to annex 3A for a detailed chart on Conferences, Seminars & workshops held in foreign countries which were attended by the officers of HRCSL in 2015)

3. 4. 1 Special Lecture on Transgender Persons

A special lecture on transgender persons was held on 22nd July 2015 at the HRCSL Head Office. Dr. Dayanath Ranathunga, Country Manager, UNAIDS was the resource person.

3. 4. 2. Training Programmes (03rd – 5th October 2015 and 10th- 12th October 2015)

Team endeavour - professional development experiential training programme for HRCSL staff was conducted by the Academy of Adventure at Belihuloya. This programme was primarily focused on leadership, team building, communication and team work, self confidence among the participants in general and to develop their professional qualities in particular. The programme was conducted for 2 batches from 03rd – 05th October 2015 and from 10th - 12th October.2015.

3. 5. HRCSL exhibition stall for Law Week

National Law Week was held from 23rd - 29th November 2015. To commemorate this week the Bar Association of Sri Lanka collaborated with the Ministry of Justice and Legal Aid Commission to organize an exhibition from 28th - 29th November 2015. The Commission also contributed to that task and had a stall at the exhibition.

3. 6. International Human Rights Day 2015

The Human Rights Commission of Sri Lanka commemorated International Human Rights Day 2015 at national level under the theme of **“Work together to Create a Human Rights Culture in Sri Lanka.....”** via mass media and social media.

The Commission participated in TV programmes in three languages on Human Rights Day.

The programmes were as follows:

News Line	10 th December 2015	MTV Channels Pvt. Ltd
Pathikada	10 th December 2015	Sirasa TV
Nugasevana	10 th December 2015	Sri Lanka Rupavahini Corporation
Nisakalanka Hatha hamara	10 th December 2015	Independent Television Network
Ethiroli	11 th December 2015	Shakthi TV

The Commission also has launched a human rights campaign under the theme **‘Let’s work together to create a human rights culture through social media’**. The campaign was launched on 14th December 2015 in the presence of the Chairperson and Commissioners.

The Commission created one-minute-snippets on human rights which were broadcasted through the Sri Lanka Broadcasting Corporation for a period of one month. These messages were broadcasted through the Island- wide commercial service radio channels and regional radio channels

3. 7. Other Programmes

3. 7. 1. Coordination with Civil Society

3. 7. 1. 1. Civil Society meeting

A Civil Society Consultation was held by the HRCSL on 18th February 2015 at the HRCSL. At this meeting Civil Society and HRCSL jointly agreed to establish a position paper, carry out joint visits to detention centers, and carry out a review how other countries incorporate the language of all communities in their national anthem, have joint consultation on elections and make the public aware of the LLRC report.

3. 7. 1. 2. Civil Society working committee meeting

A Civil Society Committee Meeting was held on 20.01.2015. At this discussion it was pointed out as to how the media and Civil Society were treated in the recent past and as to how they felt about right to assembly, right to association and right to expression. Discussions were also held on the circular issued by the Ministry of Defence on Civil Society and on the Prevention of Terrorism Act.

3. 7. 1. 3. Meeting with Civil Society and Newly Appointed Commission

A meeting with Civil Society was held by the newly appointed Human Rights Commission on 16th November 2015 at which the Commission consulted Civil Society representatives on their concerns and the Commission's future activities Civil Society.

3. 7. 2. Redress to Transgender Persons

A discussion was held on 22th May 2015 between HRCSL and Civil Society who work on LGBTIQ rights such as Heart to Heart and Equal Ground. During the discussion they placed before the Commission issues of concern to them, specially legal and procedural issues relating to changing the sex in transgender persons' legal documentation such as birth certificate, national identity card and passport.

Another discussion was held on 16th June 2015 with relevant government authorities, such as the Department of Registrar General, Department of Registration of Persons, Department of Immigrations and Emigration, Department of Health and Department of Police. Since then the HRCSL continued discussions with the Ministry of Health, the Department of Registrar General and Civil Society regarding the gender certificate, which was formulated by the HRCSL to enable change of sex in personal documentation. In 2015 the HRCSL recommended to the Ministry of Health to issue a circular to enable transgender persons to change their sex in their personal documentation.

3. 7. 3. Guidelines on the Protection of Human Rights Defenders

The HRCSL observed the necessity of preparing guidelines to state authorities to protect Human Rights Defenders. The Guideline was prepared and submitted to Civil Society Working Committee for their comments. Civil Society Working Committee requested the Commission to have discussions at regional level as well. The Division had 6 regional consultations. (Jaffna – 13th May 2015, Vavuniya– 09th July 2015, Anuradhapura– 10th July 2015, Trincomalee– 10th June 2015, Kandy– 16th September 2015, Batticaloa– 27th May 2015).

Chapter Four: Monitoring and Review Division (Research and Monitoring Division)

The Monitoring and Review Division plays a very important role within the Human Rights Commission of Sri Lanka. The mandate of the Division is very broad and encompasses all issues recognized under the international human rights standards.

The following activities were undertaken by the Monitoring and Review Division during the year 2015.

4.1. Establishment of the Research and Monitoring Division

The newly appointed Commission re-named the **Monitoring & Review Division** as the **Research and Monitoring Division**.¹ The purpose of this Division is to conduct research on human rights related issues in Sri Lanka in order to assist the Commission in making necessary policy interventions.

4.2. HRCSL Report on the Presidential Election 2015

The Human Rights Commission of Sri Lanka played an active role to ensure a free, fair and impartial election in the last Presidential election held on 8th January 2015. The Human Rights Commission of Sri Lanka dealt with government officers, members of Civil Society and Election Monitors to help the people of the country elect a President at a free and fair election. As a part of Commission's activities, the Commission conducted meetings with the Elections Commissioner and other stakeholders, conducted inquiries, media monitoring, called for reports, and issued directives, guidelines and recommendations relating to all activities connected to the election. A report was prepared on the Human Rights Commission's intervention in the Presidential election 2015. The recommendations to the Elections Department are as follow:

1. ¹From November 23, 2015 Monitoring and Review Division name changed as Research and Monitoring Division.
2.

1. In case a situation has arisen in which people have had to stay in secure places away from their residences due to a man-made or natural disaster, the Department of Elections should inquire into the prevailing situation through its district level officers and provide opportunities for people to cast their votes in that situation.
2. As reported, due to the fact that house owners reject the registration of tenants in the electoral register under their addresses and house numbers, suitable steps have to be taken to ensure the right of tenants to be registered in the electoral list and thereby provide them with the opportunity to cast their votes in forthcoming elections.
3. Appointing an officer in the Department of Elections for coordinating the activities carried out by the Human Rights Commission of Sri Lanka during the election period in order that the relationship with the Commissioner of Elections could be more regulated.

4.2.1. Freedom of Expression

During the period of the Presidential election 2015, it was reported to the Human Rights Commission of Sri Lanka that when permission was sought to hold meetings at specific places that were within the purview of the local government authorities, certain political parties were given favoured treatment and others were deprived of this right on the basis that such places were reserved for other activities not related to the election process. The Elections Commissioner reported this practice to this Commission. During the inquiry into the complaint **HRC/5030/2014** filed by Mr. S. Ranwala, Member of the Western Provincial Council before the Chairman of HRCSL, the Elections Commissioner pointed out the importance of conducting a national level meeting with all Provincial Commissioners of Local Government Department relating to reservation of public places during the election period.

The Human Rights Commission of Sri Lanka took this up as an issue for a discussion with relevant authorities and conducted a seminar on 17th March 2015 at the HRCSL. Representatives from following government institutions and stakeholders participated:

1. Commissioner of Elections and senior officials of Elections Department
2. A Representative of the Secretary of Ministry of Public Order
3. Additional Secretary of Ministry of Local Government and Provincial Councils
4. Senior Inspector General of Police (Administration and Election)
5. Commissioners of Local Government Department of Western, North-Western, Central, Eastern, Sabaragamuwa, North Central and Uva Provincial Councils
6. Chairmen of Road Passengers' Transport Authorities of North-Western, Eastern, and Sabaragamuwa Provincial Councils
7. Representatives of Political Parties
8. Representatives of Election Monitoring Organizations

The summary of the proposals submitted by Elections Commissioner and the participants is as follows:

To collect information on suitable places for public meetings at district level with the support of Local Government Ministries of all Provincial Councils, local government authorities (especially Colombo Municipal Council) and other relevant institutions. Upon identification of suitable places for public meetings in each district, the District Secretary of the said district and the Assistant Election Commissioners of the district should hold a meeting with political party representatives of each district and educate each party considering their requirements and meetings calendar. The Human Rights Commission of Sri Lanka approved the above proposal and informed all parties to participate and give their unstinted support.

4.3. General Election 2015

Sri Lankans voted to elect a new Parliament on 17th August 2015. The Human Rights Commission and Department of Elections have different mandates, but they both have the objective of working towards justice and equity. In order to achieve these different initiatives were taken by the Commission in collaboration with the Department of Elections and/or with Civil Society organizations to ensure a free and fair election.

I - Reservation of public places for election meetings with political parties

The Human Rights Commission conducted meetings with the participation of Elections Commissioner, Local Authorities and relevant Secretaries to the Ministries. Prepared guidelines in relation to the said issue, to ensure fair play devoid of favoritism to ensure first come first served within the legal frame. A Committee headed by District Secretary was appointed to supervise the implementation of these guidelines.

II - Leave for private sector employees

There was a loophole with regard to granting leave for private sector employees to vote. The Secretary to the Ministry of Labour and the Elections Commission were summoned to discuss the issue. The Human Rights Commission together with the Elections Commissioner forwarded appropriate proposals for granting leave. These proposals were accepted and a recommendation was issued to the Secretary to the Ministry of Labour and Commissioner of Labour. Finally, the Minister of Labour issued a public notice to all the private sector employees with regard to leave entitlement of private sector employees for voting.

III - Removal of cut outs and banners

A meeting was conducted with the participation of the Elections Commissioner and with key state agencies that were alleged by Election Monitoring teams to have displayed posters and banners in favour of politicians. Public officials undertook to remove all cut outs and banners which were displayed at government owned premises.

IV - Using media during the period of elections

The Human Rights Commission of Sri Lanka supported the Department of Elections Commission in preparing media guidelines to be followed/ policies to be observed by the electronic print media during a referendum or an election.

V - Women's Participation in politics

A meeting was held on 23.06.2015 with the Elections Commissioner, representatives of the Presidential Secretariat, Office of the Prime Minister, Ministry of Women's Affairs, Ministry of Justice and Civil Society as follow up to the CEDAW recommendation on women's political participation and to promote the national initiatives for women's political participation. The Human Rights Commission issued letters (dated 07th July 2015) to all Secretaries of the political parties requesting them to give serious consideration to the inclusion of women in the preparation of nomination lists.

VI - Voting rights of a marginalized group

The Human Rights Commission intervened on its own motion to ensure voting rights of the fishing community living in the islands of Kalpitiya peninsula. The Commissioner of Elections informed the Commission that action was taken to provide transportation to them to the polling center.

VII - March 12th movement for clean politics

The Commission promoted the criteria for selecting political representatives set out in the March 12th Declaration, which was formulated by Civil Society, in the public awareness programmes of the Human Rights Commission.

VIII - Complaint handling

The Commission established a special unit to expedite parliamentary election related complaints. 10 complaints were filed of which 2 cases were against the Elections Commissioner. The two complaints against the election Commissioner were on the privileges of former President and the entitlements of a parliamentary candidate. The above case referring to the former President was deferred as the same issue was pending before the Supreme Court. Another two cases were against media agencies. One was referred to the Elections Commissioner as it was against a private media and the other matter was settled. Four cases related to transfers and recruitments to government institutions during the time of elections. Two cases were regarding the arrest of a trade union activist from the government health sector who was contesting the parliamentary election. He was alleged to have pasted posters in official premises.

IX. Special unit for General Election

The Human Rights Commission of Sri Lanka decided to set up a special unit to prevent election related fundamental rights violations during voting. The Secretariat consisted of a Commissioner, the Secretary and a few senior officers of the Commission. This special body functioned till 4.00 p.m. on the Election Day, 17th August 2015.

4.4. Water issue in Bandarawela

The purpose of the Uma Oya Multipurpose Development Project is to add 120 MW to the generation system with 230 GWh annually to the National Power Grid. 4500 hectares of land is to be developed while 1500 hectares of developed land will be further developed. The project is implemented by the Ministry of Irrigation and Water Management in coordination with the Ministry of Power and Energy and Ceylon Electricity Board. UOMDP began on 20 July 2008 and later, the Preliminary Feasibility study Report was done by MahabGhodss Consulting Engineering Company) and the tree volume Environmental Impact Assessment (EIA) by University of Sri Jayawardenapura. The Central Environmental Authority acted as the project approving agency. However, the project started construction activities even before obtaining environmental clearance. In 1991, the Central Engineering Consultancy Bureau prepared the initial Uma Oya proposal and it was submitted to the Asian Development Bank (ADB) for financial assistance but ADB rejected it due to a violation of water rights of the people trans basin water diversion.

On 26th December 2014, the villages of Heeloya and Palleperuva in Ella Divisional Secretariat and Makulella, Egodagama and Weheragalathenna in the Bandarawela Divisional Secretariat observed cracks in their houses and decreasing ground water level of the area. Media reported a leak pouring out 250 liters of water per second into the underground tunnels system of UOMDP.

Villagers of above mentioned areas held a protest in Bandarawela town on 26th December 2014 against UOMDP. They have formed an Organization called ‘Asarthaka Uma Oya Piyapruthiyen Pidawata Path Janatha Ekamutuwa’ and also a Facebook page with the same name. After the protest of the local people in Bandarawela, the Human Rights Commission of Sri Lanka decided to intervene. First, the Commission called reports from relevant authorities such as Bandarawela Municipal Council, Bandarawela Pradeshiya Sabha, Ella Pradeshiya Sabha, Bandarawela Divisional Secretariat, Ella Divisional Secretariat, Disaster Management Centre, Geological Survey and Mines Bureau, National Building Research

Organization and gathered information from the Civil Society organization called Asarthaka Uma Oya Viyapruthiyen Peedawata Path Janatha Ekamutuwa Organization.

The Commission convened a few meetings with government officials, Civil Society representatives, other stakeholders and affected villagers of the area on 6 and 7th March 2015. The Additional District Secretary, Badulla, Divisional Secretary of Bandarawela Divisional Secretariat, Divisional Secretary Ella Divisional Secretariat, local politicians and a representative of the Uma Oya project participated in the government officers meeting. Following that the HRCSL representatives visited affected villages, met villagers and visited affected houses, ground water sources, schools and villagers of Heeloya and Palleperuva in Ella Divisional Secretariat and Makulella, Egodagama and Weheragalathenna in Bandarawela Divisional Secretariat, and held a meeting with representatives of Asarthaka Uma Oya Viyapruthiyen Peedawata Path Janatha Ekamutuwa and religious leaders of the area.

On 29th June 2015 the team from the HRCSL returned to Bandarawela, met officials and affected villagers of the area and documented the situation. Before the second visit to Bandarawela, the Commission conducted close monitoring of relief services to the villages. After the meeting the HRCSL team presented the grievances of the villagers to government officials.

4.5. Rights of Indigenous people in Sri Lanka

In Sri Lanka due to accelerated development projects, indigenous people have left their traditional lands and relocated to new Mahaweli lands. They received benefits from the Mahaweli project and have had to leave their hunter - gatherer mode of existence and instead have had to become cultivators/farmers. According to the Report of Special Rapporteur on the rights of indigenous peoples on the situation of human rights and fundamental freedoms of indigenous people of 1 November 2007, ‘development projects, plantation leases, logging concessions, and the establishment of protected area have been major forces in the increasing loss of indigenous land, leading to massive displacement of

indigenous peoples from their traditional territories, the degradation of their traditional environment, and rising poverty and migration.²

Under the Multipurpose Mahaweli Development Project, the government of Sri Lanka declared several National Parks, which are prohibited for entry by humans such as Maduruoya National Park due to which indigenous people of the areas who used the area for hunter - gatherer mode of existence were very badly affected. A few years ago, the Department of Wildlife Conservation issued Identity Cards to the Veddha people. They can use this Identity Card to enter prohibited National Parks and engage in their traditional way of life on a limited scale, but this system was not functioning smoothly due to some practical difficulties.

The participation of the Veddha people in education sector is very low. Among the indigenous people, the adaptability to a new language is an issue and also there is a huge problem with the availability of resources. Children of Veddha people are compelled to receive an education in either Sinhala or Tamil languages as Sinhala and Tamil languages are the national Languages of Sri Lanka. Schools that the Veddha people's children attend have very low educational facilities and lack teachers.

Movement from traditional lands due to national development projects has negatively affected the spiritual life of indigenous people. Most of the groups of indigenous people's original faith is animism which is linked to traditional lands. The sites considered sacred by the indigenous people in terms of their own religious and belief systems have been desecrated or destroyed by large-scale development projects. Due to the internal migration of the members of the community, traditional leaders cannot keep the community under traditional administration.

The Monitoring & Review Division started a provincial survey on indigenous people in Sri Lanka, which covered all Divisional Secretariats of Uva, Eastern and North Central

²The report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples in Asia of 1st November 2007.

Provinces. According to the survey, there are 12096 indigenous people in the above mentioned three provinces. They are living in 13 Divisional Secretariats. It is necessary to conduct fact-finding missions covering all Divisional Secretariats to collect comprehensive data. Survey findings on the indigenous population are given in the table below.

Survey of Indigenous people in Sri Lanka

District	Divisional Secretariat Division	Female	Male	Total	District Total
Monaragala	Madulla	160	168	328	328
Badulla	Mahiyanganaya	180	165	345	345
Batticaloa	Manmunnai West - Navatkadu	39	37	76	3288
	KorelePattuNort- Vakari	1633	822	2455	
	KorelePattu South – Kiran	374	383	757	
Tricomale	Mutur	1289	1215	2504	2504
Ampara	Mahaoya,	452	320	772	2350
	Dehiattakandiya	747	831	1578	
Anuradhapura	Kahatagasdigiliya	506	487	993	2145
	Horowpathana	441	366	807	
	Mahawilachchiya	180	165	345	
Polonnaruwa	Welikanda	95	96	191	1136
	Dibulagala	414	531	945	
TOTAL		6562	5645	12096	12096

Source: Divisional Level Survey on Sri Lankan Indigenous Peoples 2015 by HRCSL

4.6 Language Rights

Chapter IV of the Constitution of Sri Lanka³ Sinhala and Tamil languages are the official languages of Sri Lanka. According to Chapter Three of the Constitution of Sri Lanka, language based discrimination is a fundamental rights violation.⁴ In 2015, HRCSL received 50 language related complaints from the Center for Policy Alternatives, a Civil Society organization based in Colombo. The categorization of languages cases is as follows:

Language related complaints, according to the nature of complaint - 2015

Nature of complaints	No of complaints
Name Boards/Labels	22
Letters/Circulars/Evaluations	07
Formats/Applications/Notices	03
In corrected Tamil version	01
Licenses/permits/tickets issue in Sinhala Language	03
Web sites	12
Manufacture date, expiry date, description of the use	02
Total	50

Source: Language Rights Case files, Human Rights Commission of Sri Lanka 2015

4.7. Traffic congestion in Colombo city and nearby areas

The Human Rights Commission of Sri Lanka organized a multi sector stakeholder meeting on the traffic congestion in Colombo and suburban areas on 8 October 2015 at the Head Office of the Commission. The main objective of the meeting was to identify the root causes of traffic congestion in Colombo City and nearby areas which curtails the citizens engagement in economic activities on time whereby having a negative effect upon their livelihoods.

³Chapter IV of the Constitution of the Democratic Socialist Republic of Sri Lanka.

⁴Chapter III of the Constitution of the Democratic Socialist Republic of Sri Lanka.

The Secretary to the Ministry of Highways, the Secretary to the Ministry of Megapolis and Western Development, Road Development Authority, Urban Development Authority, Road Development authority (WP), the Deputy Inspector General of Police (Traffic) and all SSPs of all Police Divisions in Colombo city and the nearby area and academics from the Town and Country Planning from the University of Moratuwa were among the invitees.

Several problems were identified by the invitees. They were:

1. Inadequate public transportation system
2. Increased travelling via Colombo city
3. Some port based activities are not carried out in the Colombo Port. For instance weighting containers are not in the port, but at a location in Orugodawatta, which creates additional traffic congestion in the said area.
4. Petty businesses along roadsides.
5. Road constructions and repairs without co-ordination between the relevant institutions (Telecom, Water Board, Local Government Bodies and RDA).

Strategies and proposal to overcome the above loopholes

1. Introducing new bus routes by passing Colombo city.
2. Revise the import policy on vehicles.
3. Introducing facilities for weighting containers in Colombo Port with the collaboration of Ports Authority and Department of Customs.
4. Introducing electrical lifts for pedestrians.
5. Set up new overhead flyover bridges to Borella Cemetery Junction, Orugodawatta and Maliban Junction.
6. Introducing training programmes for drivers to change their attitudes.
7. Introducing a computerized camera system for traffic control.
8. Conducting town cleaning and road repairs in the night.
9. Ensuring adherence to current laws and regulations.
10. Establishing a regulatory body for three wheelers.

11. All road repairs and constructions need to be conducted with very high coordination among RDA, Water Board, Electricity Board and Local Government bodies.

4.8. Special events

The first death anniversary of Ms. Thusitha Samarasekara, former Director (Monitoring & Review) of the Human Rights Commission of Sri Lanka who passed away on 21st September 2014 during her return from monitoring elections of the Uva Provincial Council together with a team of HRCSL officials was remembered by the Commission for her contribution as a human rights defender proposed an event to pay tribute by organizing an annual event in her memory and that of all human rights defenders of our country Sri Lanka. A special lecture in her memory was delivered by Mr. S.G. Punchihewa, Attorney-at-Law.

Chapter Five: Administration and Finance Division

The main responsibility of the Administration & Finance Division is to manage human resources and finance. In achieving the goals of the omission, the management of human resources is most important.

5.1. Administration Section

The Administration Section concerns the recruitment the staff and matters of staff capacity building. It further engages in office management including regional offices and maintains the security network

(Please refer to **3. 4. Staff Capacity Building – for an illustration of the steps taken in 2015 to enhance the efficacy of the staff of HRCSL**)

5.2. Finance Section

Finance Section prepares the annual budget for the Commission and Handles all financial matters including providing funds for divisional activities. It also submits financial information for decision making purposes.

(Please refer to **Annex 1A** at the end of this report for a comprehensive statement of the annual expenditure of the HRCSL in 2015)

The Administration & Financial Division has undertaken the following during the year 2015.

Finger Scan Machines for all regional offices were fixed. The intercom system of the Head Office was modified to make intra-officer communication easier. New vehicles for the commission were purchased including 03 Cabs and 03 Cars. The 03 Cars were obtained on 01st January 2015 and the 03 Cabs on 29th January 2015.

Chapter Six: United Nations Joint Programme on Human Rights in Sri Lanka

(Support to the Human Rights Commission Phase 2 – June 2013 to June 2016)

6.1. Background of the Project

This is a project implemented by the Human Rights Commission of Sri Lanka (HRCSL) supported jointly by UNDP (United Nations Development Programme), OHCHR (Office of UN High Commissioner for Human Rights), UNHCR (United Nations High Commissioner for Refugees), UNICEF (United Nations Children's Fund), UNFPA (United Nations Fund for Population Activities) and IOM (International Organization for Migration). The first phase of the project was executed from 2010 Jan to December 2012 and the second stage from June 2013 up to June 2016.

In the year 2008, the Government of Sri Lanka made a commitment at the UPR process of the Human Rights Council:

- a) To Develop a National Human Rights Action Plan and a database on disappearances; and
- b) To strengthen internal mechanisms for human rights protection and advancement within the country.

At this stage, the Government approached UNDP for financial and technical assistance and the project was planned jointly by HRCSL and the UN.

Gaps and issues identified by the International Coordinating Committee of National Human Rights Institutions (ICC) in 2007 & 2009 as reasons for down grading HRCSL to grade B; Recommendations of the capacity assessment conducted by APF, UNDP regional office & OHCHR in 2012; the National Human Rights Action Plan; Recommendations issued to HRCSL in LLRC Report; Input gathered at multi stakeholder consultations/ meetings held

during phase one of the project and lessons learnt experiences were taken into account in designing the project.

The first phase of this task as well as the second phase were planned to incorporate the project into the day to day mandated functions of the HRCSL to enhance its effectiveness and efficiency. During the first phase of the United Nations Joint support to HRCSL from 2010 Jan to 2012 December HRCSL wanted to address the issues identified by the ICC in downgrading HRCSL in 2007 with the aim of rectifying the gaps in order to regain A status.

Therefore, the first phase mainly concentrated on the strengthening of coordination and functional mechanisms within HRCSL, supporting HRC to disseminate information, supporting HRCSL to collaborate more effectively with Civil Society (CS) and government institutions, and building HRC's capacity to make recommendations to the government to ensure national laws & administrative practices are in accordance with international human rights norms and standards.

As a consequence, under the above mentioned key activity result areas the first phase of the UN project delivered the following main activities/outputs from 2010 Jan to 2012 Dec. However, it should be noted that the execution of project activities was extremely challenging- both internal and external challenges- due to the prevailing political climate at the time which was not particularly supportive of, or conducive to human rights related interventions.

6.2. Activities of phase 1

During the first phase of the project coordination and functional mechanisms within HRCSL were strengthened to effectively deliver their mandate. The project outputs are as follows:

- a) Support combined quarterly coordination, review & monitoring meetings among regional coordinators and HRCSL HO senior staff and Commissioners thereby reviving internal coordination within HRCSL, which had been dysfunctional from prior to 2010.
- b) Visits to regions by Commissioners and senior staff from HRCSL head office, in order to strengthen coordination & monitoring within HRCSL.

- c) Equipment/ vehicle support to head office and 10 Regional offices following capacity assessments conducted by the project. (9 M furniture & IT; 2.6 M motorbikes)
- d) Trainings for HRCSL staff in themes identified by them. (Language training, monitoring & evaluation, personality building, investigation techniques, psycho social skills, leadership skills)
- e) Support to obtain services of legal consultants for 7 regional offices, which functioned without Legal Officers.
- f) Organized a week long “ High Level Dialogue” for HRCSL Commissioners with APF appointed experts and a 21 Day long capacity assessment of HRCSL with Commissioners and all staff by APF and UNDP regional office and OHCHR, in order to support HRCSL to identify issues that hindered their efficient & effective functioning and suggested recommendations for improvement.
- g) Supported mobile offices and mobile clinics, where HRCSL has no offices.
- h) The project provided support to HRCSL to open a mobile office in Kilinochchi and also to conduct mobile clinics in areas difficult to be covered through regional offices.
- i) Supported 3 election monitoring visits.

6.2.1. Support was provided to the HRC to disseminate information and the following outputs were supported:

- a) Support to upgrade & maintain website of HRCSL (from 2010- up to 2016).
- b) Support translation and publication of Annual Reports (2008, 2009, 2010, and 2011).
- c) Support holding Press Conferences (2011-1, 2012-2).
- d) Supporting HRCSL to translate and publish leaflets, booklets and other educational material and documentaries
- e) Support HRCSL to hold international HR Day celebrations. (2010, 2011, 2012)
- f) Supporting HRCSL with the services of a media legal consultant.
- g) Supporting the process of the transfer of the Disappearance Data Base developed by HR Ministry (UNDP assisted) to HRCSL.

6.2.2. Support was provided to the HRCSL to collaborate more effectively with Civil Society (CS) and Government institutions. The following outputs were supported:

- a) Support HRCSL to hold consultations/ dialogues with CS and government institutions (2010- two at national level, seventeen at regional level; 2011 – one at national level, twenty-nine at regional/ 2012- two at national level, thirty-four at regional level) to increase the coordination among HRCSL, CS and government institutions on HR related issues.
- b) A two day residential HR training programme for government officials and Civil Society members.
- c) A two day residential HR training for media personnel (journalists) at the national level and 3 day residential HR training for youth in collaboration with Youth Ministry and Ministry of Public Management Reforms at NuwaraEliya.

6.2.3. Support to strengthen HRCSL's capacity makes recommendations to the government to ensure that national laws & administrative practices are in accordance with international human rights norms & standards. The following outputs were supported:

- a) HRCSL together with UN and the Parliament organized and held a full one day study conference on human rights for Members of Parliament inside the Parliament, with the leadership of Speaker & Deputy Speaker (attended by 74 MPs) in 2012.
- b) Interactive dialogue/ discussion on human rights organized and held between Members of Parliament, UN country office and Human Rights Commission of Sri Lanka, with the leadership of Speaker & Deputy Speaker. (attended by 53 MPs) in 2012.
- c) Support study visit in 2012 to Philippines Parliament for the Deputy Speaker and another MP, to meet and exchange views with members of the Parliamentary Select Committee on Human Rights and to discuss and obtain input from the Speaker of the Philippines parliament on the establishment of a Parliamentary Select Committee on Human Rights within our Parliament.
- d) Organized and conducted 10 regional level consultations with Civil Society, UN agencies, elders groups, government officials and policy makers and one national level consultation on issues of the elderly population. HRCSL formulated and forwarded recommendations to the UN Open Ended Working Group on Elders Rights, compiled from these consultations, (2011/2012).

6.3. Activities of phase 2

The second phase of UN support to HRCSL continued from 2013 June to 2016 June. In the second phase HRCSL wanted the project to be designed, not only to address gaps identified by ICC at the time of down grading the HRCSL, but also to support some critical functions of the Commission for which they found it difficult to obtain funds from treasury.

Therefore in the second phase the project was designed grouping activities under 5 Key Activity Results. They are:

- HRCSL's capacity strengthened to deliver more effective training and awareness on human rights;
- HRCSL supported to conduct awareness raising and training programmes for key decision makers at national and regional level;
- Functional Capacities of HRCSL Staff and Operational capacities of HRCSL offices developed;
- HRCSL capacity for monitoring of and reporting on HR issues and concerns strengthened;
- The HRCSL's developing engagement with Civil Society supported at both the regional and national levels; and
- Work with Legislators, Government Officials and Statutory Bodies to promote human rights based policy and programming.

Categorized under the above thematic areas, the project supported HRCSL to deliver the following outputs:

6.3. 1. HRCSL's capacity strengthened to deliver more effective training and awareness on human rights:

1) To develop 16 curricula for awareness raising and training on human rights to different target groups and on different themes.

Target Groups covered - Civil Society, multi religious leaders, trade unions, journalists, police, military, local government politicians, provincial council members, youth, government officials, members of parliament, preschool teachers)

Topics Covered - gender based violence, religious rights, language rights, democracy & human rights

The development of these curricula was initiated in 2013 and initially developed curricular were used in the awareness and training programmes carried out in 2013 and 2014 at regional level, for some of these target groups. Thereafter, the initially developed curricular was revised based on the lessons learnt and comments from the participants who attended these trainings.

2) To develop and print educational material (leaflets, booklets and books) on human rights to be used for awareness raising and training programmes.

6.3.2. HRCSL supported to conduct awareness raising and training programmes for key decision makers at national and regional level:

a) A total of 353 Male and 31 Female religious leaders from multi religions acquiring a better awareness on human rights promotion & protection and their role in the same through 8 programmes combined with consultative dialogues held at regional levels. (Kilinochchi, Anuradhapura, Ampara, Kalmunai, Matara, Vavuniya, Kandy, Batticaloa)- (2013).

b) A total of 267 male and 41 female trade union activists receiving trainings and familiarization on labour issues and human rights through 05 trainings in Batticaloa, Kandy, Matale, Nuwaraeliya, Anuradhapura & Polonnaruwa, Jaffna & Kilinochchi, Kalmunai- (2013).

c) A total of 322 male and 52 female local government politicians receiving training on human rights through the 9 programmes on Human Rights conducted for Provincial Councillors, Municipal Councillors, Urban Councillors at regional levels. NuwaraEliya, Matara, Jaffna/Kilinochchi, Vavuniya, Mulativ, Mannar, Anuradhapura and 2 in Trinco (Sinhala and Tamil languages) - (2013).

d) 325 Police and Armed forces personnel receive improved awareness on human rights and humanitarian law through 04 trainings and discussions in Vavuniya, Anuradhapura, Jaffna, Kilinochchi- (2013).

- e) 92 men and 57 women from village child rights monitoring committees and government officials dealing in children's issues receiving improved awareness through 2 trainings in Kilinochchi and Batticaloa- (2013).
- f) Provincial Councilors & officials of PC (65) in the Central Province gaining improved knowledge on human rights through a training and follow up discussions on human rights issues- (2014).
- g) Over 500 Village Child Rights Monitoring Committee VCRMC members, police and relevant government officials gaining improved knowledge on child rights protection in Batticaloa, Kilinochchi, Vavuniya, Mannar, Jaffna, Mullativu through 06 trainings on child rights protection and monitoring and a follow up discussion on issues in the area (2014).
- h) 40 members of DCRMC in Batticaloa receiving improved knowledge on child rights protection & monitoring through training- (2014).
- i) 100 religious leaders, Civil Society and government officials in Kalmunai receiving improved knowledge on child rights protection and monitoring through an awareness and working on issues with HRCSL RO- (2014).
- j) 200 Pre School teachers in NuwaraEliya receive improved knowledge to manage their day to day work, provided through a 2 days training & discussion on child rights and child psychology- (2014).
- k) A total of 320 Police Officers (40 Batticaloa, 125 Jaffna, and 155 Kilinochchi) have improved knowledge on child rights protection to support their day to day functions, through 03 numbers of training- (2014).
- l) The knowledge of human rights and international humanitarian law improved for a total of 242 high ranking Police Officers (above the rank of OIC) through 04 Trainings and follow up discussions on practical use of these principles in police duties (143 Central Province, 89 Ampara, 60 Batticaloa, 100 Trinco)- (2014).
- m) The knowledge of human rights and international humanitarian law improved for a total of 256 Army officers in Mullativu through a series of trainings- (2014).

n) 100 Local Government Politicians & officials (MC, UC and Pradeshiya Saba) in Ampara district receive improved awareness, through a training and follow up discussions on human rights issues in the area- (2014).

o) Combined working committees with government offices and Civil Society, to work on human rights issues established at AGA division levels in Ampara, Matara, Kalmunai and Jaffna following capacity building of Government officers and Civil Society on human rights through 2 day residential workshop for 25 government officers and 25 Civil Society activists in Ampara and 30 government officials and 30 Civil Society activists in Matara- (2015).

6.3.3. Functional Capacities of HRCSL staff and operational capacities of HRCSL offices developed:

a) Management, leadership, team building, positive thinking, client orientation and communications skills are developed for 60 HRCSL staff, through a 2 day residential training- (2013).

b) Ministry of Social Services initiating a meeting with support from HRCSL to reach a consensus in amendments needed to be brought to disability legislations in order for Sri Lanka Government to ratify UNCPRD, following a national consultation and dialogue on disability policies and legislations organized by HRCSL among government stakeholders, local disability movement and disability INGOs/ NGOs- (2013).

c) Consultant selected and MOU signed to develop Human Resource Policy for HRCSL. Draft policy formulated following many discussions held between the consultant's team and HRCSL- (2013/2014).

d) Regional offices are better equipped to provide services by providing legal consultants for HRC offices which function without legal officers- (Anuradapura, Jaffna, Batticaloa, Trinco, Ampara, Kalmunai, Vavuniya) (2013/2014).

e) Following a needs assessment by HRCSL, IT equipment and furniture provided for regional offices, head office and mobile offices of HRCSL to improve their functioning- (2013).

- f) Support HRCSL to reach areas that are not covered by their Regional Offices, by establishing mobile offices and support operations in Kilinochchi, Mannar, Mulltivu and Puttalam (2013).
- g) Support establishment of a routine of quarterly review and progress mechanism within HRCSL, by initiating the process and supporting two meetings between head office and regional offices- (2013).
- h) 2014 Project activities and HRCSL activities planned through a meeting among HRCSL Commissioners, head office staff and regional staff - (2014).
- i) Co-ordination support provided to HRCSL to update, translate, technically review and print the training manual on gender based violence together with UNFPA- (2014).
- j) The gender based violence manual technically reviewed, updated, translated and printed- (2016).
- k) Support operations of mobile offices established to reach out more to the public, through supporting HRCSL to retain Project Assistants- (2014/2015/2016).

6.3.4. HRCSL capacity for monitoring of and reporting on human rights issues and concerns strengthened:

- a) HRCSL issuing guidelines on election process for Government officials, who were distributed by elections commissioner's office; random monitoring of polling booths & counting centres contributing towards reduction of election malpractices through "Elections Monitoring" conducted by HRCSL with other Civil Societyactors, during Northern, Central and North Western provincial Council elections- (2013).
- b) HRCSL monitoring the implementation of the guidelines issued by them to prisons, through surprise monitoring visits to police stations and prisons- (2013).
- c) Support HRCSL to disseminate information through support for translation, publishing and distribution of 2012 Annual Report and providing external support to maintain website- (2013).

d) HRCSL supported consultations with the police department and military to update the disappearance database partially developed by Ministry of Human Rights and External Affairs- (2013).

e) The Elections Commissioner's office commended HRCSL in their official report for its contribution to control violence and malpractices during the Southern, Western and Uva provincial council elections, through extensive consultations with political parties, Elections Commission, Civil Society partners and elections monitoring- (2014).

f) **"Electoral Guidelines"** issued by HRCSL for previous PC elections were revised based on the observations of Southern, Western and Uva elections and guideline booklets printed with support from project, which was the official guidelines issued by the Elections Commission to officials and election duty- (2014).

g) HRCSL officially accepted and invited by the Elections Commissioner to **"mediate election related issues"** created as a result of actions/inactions by government officials- (2014).

h) **HRCSL 'Study Report' on the situation of children deprived of liberty as a consequence of conflict with law with recommendations for change'** based on a study of 18 institutions where children are deprived of liberty covering five Provinces with a team of consultants consisting of psychologists and social care workers- (2016).

6.3.5: The HRCSL's developing engagement with Civil Society supported at both the regional and national levels:

a) 29 meetings/ trainings / awareness raising programmes conducted for/ with Civil Society activists combined with dialogues on finding solutions to human rights issues in - Jaffna-2, Kilinochchi- 1, Vavuniya- 1, Mullativ-1, Mannar-1, Anuradhapura - 2, Polonnaruwa- 1, Higurakgoda-1, Trinco- 2, Ampara - 3, Kandy- 3, Badulla - 3, Kalmunai - 3, Batticaloa- 3; eastern region – 3 day workshop and dialogue on HR; Puttalam -1(2013).

b) 148 Government officers and Civil Society members come together to discuss and seek solutions to language rights issues mediated by HRCSL in Jaffna- (2014).

- c) 60 Government officials and Civil Society members in Jaffna provided improved knowledge on language rights- (2014).
- d) HRCSL seeking to mediate solutions to a maximum number of issues in Mannar, through a discussion on HR issues in the district held among 80 Civil Societymembers and duty bearers- (2014).
- e) 125 Civil Society and government officials in Kalmunai receive improved awareness on Language rights, through one day training- (2014).
- f) 120 Civil Society members and government officials in Kalmunai improve their knowledge on gender based violence and discuss related issues in the area facilitated by HRCSL forming a network for regular interaction on the issue- (2014).
- g) HRCSL's initiatives to mediate solutions to issues in Beruwala&Aluthgama following riots in the areas between the ethnic communities, though a meeting at Kalutara GA's office with Civil Societymembers, police, military, government servants and media; a meeting with Civil Society, community representatives, Buddhist & Muslim religious leaders and local government politicians in Beruwala/Aluthgama- (2014).
- i) 89 Civil Society members and religious leaders in Polonnaruwa district receive improved awareness on human rights and discuss on responsibilities of Civil Society(particularly religious leaders) in human rights promotion and protection in the area- (2014).
- j) 90 Civil Society members hold a discussion on ways of resolving current human rights issues in the area facilitated by HRCSL in Vavuniya- (2014).
- k) 200 Youth in NuwaraEliya and 40 Youth in Badulla improved understanding of Human Rights through 2 day residential trainings- (2014).
- l) 125 Pre School teachers in Walapone improved knowledge on human rights and child rights through a two day training- (2014).
- m) 100 school Principals in Ampara receive improved awareness on human rights and child rights through a 02 days residential training and discussion- (2014).

- n) 100 religious leaders and women leaders in Puttalam improved knowledge on gender based violence through one day training- (2014).
- o) 90 Civil Society, government officials and media in Badulla hold a discussion, jointly organized by HRCSL and Civil Society to find solutions to key HR issues in the area through mediation- (2014).
- p) 150 Civil Society members and government officials hold a joint discussion facilitated by HRCSL in Polonnaruwa to find solutions to key human rights issues and advise government officials on actions- (2014).
- q) 200 Police officers, government officials and Civil Society came together and discuss in Polonnaruwa the progress and practical challenges of implementation of electoral guidelines and recommendations issued by HRCSL, jointly facilitated by HRCSL and the Elections Commissioner- (2014).
- r) Collaborative action with Civil Society in addressing human rights issues discussed through coordination meetings with selected Civil Society core group members at regional level (Polonnaruwa, Badulla, Kandy)- (2014).

6.3.6. Work with legislators, government officials and statutory bodies to promote human rights based policy and programming:

- a) The project provided support to HRCSL to liaise with government partners to include human rights education in school curricula, through HRCSL's work with the Ministry of Education (MOE), National Institute of Education (NIE) and Education Professionals' Association to complete work on inclusion of human rights education in general school curriculum. A draft curriculum framework developed by HRCSL working together with MOE, NIE to integrate human rights education into mainstream school curriculum, (2013/2015).
- b) 25 Ministry Secretariat staff receiving improved knowledge on human rights and administrative laws through training organized with Ministry of Public Management Reforms- (2014).

c) The project also supported HRCSL in the year 2015 to prepare a summary advocacy document setting out “the development of national policies and legislations on disability, their status of approvals and implementation; national action plan on disability and the need for ratification and implementation of UNCRPD in Sri Lanka and the way forward for the same” through an external consultant, in order to support a planned series of consultations by HRCSL with multiple stakeholders on disability legislations, in order to provide their recommendations to government on the Disability Bill to be enacted in Parliament in 2016.

Advice/ Recommendations would be forwarded to President, PM and Parliament by HRCSL together with suggested amendments to the Disability Rights Bill, compiled following a series of consultations on this with disability community, Civil Society and academics - (2016).

d) 29 Members of Parliament participated in a programme to strengthen their understanding of human rights and demonstrated keen interest in both the subject and continued collaboration with HRCSL, following the Residential Study Conference held in Nuwara Eliya headed jointly by HRCSL Chairperson and Deputy Speaker of Parliament- (2016)

ANNEXES TO ANNUAL REPORT 2015

Annexes to Chapter One

Annex: 1A –

Map of Sri Lanka portraying the island wide of the HRCSL Head Office and Regional Offices.

HRCSL Regional Office & Sub Office



Annex: 1B –

Meetings attended by Commissioners and Senior Officers of HRCSL in 2015

	Date	Description	Venue	Who attended	Purpose
1	27.01.2015	Mr. Robert Sinclair, Deputy Director/South Asia	HRC	Chairman, Commissioner Mrs.	
		of the Department of Foreign Affairs, Trade and		Jezima Ismail and Mr. T E	
		Development of Canada		Anandarajah	
2	30.01.2015	Lord Naseby, PC, Baron of Sandy and Co-Chair	HRC	Chairman, Secretary	Courtesy call
		of the All Party Parliamentary Group			
3	11.02.2015	USAID	HRC	Chairman, Commissioners and	Conducting an assessment
				Secretary	to review the development
					context in Sri Lanka
4	04.03.2015	Rights Now	Jaffna R.O	Regional Co-ordinator and	Mandate and work of the HRCSL
				Participants	
5	12.03.2015	PAFFREL	BMICH	Secretary	Presentation of the Criteria for
				Actg. Director - I & I	selection of candidates to
					represent people, based on a series
					of dialogues conducted with citizens
					of Sri Lanka.
6	12.03.2015	Law & Society Trust	Hector Kobbeka-	Secretary, Research Officer	Public discussion on the Aluthgama

			duwa Agrarian Research Institute		riots and its aftermath
7	16.03.2015	HELVETAS Swiss Inter Co- operation	HRC SL		
8	23.03.2015	ICES	ICES Auditorium	Secretary and Ms. Roshini Hettige	Seminar on "Contemporary Debates in Human Rights History'
9	27.03.2014	Annual report published on the web			
10	28.03.2015	CPA	Hotel Janaki	Secretary and Ms. Roshini Hettige	Legal and policy framework on HIV/AIDS and related issues
11	07.04.2015	National Committee on Women	SLFI	Secretary	Discussion on "Age of Consent"
12	24.04.2015	Rotary Club		Business Community	"Good Governance"
13	12.05.2015	School girls	HRC	Secretary, Commissioner Mrs. Jezima Ismail	Discussion on Gender
14	14.05.2015	Center for the Study of Human Rights	HRC	Secretary	
15	14.05.2015	The delegation of European Union	HRC	Secretary, Commissioner Jezima Ismail, Legal Consultant, Actg. Director - I & I	
16	15.05.2015	Center for Society and Religion	Legal Aid office	Actg. Director - A & F	

17	21.05.2015	Media personnel and government officers	HRC	Chairman, Commissioners, Secretary, Legal Consultant	Election - Misuse of public places
				Election Commissioner and media personnel	
18	25.05.2015	Holcim Lanka	HRC	Actg. Director - A & F	Business related Human Rights impact
19	26.05.2015	State Minister of Child Affairs	ICES	Ms. Sujeewa, Ms. Kanagaraj, Ms. Sriyani, Ms. Shiromi	Research study on "Post war Trends: Child Marriage in Sri Lanka"
20	28.05.2015	Media Personnel Media Briefing	HRC	Chairman, Commissioners, Secretary, Legal Consultant	Media misuse
				Election Commissioner and Media personnel	
21	12.06.2015	USAID	HRC	Chairman, Commissioner	
				Mr. Anandarajah. Secretary	
22	19.06.2015	Dept. of Social Services	Sethsiripaya	Secretary, Actg. Director - M R	Reg. Methsevana Detention Center
23	25.06.2015	Workshop on issues affecting MSM and TG Persons	Family Planning Association Auditorium	Ms. Dilihi, Mr. Ahamed, Nihal and Mr. Rupasinghe	
24	30.06.2015	Election Commissioner	HRC	Chairman, Secretary and Legal Consultant	General Election 2015
25	06.07.2015	Election Commissioner, Ministry of Media	HRC	Chairman, Commissioner	Discussion on private media during

		TRC, Media			the election period
26	22.07.2015	Lawyers for Human Rights and Development	BMICH	Secretary	Launching the National Agenda on
					Child Rights Governance
27	23.07.2015	PAFFREL meeting with Govt. trade unions	HARTI	Secretary	Responsibilities and responses for the development of the
					parliamentary
					elections
28	24.07.2015	National Pay Commission		Secretary, Actg. Director - A & F	
				Ms. Kumari	
29	27.07.2015	Auditor General's Department		Secretary, Actg. Director - A & F	
				Ms. Kumari	
30	27.07.2015	US State Department's Office	HRC	Chairman, Mrs. Jezima Ismail	Rule of law and anti corruption
				and Legal Consultant	
31	30.07.2015	European Union Election Monitors	HRC	Chairman, Mrs. Jezima Ismail,	Legal issues pertaining to the
				Secretary, Legal Consultant	upcoming parliamentary elections
				Actg. Directors - M & R, Edu.	
32	03.08.2015	Press Conference	HRC		
33	07.08.2015	Launch of the twin publications	BMICH	Secretary	
34	15.08.2015	European Union Election Observation Mission	Hotel Galadari	Secretary	
35	18.08.2015	PAFFREL Meeting	Hotel Galadari	Mrs. Jezima Ismail, Commissioner	Election Evaluation

				Secretary, Actg. Director - M &R	
36	02.09.2015	Meeting with National Dalit Commission, India	HRCSL	Mrs. Jezima Ismail, Commissioner	
				Secretary, Actg. Directors - M & R	
				I & I, A& F, Edu. & Spl. Prog.	
37	28.09.2015	Dr. Piyasiri Wickremasekera, ILO	HRCSL	Chairman, Legal Consultant	
				Actg. Directors - I & I and	
				M & R	
38	29.09.2015	Right to Life	Mahaweli Kendraya	Mr. Nima IPunchihewa,	
				Legal Consultant	
39	01.10.2015	FEMBOSA	Hotel Galadari	Chairman	
40	06.10.2015	APRC Mission to Sri Lanka	HRCSL	Chairman. Mrs. Jezima Ismail,	
				Commissioner, Secretary,	
				UNDP - Ms. Thanuja	
				Actg. Directors - M & R and	
				Admin. & Finance	
41	16.10.2015	USA Embassy - Political Officer	HRCSL	Chairman and Secretary	
42	20.10.2015	World Statistics Day 2015	Hilton Colombo Residence?	Secretary	
43	03.11.2015	Mr. John Watch, Dr. Chandani Liyanage	HRCSL	Ms. Ambika Satkunanathan	
				Commissioner	

		Press Conference and Meeting with Civil Society by new Commission?			
44	06.11.2015	Meeting with all staff members	HRCSL	Chairperson, Commissioners	
45	13.11.2015	Regional Co-ordinators Meeting	HRCSL	Chairperson. Commissioners	
				Secretary and Directors	
46	17.11.2015	Mr. Subinay Nandy, Resident Co-ordinator and	HRCSL	Chairperson and Commissioners	
		Mr. Jorn Sorensen, Country Director			
47	17.11.2015	Mr. Yuvraj Joshi, Human Rights Watch	HRCSL	Ms. Menaka Herath, Acting Director- Education and Special Programmes and Mr. Kapilan, Education Officer	
48	19.11.2015	Mr. Igor Cvetkovski, IOM	HRCSL	Ms Ambika Satkunanathan	
				Commissioner	
49	23.11.2015	Assessment delegation sponsored by Bureau of Democracy, Rights & Labour of the US Dept. of State	HRCSL	Ms. Ambika Satkunanathan, Commissioner	
50		Swiss Embassy	HRCSL	Ms. Ambika Satkunanathan, Commissioner	
51	24.11.2015	UN team on witness and victim protection	HRCSL	Chairperson, Commissioner	
				Ms. Ambika Satkunanathan	
52	24.11.2015	Dr. Padmini Mendis	HRCSL	Ms. Ambika Satkunanathan,	

				Commissioner, MsThanuja	
				Navaratne, UNDP	
53	24.11.2015	Australian High Commissioner	HRCSL	Chairperson, Commissioners	
				Ms. Ambika Satkunanathan and Dr. U Vidanapathirana	
54	27.11.2015	Office of the High Commissioner for Human Rights	HRCSL	Chairperson, Commissioner	
				Ms. Ambika Satkunanathan	
55	27.11.2015	Discussion on the review of the Witness and	Ministry of Foreign	Mr. Ghazali Hussain,	
		Victim Protection Law	Affairs	Commissioner	
56	01.12.2015	UN Project Meeting	HRCSL	Ms. Ambika Satkunanathan	
				Commissioner	
57	02.12.2015	National Committee on Women	University of	Chairperson	
			Kelaniya		
58	03.12.2015	Senior UN Human Rights Advisor	HRCSL	Chairperson, Commissioner	
				Ms. AmbikaSatkunanathan	
59	03.12.2015	44th National Day of the United Arab Emirates	Hilton Colombo	Mr. Ghazali Hussain,	
				Commissioner	
60	04.12.2015	Meeting to discuss Sri Lanka's 5 th periodic report to the Committee Against Torture	Ministry of Foreign	Mr. KapilanVillavarajan, Education Officer	

			Affairs		
61	07.12.2015	Refugee Advocate Group	HRCSL	Ms. Ambika Satkunanathan	
				Commissioner	
62	10.12.2015	Pathikada	Sirasa	Mr. Ghazali Hussain,	
				Commissioner	
		Newsline	MTV	Ms. Ambika Satkunanathan	
				Commissioner	
		NiskalankaHathahamara	ITN	Chairperson	
		Nugasevana	Rupavahini	Chairperson	
63	11.12.2015	International Crisis Group	HRCSL	Chairperson	
64	11.12.2015	UN team from the Rule of Law Unit	HRCSL	Chairperson, Commissioner	
				Ms. AmbikaSatkunanathan	
65	16 - 18/12/15	Field visit to Jaffna		Chairperson, Commissioner	
				Ms. AmbikaSatkunanathan	
66	21.12.2015	Women's Peace Mission	HRCSL	Chairperson, Commissioner	
				Ms. AmbikaSatkunanathan	

Annex: 1C –

Expenditure Statement for the year 2015

Expenditure Statement for the year 2015									
Name of Ministry / Department / District Secretariat:		Human Rights Commission of Sri Lanka							
Expenditure Head No. 013									
Object Code	Description	(1)	(2)	(3)	(4)	(5)	(6)	Accrued	Balance
		Provision in Budget Estimates	Supplementary Provision and Supplementary	Transfers in terms F.R. 66 and 69	Total Net Provision (1+2+3)	Total Expenditure	Net Effect Saving/(Excess) (4-5)		
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		
	Recurrent								
	Personal Emoluments								
1001	Salaries and Wages	45,500,000			45,500,000	41,320,034	4,179,966		4,179,966
1002	Over Time & Holiday pay	2,000,000			2,000,000	1,365,400	634,600	93,226	541,374
1003	Other Allowances	51,900,000			51,900,000	51,287,872	612,128	16,839	595,289
	Travelling Expenses								
1101	Domestic	800,000			800,000	611,035	188,965	38,682	150,284
1102	Foreign	1,100,000			1,100,000	433,441	666,559		666,559
	Supplies								
1201	Stationery and Office Requisites	2,000,000			2,000,000	1,330,218	669,782	9,501	660,281
1202	Fuel	3,700,000			3,700,000	2,800,734	899,266	44,117	855,149
1205	Consumables	300,000			300,000	173,424	126,576		126,576
	Maintenance Expenditure								
1301	Vehicles	2,600,000			2,600,000	2,007,897	592,103	50,110	541,993
1302	Plant, Machinery and Equipment	800,000			800,000	581,584	218,416		218,416
1303	Buildings and Structures	150,000			150,000	23,850	126,150		126,150
	Services								
1401	Transport and Vehicle Rent	3,250,000		-1,100,000	2,150,000	1,117,429	1,032,571	55,000	977,571
1402	Postal and Communication	4,000,000			4,000,000	3,188,396	811,604	164,064	647,540
1403	Electricity & Water	9,500,000		-880,000	8,620,000	7,538,935	1,081,065	603,366	477,699
1404	Rents and Local Taxes (Note 02)	37,000,000		880,000	37,880,000	37,878,389	1,611		1,611
1405	Other	6,000,000		600,000	6,600,000	6,231,132	368,868	221,231	147,637
	Transfers								
1502	Retirement Benefit(Gratuity)	1,350,000		500,000	1,850,000	1,810,611	39,389		39,389
1505	Subscription and Contribution Fees	250,000			250,000	207,348	42,652		42,652
	Sub Total (Recurrent)	172,200,000	0	0	172,200,000	159,907,729	12,292,271	1,296,137	10,996,134
	Capital								
	Rehabilitation and Imp. Of Cap. Assets								
2001	Buildings and Structures	500,000			500,000	249,849	250,151		250,151
2002	Plant, Machinery and Equipment	150,000			150,000	460	149,540		149,540
	Acquisition of Capital Assets								
2102	Furniture and Office Equipment	5,000,000			5,000,000	1,334,724	3,665,276		3,665,276
2103	Plant, Machinery and Equipment	150,000			150,000	87,249	62,751		62,751
	Capacity Building								
2401	Training & Capacity Building	3,500,000			3,500,000	2,346,400	1,153,600		1,153,600
	Other Capital Expenditure								
2502	Other Investments	5,000,000			5,000,000	4,712,018	287,982		287,982
	Support to Human Rights Commission								
2502									
	Sub Total (Capital)	14,300,000	0	0	14,300,000	8,730,700	5,569,300	0	5,569,300
	Grand Total	186,500,000	0	0	186,500,000	168,638,429	17,861,571	1,296,137	16,565,434

Annexes for Chapter Two

Annex 2A –

Details of Complaints Received by Regions and Head Office 2015 Human Rights Commission of Sri Lanka



Human Rights Commission of Sri Lanka

Received Complaints Details by Regions & Head Office - 2015

Type of Complaint	Region											Regional Total	Head Office	Grand Total
	Ampara	Anuradhapura	Badulla	Batticaloa	Jaffna	Kilinochchi Sub Office	Kalmumai	Kandy	Matara	Trincomalee	Vavuniya			
Personal Liberty	13	114	50	122	65	23	40	93	148	22	112	802	965	1,767
Torture (Physical & Mental)	2	38	-	7	3	1	-	18	22	2	10	103	312	415
Harassments														
General Harassments	3	37	2	57	49	20	29	28	-	13	40	278	375	653
Sexual Harassments	-	-	-	-	-	-	-	-	-	-	-	-	4	4
Threats	-	-	37	-	-	-	-	-	64	-	27	128	-	128
Degrading treatment												-		-
Arbitrary Arrest / Detention	8	36	11	48	7	2	8	42	57	6	18	243	247	490
Detention Conditions	-	-	-	-	-	-	-	-	-	-	-	-	8	8
Death in Custody	-	2	-	-	-	-	-	-	1	-	-	3	4	7
Enforced or Involuntary Disappearances	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Abductions	-	-	-	-	-	-	-	1	-	-	1	2	2	4
Extrajudicial Killings	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Encounter deaths	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prisoner's Rights	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Missing Persons *	-	1	-	10	6	-	3	4	4	1	16	45	13	58
Other Civil & Political	-	-	-	-	-	-	-	2	-	-	-	2	7	9

Rights														
Freedom of Expression	-	-	-	-	-	-	-	1	-	-	-	1	3	4
Freedom of Assembly	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Freedom of Association	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Freedom of Religion	-	-	-	-	-	-	-	1	-	-	-	1	4	5
Freedom of Movement	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Right to Information	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Employment	52	141	90	51	47	11	74	191	149	34	39	879	1,084	1,963
Education	3	45	17	23	18	12	13	73	67	2	2	275	272	547
State Welfare Services	18	15	2	29	65	7	18	18	10	2	10	194	30	224
Infrastructure Utilities	5	21	12	1	-	-	1	15	24	-	9	88	79	167
Complaints Relating to Vote Registration	-	4	-	2	-	-	-	1	2	-	-	9	25	34
Complaints About Inactions of Govt. Entities	6	119	18	136	74	8	48	204	46	52	37	748	644	1,392
Child Rights	-	2	-	3	2	-	4	2	2	-	1	16	12	28
Rights of Differently-abled	-	-	-	-	-	-	-	-	-	-	-	-	2	2
Language rights	-	-	-	-	-	-	-	-	-	-	-	-	3	3
Migrant Worker's Rights	-	3	-	19	-	-	3	6	2	-	-	33	18	51
LGBT Rights (Lesbian, Gay, Bisexual & Transgender)	-	-	-	-	-	-	-	-	-	-	-	-	1	1
Health	1	6	1	5	2	2	6	1	2	1	-	27	6	33
Land & Property Rights	36	148	52	33	17	30	33	61	103	20	64	597	266	863
IDP/Returning Refugees	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Environmental	4	1	-	8	1	-	2	14	17	1	3	51	19	70
Administrative Matters	3	23	-	1	-	-	3	29	61	-	-	120	54	174
Rights of Women	-	-	-	-	-	-	1	-	-	-	-	1	-	1
Elder Rights	-	-	-	-	-	-	-	-	-	-	-	-	2	2
Not Within Mandate/Not-Accepted	-	11	31	-	24	-	4	168	17	17	7	279	1,235	1,514
Total	242	653	273	433	315	93	250	878	650	151	284	4,222	4,724	8,946

Source: HRCSL Database 2015 & Regional Level Annual Reports of HRCSL 2015

* The given cases initially accepted under this category were later concluded to be not within the mandate of the HRCSL as the alleged victims were found to have voluntarily disappeared (e.g. reasons of family disputes, eloping) or there was no involvement of State authorities.

Annex 2B –

Compilation of the Complaints Received according to the Type of Complaints and Complaint Category and their percentages of the grand total- 2015 Human Rights Commission of Sri Lanka

Type of Complaint	Complaint Category	Regional Offices Total		Head Office		Grand Total	
		No	%	No	%	No	%
Personal liberty	Torture	102	2.53	311	6.58	413	4.72
	Threats	128	3.18	-	-	128	1.46
	Mental Harassment	42	1.04	-	-	42	0.48
	Sexual Harassment	-	-	04	0.08	04	0.04
	Harassment	216	5.37	375	7.93	591	6.75
	Arrest/Detention	241	5.99	247	5.22	488	5.57
	Detention conditions	-	-	08	0.16	08	0.09
	Death in custody	03	0.07	04	0.08	07	0.08
	Missing Persons	45	1.11	13	0.27	58	0.66
	Abduction	02	0.04	02	0.04	04	0.04
	Shooting	-	-	01	0.02	01	0.01
Inaction Complaints	Inaction Complaints	740	18.39	644	13.62	1384	15.82
Employment	Employment	867	21.55	1084	22.94	1951	22.30
Education	Education	259	6.43	272	5.75	531	6.07
Health	Health	25	0.62	06	0.12	31	0.35
Land & Property Rights	Land & Property	606	15.06	266	5.63	831	9.50
Social Service & State Welfare	State Welfare	182	4.52	30	0.63	212	2.42
Infrastructure utilities	Infrastructure utilities	87	2.16	79	1.67	166	1.89
Environment	Environment	46	1.14	19	0.40	65	0.74
Freedom of Expression	Freedom of Expression	01	0.02	03	0.06	04	0.04
Complaints related to Elections	Complaints related to Elections	09	0.22	25	0.52	34	0.38
Child Rights	Child rights	16	0.39	12	0.25	28	0.32
Women's Rights	Women's Rights	01	0.02	-	-	01	0.01
Rights of persons with disability	Rights of persons with disability	-	-	02	0.04	02	0.02
Elders' Rights	Elders' Rights	-	-	02	0.04	02	0.02
Language Rights	Language Rights	-	-	03	0.06	03	0.03
Right to Religion	Rights to Religion	01	0.02	04	0.08	05	0.05
Migrant Workers	Migrant Workers Rights	30	0.74	18	0.38	48	0.54

Rights							
LGBT Rights	LGBT Rights	-	-	01	0.02	01	0.01
Administrative Matters	Administrative Matters	117	2.90	54	1.14	171	1.94
Others	Others	82	2.03	-	-	71	0.81
Complaints pending for more information	Complaints pending for more information	-	-	479	10.13	479	5.47
Not within HRCSL mandate		222	5.51	756	16.00	978	11.18
TOTAL No. of complaints received		4022	100.0	4724	100.0	8746	100.0

Annex 2C –

Complaints No: HRC/4429/09, HRC/1188/10

01. Shraasthpathi Panditha
Athipoojya Inamaluwe Shree
Sumangala MahaNayaka Thero,
Rangiri Dambulla Rajamaha Vihara
Sangha Sabhawa, Dambulla.

02. Mulkirigala Silapriya Manindra Sil
Matha,
Seelawathi Aramaya,
Fonseka Road, Walapala
Panadura

Petitioners

Vs.

01. Secretary
Ministry of Buddha Sasana,
115, Wijerama Mawatha,
Colombo 07

02. Commissioner General,
BuddhistAffairsDepartment,
135, Sahadampaya,
DharmapalaMawatha,
Colombo 7

Respondents

Introduction

On the 05th day of August in the year 2015,

A complaint has been filed on 20.10.2009 (ref number HRC 4429/09) by the Mahanayake of the RangiriDambulu Chapter of the SiyamNikaya, Most Venerable Inamaluwe Sri SumangalaThero stating that a violation of the fundamental rights of Bhikkunis has been committed by the named Respondents; thus violating the **articles 12(1) and 14 in Chapter 3 of the Sri Lankan Constitution.**

As the complaint filed by the MulkirigalaSilapriyaManindraSilMathawa at the Human Rights Commission bearing **No. 1188/10** is inter related with the subject matter of the complaint **No.HRC/4429/09**, it was decided to conduct the inquiry of the two applications at the same time.

Facts of the Petitioners

Buddhism has been built on the concept of the four fold assembly which includes Buddha's followers, namely the Bhikkus (monks), Bhikkunis (nuns), Upasakas (laymen) and Upasikas (lay women).

Although the Bhikkuni Order existed in the history of Sri Lanka proving to be an asset to the religion, with the fall of Anuradhapura to the invaders, the Bhikkuni Order temporarily became non-operational.

Arrangements were made by the Venerable InamaluweSumangalaMahaNayakaThero to revive the BhikkuniSangha by many women being ordained.

The Petitioner, in case **No. HRC/4429/09** claims that the request to recognize and accept the ordainment and the rights and privileges of the Bhikkunis has fallen on deaf ears.

The Petitioner while producing an affidavit to declare that the RangiriDambullaRajamahaViharaSanghaSabhais a registered and an accepted Religious Organization of the State also elaborates that the term "Sangha" includes both the Bhikkus as well as the Bhikkunis.

They also state that in depriving of their Aramayasto be registered and by refusal to mention the term Bhikkuni in their identity cards, their civil and religious rights have been violated. It is also stated that although around 2500 Bhikkunis and about 450 BhikkuniAramayas are in the Island, the Respondents have acted against the laws of justice in denying the religious rights and privileges of the Bhikkunis, while recognizing such rights and privileges of the Bhikkus.

The Petitioner further states that there are a number of BhikkuniAramayas or monasteries under the RangiriDambullaRajamahaViharaSanghaSabhawa, for which application has been tendered for their registration.

Under application **No.HRC/1188/10**, MulkirigalaSilapriyaManindraSilMatha points out her objections to recognition of Bhikkunis and BhikkuniAramayas saying that the practices they follow sometimes do not adhere to Theravada tradition followed in Sri Lanka.

Facts of the Respondents

According to the report dated 24th February 2010 submitted by the Commissioner General for Buddhist Affairs, it is stated that he was acting according to the provisions of the **Buddhist Temporalities Ordinance No.19 of 1931** which does not refer to Bhikkunis, that hence he

cannot heed the requests of the Petitioners in the absence of such stipulations in the said Ordinance. He has also stated that he cannot take independent decisions with regard to this matter without the consultations of the Most Venerable MahanayakaTheros.

The respondents are also of the view that the re-establishment of the Bhikkuni Order would be a hindrance to the development and the administration of the Theravada practice of the Buddha Sasana. Another important fact the Respondents have put forth is that some of those who have been ordained are acting in an arbitrary manner with overseas incentives they have received.

Findings of the HRC

1. Facts of both applications bearing **Nos. HRC/4429/09** and **HRC/1188/10** have been considered together.
2. In **HRC/4429/09**, it has been brought forth by PoojyaInamaluwe Shree SumangalaTheroto prove that the status of Bhikkunis has been an accepted term in this country as seen in the numerous documents such as educational certificates and other documents where the term Bhikkunihas been stated by leading monks and issued in the past.
3. Although the Bhikkuni Order was suspended temporarily, it was clearly revived in or around the year of 1998, and presently there are more than 2500 Bhikkunis, 450 Bhikkuni Aramayas and more than 600 Bhikkunis ordained as having received Upasampada.
4. The Commissioner of Buddhist Affairs has issued written instructions to the Department of Registration of Persons, to refrain from issuing Bhikkuni Identity Cards. Furthermore, he has refused registration of the Bhikkuni Aramayas.
5. It is a fact that Sri Lanka has 31 Triangulations Communities and 31 Mahanayaka Theros. The Respondents have sought the advice of only four MahanayakaTheros to settle this dispute of national importance.
6. The need for the ordainment of Bhikkunis has been a long-term struggle, amidst severe objections.
7. According to complaint **No.HRC/1188/10**, the Sil Mathas are not in favour with the continuation of the Bhikkuni Community, although those seeking the acceptance of the Bhikkuni Sangha have informed the Sil Mathas that they too can be ordained as Bhikkunis and obtain the highest status in religion possible for a woman.
8. A need has arisen for the appointment of a suitable Religious Board/ Committee to work with the Respondents in arriving at a decision in respect of Bhikkunis and SilMathas.

9. Asgiri Mahanayaka, Malwathu Mahanayaka, Ramanya Maha Nikaya Mahanayaka have made a written statement to the HRC to quash the application of the Petitioner. They were of the view that Sri Lanka is a country of the Theravada Tradition and the reintroduction of the Bhikkuni Sangha is unacceptable. In addition, the state leaders are bound to protect the Theravada Tradition in view of National interest.
10. Buddhism has been accepted and protected by all leaders as the State Religion of this country. Therefore, a proper mechanism has to be placed in deciding matters related to Bhikkuni Sangha.
11. Throughout history it has been observed that women have been ordained and attained the highest religious state possible.
12. A report of the Presidential Committee of Buddha Sasana of 2002, presented by the Respondents, includes provisions in respect of SilMathas. However, this report has no mention of actions to take in respect of Bhikkunis.
13. It was notified to both parties that this matter would be looked into, taking into consideration the Articles in the **1978 Constitution of Sri Lanka** and the **Universal Declaration of Human Rights** that provide for the Fundamental Rights of Women and Religion.

Observations of the HRC

1. According to **Article 9 Chapter II of the 1978 Constitution** and the **Buddhist Temporalities Ordinance No.19 of 1931**, all are equally duty bound to protect and foster the Buddha Sasana.
2. Furthermore, according to **Article 10 of the Constitution**, freedom to adopt a religion or belief of one's choice has been ensured.
3. Additionally, **Articles 12(1) & 12(2)** guarantee that all are equal before the law and no one shall be discriminated against one's sex.
4. **Article 14(e) of the Constitution** further mentions that all have the freedom to manifest his religion or belief in worship, observance, practice or teaching.
5. HRC notes that the Respondents have an obligation to observe these articles of the Constitution, in taking measures to settle this dispute.
6. **Section 14 of the Sri Lankan Women's Charter** has put forth that **"the State shall take appropriate measures to promote social and cultural attitudes with a view to achieving the elimination of prejudices and customary and all other practices which**

are based on the idea of the inferiority or superiority of either gender and stereotyped roles for men and women”.

7. **Section 10(e) of the Human Rights Commission of Sri Lanka Act No. 21 of 1996** states that one of its functions is making recommendations to the Government regarding measures to be taken to ensure that National Laws and administrative practices are in accordance with International Human Rights norms and standards.
8. HRC records its recommendations taking into account the several United Nations conventions which have been ratified by Sri Lanka, including the **Convention on the Elimination of All Forms of Discrimination Against Women**.

Recommendations

1. In not taking the proper measures or following a proper mechanism in respect of the subject matter of the application of the Rangiri Dambulla Rajamaha Vihara Sangha Sabhawa, and rejecting it altogether without the participation of respected, relevant and authorized personnel, either in the formation of a committee or a board, for an in-depth discussion in reaching an amicable settlement, the Respondents have violated **Articles 12(1 & 2) and 14 of the Constitution of Sri Lanka**.
2. Respondents are advised to take the appropriate measures to implement the matter declared in **Article 9 of the Constitution**; that is protecting and fostering the Buddha Sasana. They have been further advised to appoint a commission comprising of both monks and laymen to study this concern and to notify the Cabinet of Ministers.
3. While it can be observed that certain acts resulted in the violation of the laws of the country and International conventions ratified by Sri Lanka, the HRC decides not to have any direct interference in the religious affairs of this country, which need to be resolved through dialogue.

Chairman
HRCSL

Commissioner
HRCSL

Annex 2D –

Complaint No. HRC/630/15/1-14

	A.K.D.C Subashini, 9/1, Gomaz Path, Bambalapitiya, Colombo 05.	
		Complainant
Vs.		
	The Principal, Visaka Vidyalaya, Vajira Road, Colombo 05.	
		Respondent

The above Complainant made this complaint before HRCSL on 23rd February 2015 saying that her child W. Prasansa Lakmini was a differently abled child schooling at Visaka Vidyalaya in Grade 8.

She stated that the child could not climb up stairways due to her physical condition. The grade 8 class was on the 3rd floor of a building which the child found very difficult to access. The mother was unable to carry her to the 3rd floor since the child was rapidly growing and too heavy to be carried.

The petitioner also stated that she raised this issue with the school Principal on several occasions but that no action was taken to arrange a class on the ground floor to facilitate the child to continue her education.

The Commission held an inquiry into this matter on 21st April 2015.

At the inquiry the Complainant raised the same issue again.

The Commission found that this type of inaction by the Respondent was a flagrant violation of the right to education of the particular child and directed the Respondent to arrange a grade 8 class room on the ground floor where the child could attend class and continue her education without a problem.

The Commission came to understand that as per the direction of the Commission, the Respondent had made arrangements to grant relief to the child and the child was now going to school and continuing her education.

Annex 2E –

Human Rights Commission of Sri Lanka Inquiry Report on the attack of Higher National Diploma in Accountancy (HNDA) Students by the Police Force on the 29th of October 2015

01. “Jathika Balaya”
(National Force Organization)
47/A, First Lane,
Rawathawatte,
Moratuwa.
02. Lahiru Weerasekera & Others
Kotmale Road,
Mawathura
Gampola

Petitioners

Vs.

01. IGP
Police Headquarters,
Colombo 01.
02. Pujitha Jayasundera
Senior DIG (In charge of Western
Province),
Police Headquarters,
Colombo 01.
03. Gamini Mathurata,
DIG (In charge of Colombo)
No. 331,
Olcott Mawatha,
Colombo 01
04. Champika Siriwardena
SSP (Central),
Police Headquarters,
Colombo 01.
05. Palitha Panamaldeniya
Police Headquarters,
Colombo 01.

- 06. OIC
Police Station,
Pettah.
- 07. OIC
Police Station,
Fort.
- 08. OIC
Police Station,
Maradana.
- 09. OIC
Police Station,
Dematagoda.
- 10. OIC
Police Station,
Borella.
- 11. OIC
Police Station,
Kurunduwatte.
- 12. Secretary
Ministry of Higher Education
&Highways,
Ward Place,
Colombo 07.

Respondents

4th of December 2015

Complaint No. HRC/3824/15 and HRC/3827/15

1. Introduction

The Human Rights Commission of Sri Lanka intervened into the incident of violent attack by the police forces on the protest march organized by the HNDA students by initiating a **Suo Motu** action under the power vested in Section 14 of the Human Rights Commission Act No. 21 of

1996. The Jathika Balaya organization (under complaint number **HRC/3824/15**) and HNDA students (under **HRC/3827/15**) also filed complaints with regard to the incident.

An investigation was conducted and relevant parties were summoned before the Commission on 03/11/2015 and 05/11/2015. Written submissions were obtained from the respondents.

This report has been compiled by the Human Rights Commission, taking into consideration written submissions made by parties, media reports, Medico Legal Reports, video clips submitted by parties, rules and regulations pertaining to disperses of unlawful assemblies and international human rights standards outlined in conventions.

2. Facts stated by the Complainants:

2.1 Written Statement from the 1st Complainant Jathika Balaya Organization

Brutal attack, injuring and arrest was inflicted on the students in the conflicting situation, which arose after the students of the Higher National Diploma in Accountancy (HNDA) Institute were denied an opportunity to present their grievances to the University Grants Commission. (UGC).

As a redress, the complainant sought disciplinary action against the Police officers responsible for the alleged arbitrary brutal assault and measures to prevent recurrence of such incidents (Annex 1).

2.2 Verbal Statement by the 1st Complainant:

As per the inquiry conducted on 2015/11/05 by summoning all the parties:

The petitioner of the 1st claim, Sarath Mananamendra on behalf of the Jathika Balaya Organization, stated that this student movement had been brutally attacked by the Police. Politicians from both the government and the opposition had given media statements on the issue and there had been extensive coverage of the incident by the Press and through social media; the extracts from newspaper articles have been submitted as evidence. Further, he stated that the use of tear gas and water cannons was not the issue. However, authorities must be notified to take action against the arbitrary assault committed by the police officers.

2.3 Written statements from the 2nd Petitioner (Students)

Complainants state there had been a number of unresolved administrative matters persisting for a long time at the Higher National Diploma Institute including: demands for the HNDA course to give the equivalent of a degree status, the attempts to require a fee for the courses offered by the Higher National Diploma Institute, demands of Rs.5000 to be paid to them each month for the Mahapola scholarship which university students receive, instead of Rs. 1250 that they currently receive - as a result of which students had been in distress.

On 29 October 2015, about 1500 HNDA students launched a peaceful protest march from the Fort Railway Station towards the Ministry of Higher Education with the intention of discussing their demands and grievances with the Education Minister. Barricades and road blocks placed by the Police were preventing their march from advancing forward. Students peacefully requested a discussion with the Minister from the Police officers present, who thereafter advised them to remain until the Minister arrived.

After a while, however, the Police officers informed the students that they will not be able to meet the Minister and threatened the use of force if the students refused to leave. The students calmly maintained that they will not leave without meeting the Minister. At that point, the Police began using water cannons and tear gas to disperse the crowd without any warning.

While the students moved away to wash their eyes in an attempt to relieve the pain caused by tear gas, around 200 policemen started brutally attacking the students - who were already weakened by tear gas - with batons and wooden poles. Around 30 students were injured and female students were also attacked. Some students were assaulted even after surrendering to the Police.

About 39 students were unlawfully arrested, prior to being released on bail.

The Petitioners claim the brutal attack, degrading treatment and arbitrary arrests of students, as well as the restriction of their freedom of expression and movement by the Police force was a violation of their Fundamental Rights guaranteed by the Constitution (Annex 2).

2.4 Verbal Statement by the 2nd Complainant.

The convener of the inter-student association of the Higher National Diploma Institute Dhammika Ruwan stated that the protest was commenced to demand: their course gets the same status as the Commerce degree and the monthly payment of 5000 rupees for the Mahapola scholarship as for State university students. They started the protest at Fort Railway Station and walked towards the Higher Education Ministry at Ward Place. From the beginning of the protest until they reached Ward Place, the police let them proceed without any obstruction.

At Ward Place, when the students informed the Police that they wished to meet the Minister of Higher Education, the police warned that they were not allowed to enter the Ministry premises. Students were brutally attacked after tear gas and water cannons were deployed. Furthermore, students lying on the ground and weakened by water cannons and tear gas were also attacked.

It was stated that neither prior appointments nor authorization to meet the relevant officials from the Ministry of Higher Education had been taken in advance; but they had publicized their intention to launch a protest through the media a week before (Annex 3).

3. Collaborative evidence in support of the Petitioners' complaint

3.1 Medico Legal Reports (MLR)

Judicial Officer's Medical Reports on the students admitted to hospital as a result of the attack were called by the HRC. The report contains notes made by the JMO on the injuries sustained by the students after the attack (Annex 4).

The following summary was included in the MLR:

3.1.1. Jiva Rupasinghe (MLF No: 48/15)

Short History Given by Patient

While protesting in front of the University Grants Commission, she accidentally fell down on the ground on 29/10/2015 around 2.30 p.m.

Nature, Size, Shape, disposition and site of injury

1. Contusion, measuring 3 x 3cm over tip of the right shoulder joint.
2. Abrasion, measuring 3 x 2cm oval in shape in the front of the left leg just below the left knee joint. Underling bone has no fracture according to X-ray No – 85271.

3.1.2. Sanduni Chandrasiri (MLF No: 31/15)

Short History Given by Patient

While protesting in front of the University Grants Commission on 29/10/2015 around 3.30 p.m. She developed fainting attack and difficulty in breathing due to exposure to gas.

Nature, Size, Shape, disposition and site of injury

No external injuries.

There is redness of throat due to acute throat inflammation.

3.1.3. Fathima Haneena Husane (MLF No: 32/15)

Short History Given by Patient

While protesting in front of the University Grants Commission on 29/10/2015 around 3.40 p.m. She was assaulted by police officer with police baton.

Nature, Size, Shape, disposition and site of injury

1. Scalp contusion in back of the head over right parietal region.
2. Contusion, measuring 3 x 2cm oval in shape placed over back aspect of the right shoulder joint. Underlying bone has no fracture according to the X ray No85219.

3.1.4. Sashini Sandeepani Kumarasiri (MLF No: 33/15)

Short History Given by Patient,

While protesting in front of the University Grants Commission on 29/10/2015 around 3.00 p.m. She was assaulted by police officers with police baton over her head and back of the chest. She has been discharged and readmitted again on 01.11.2015 as she was having on and off pain in the back of the head.

Nature, Size, Shape, disposition and site of injury

1. Scalp contusion over the left parietal eminence at the back of the head on left Side. CT scan of brain has been performed after readmission according to the CT scan report No-6694 underlying skull bone has no fracture and there is no evidence of bleeding into the cranial cavity.
2. Tramline contusion (Two linear contusions parallel to each other) vertically placed over the right shoulder blade, measuring 2 x 1.5cm and 1 cm gap between two contusions throughout the length. Underlying bone has no fracture according to the X-ray No-85226.
3. Contusion, measuring 2 x 1cm oval in shape placed over right shoulder blade just above to the injury No (2).

3.1.5. Buddhika Ukwatta (MLF No: 44/15)

Short History Given by Patient

While protesting in front of the University Grants Commission on 29/10/2015 around 3.00 p.m. she was assaulted by police officer with the police baton and she fell down on the ground. She develops throat pain due to exposure of gas.

Nature, Size, Shape, disposition and site of injury

1. Abrasion, measuring 0.5 X 0.5cm over the dorsa (back) aspect of the right hand, just distal to the wrist joint.
2. Tenderness over the tip of the right shoulder joint. Underlying bone has no fracture according to the X-ray No-85263.
3. Tenderness over the center part of the lumbar region.
4. There is redness of throat due to acute throat inflammation.

3.1.6. Ayesh Rathnayake (MLF No: 36/15)

Short History Given by Patient

History of assault

He was assaulted by several police officers with baton poles, on 29.10.2015 around 4p.m. to 4.30 p.m. on University student's protest in front of UGC.

Nature, Size, Shape, disposition and site of injury

1. Lacerated wound 5cm long on the right side of the head.
2. Abrasion 1cm x 1cm area on the left side of the forehead.
3. Abrasion 1.5cm 0.5cm on the right-side toe.

3.1.7. Supun Eshan (MLF No: 35/15)

Short History Given by Patient

History of assault

He was assaulted by several police officers, with baton poles, on 29.10.2015 around 4 p.m. – 4.30 p.m. on University students protest in front of UGC.

Nature, Size, Shape, disposition and site of injury

Lacerated wound 4cm long on the back of the right forearm just below the right elbow.

3.1.8. A. Lasitha Pradeep Athukorala (MLF No: 46/15)

Short History Given by Patient

History of assault

He was assaulted by several police officers with baton poles, on 29.10.2015, around 4.00 p.m. – 4.30 p.m. on University students' protest in front of UGC.

Nature, Size, Shape, disposition and site of injury

1. Lacerated wound 3.5cm long on the back of the right forearm.
2. Abrasion 1cm x 2cm area on the back of the right hand.
3. Contusions on both the knee joints.

3.1.9. Gemiluka Niluka Nayana (MLF No: 45/15)

Short History Given by Patient

While protesting in front of the University Grants Commission 29.10.2015 around 3.00 p.m. she was assaulted by police officer and she fell down on the ground.

Nature, Size, Shape, disposition and site of injury

1. Abrasion, measuring 0.5 x 0.5 cm oval in shape over the extensor surface of the right wrist joint.
2. Abrasion, measuring 0.5 x 0.5 cm oval in shape in inner aspect of palmar aspect of left hand just distal to the left wrist joint, underlying bone has no fracture according to the X-ray No-85270.

3.1.10 On 12 November 2015, the Commission was informed by the OIC of Police Hospital that although they received the names of 10 students who were hospitalized, MLRs of only 9 of the 10 students had been issued. There was no patient named Chintha Waidyasooriya, admitted into hospital and no MLR was issued under her name. (Annex 5).

3.2 Newspaper Reports

“LAKBIMA”, “Lankadeepa”, “Divaina”, and “The Island” Newspapers dated from 30th October 2015 to 02nd November 2015, had reported about the incidents and such reports includes photos showing the attack on students (Annex 6). The Commission has received articles and photos related to this incident from the complainants.

3.3 Photographs and Videos

Photographs and videos depicting the attack on students with batons by the police force have been submitted to the HRC by the students. In addition to this, two videos have been submitted to the Commission by the Respondents (Annex 7).

4. Facts stated by the Respondents

4.1 Verbal Statement by the Respondents

In relation to this issue, an oral statement was presented during the inquiry held at the Human Rights Commission on 5 November 2015 by Senior DIG –Pujitha Jayasundara, DIG of Colombo – Gamini Mathurata, Senior Superintendent – Palitha Siriwardana, and former spokesperson (now SSP) – Ajith Rohana.

4.1.1 Statement made by SSP Ajith Rohana

According to Section 56 of the Police Ordinance, police officers have a duty to prevent crimes, offences and public nuisances in the country. Further, section 56(b) refers to the duty of the police to preserve peace.

And also, according to Section 77 of the Police Ordinance, any procession in public places has to be notified to the OIC of the nearest police station at least six hours prior to the event. Contravention of this section makes the parties to the procession guilty of an offence.

The procession, which commenced in Dehiwala, had caused a 3km long traffic congestion. It was further stated that no police officers were aware that the procession was to be held, and in compliance with the provisions in the Ordinance, the police force was duty-bound to prevent this procession. If the police failed to prevent such an act it would amount to a breach of Section 55 of the Police Ordinance.

He further stated the dispersal of the unlawful assembly was conducted by the use of force as reasonably necessary, provided for by Sections 95 (1) and (2) of the Code of Criminal Procedure. Section 95(1) of Chapter 8 of the Code of Criminal Procedure states, any Magistrate or police officer not below the rank of Inspector of Police may command any unlawful assembly. According to Section 95(2), if upon being so commanded any such assembly does not disperse, the Magistrate or the police officer may proceed to disperse such assembly by the use of such force as is reasonably necessary to disperse the assembly.

While directing the attention of HRC towards Section 138 of the Penal Code, which states an assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly is to commit any mischief or criminal trespass or other offence; he stated that since the students had obstructed public roads between Ward Place and the University Grants Commission; this was an unlawful obstruction.

He further stated that there was also a violation under Section 80 of the Police Ordinance - using any sound amplifying instruments without a relevant permit from the authorized officers would amount to an offence. Accordingly, under Section 138, they have conducted an unlawful assembly by unlawfully obstructing public roads.

In support of his statement, he also quoted the Supreme Court judgment in **Bernard Soysa & Others vs. Attorney General**, which declares that assemblies cannot be grouped in public places irrespective of their peaceful nature. And also, peaceful assemblies are subject to the limitations as specified under the derogations enshrined in the Constitution. He also reported that the University Grants Commission, the Higher Education Ministry and the National Hospital were located in the area the students had assembled. If the police had not dispersed this gathering, it would have been a cause of great concern to the public, as about 100 ambulances move in the area daily and such obstructions can severely affect their mobility.

There is also an offence under the National Thoroughfares Act. The Lipton Circle is a main zone in the city center of Colombo, an obstruction of which - at that particular time - would cause a huge inconvenience to the public; an obstruction by 1200 students can cause an inconvenience to millions of people. They asserted that protecting the rights of one group should not lead to a violation of the rights of others. This has been outlined in Article 30 of the Universal Declaration of Human Rights. The police had acted according to the applicable provisions and controlled the protest under applicable rules of the Criminal Procedure Code.

They claimed before the Commission, that they needed to make use of reasonable force. As mentioned in **Wijesiriwardana v Kumara**, use of minimal force is no longer applicable; the standard is use of reasonable force.

4.1.2 Statement by the DIG (Colombo) Gamini Mathurata

He stated that a severe traffic congestion had been caused due to this procession along Union Place and Deans Road. Therefore, the police started to chase the students away by commanding them to disperse. They had to resort to the use of batons when the students did not disperse following the use of tear gas and water cannons. The police acted according to the circumstances at the moment. The Chairperson of the Commission inquired whether he took responsibility for the incident as the Senior Police officer. He maintained that he does not deny responsibility. The Chairperson inquired whether they received any orders from a political entity or police headquarters. He responded that they did not receive any such orders.

4.1.3 Statement by the Senior Superintendent Palitha Siriwardana

He stated that a crowd of 1300 students participated in this unlawful assembly at Railway Fort and marched towards Ward Place. It is the duty of the police to protect the security of government offices in the area.

Even though the police tried to arrange a meeting between the students and relevant authorities, the students refused to meet with any official from the Ministry of Higher Education, except the Minister. No force was used by the police for three hours while the students waited.

4.1.4 Statement by the Senior DIG Pujitha Jayasundara

The Chairperson of the Commission inquired why the IGP had not released a statement regarding to this incident which had cause a controversy in the country. In response, he stated that the IGP was very busy that day and was also set to travel overseas the following day. As the highest-ranking official of the police force, the failure of the IGP to make a public statement on this national controversial was seen as a shortcoming by the Chairperson of the HRC, who stated that an announcement to the public regarding this matter was vital.

4.2 The Written Statement by the Respondents to the Human Rights Commission

After the Commission conducted investigations by calling in both parties on 2015/11/03, the Commission asked the respondents for a written submission which was provided on the 2015/11/05. It states that 226 police officers and riot control officers from the Police field force had been deployed during this incident. In order to disperse this march, police officers were given the following instructions.

The police officers were instructed to stand aside if the assembly was peaceful. If the demonstrators displayed any hostility, they should be advised to disperse. If that does not work, the police officers were told to use water cannons to disperse the crowd. If they continued to behave with hostility, the police officers were advised to use tear gas to disperse the crowd. If the above measures failed to work, the police officers were advised to chase away the crowd, causing them to disperse from a fear of being attacked by batons.

Initially, the Colombo South Division DIG Palitha Panamaldeniya made an announcement asking the crowd of students to disperse. When they did not comply, the police officers used 3 water cannon bowsers, 19 tear gas bullets and 3 tear gas grenades during this incident. Later,

they used batons to disperse the crowd. The Commission was informed in writing, that the following legal provisions have to be applied to disperse a protest march.

Criminal Procedure Code	Section 95
Thoroughfares Act	Section 59 (i)
Police Ordinance	Section 77(i), (ii), in 78/80 Section 56
Penal Code	Section 138/140
Departmental Orders	A- 18 and 19

The arrest of students was done in accordance with Sections 140, 188, 314 & 316 which have to be read in line with Section 32 of the Penal Code and Section 59(1) of the National Thoroughfares Act No. 40 of 2008.

After recording statements from the 39 students, they were produced before the Magistrate on 30.10.2015 under case B 40933/1/15, charged with being members of an unlawful assembly, attacking police officers, obstructing main roads, causing minor injuries and obstructing police in carrying out their duty (Annex 8).

4.3. Statement by 12th Respondent, the Secretary of the Ministry of Higher Education and Highways

He declared he had already submitted a report to the Commission in relation to this incident on 2015/11/26 (HE/UD/02/SLI/22/HNDA II), which states that no written or verbal request had been forwarded by the HNDA students for a discussion of their concerns with the Minister on that date.

However, on the 29 October 2015 at around 10am, there had been a meeting between the Minister, the Director General, Deputy Director General of the Higher Technological Institute, to discuss issues related to the courses offered by the institute. The students had not requested to meet with the Minister or the Secretary, nor were they made aware that the procession was about to take place on that date,

The Minister of Higher Education and Highways and the Secretary as well as the State ministers were in a meeting with university lecturers to discuss various issues on the 29th of October 2015 at 2.30 pm, at the Ministry office of the Maganagama Building in Battaramulla. That was when the Minister's Coordination Secretary was informed of the protest. The police had requested the Additional Secretary to meet with the students protesting in front of the Ministry. The students refused to have a discussion with the Additional Secretary, even though the police informed them that they had the opportunity to have a discussion.

The 12th Respondent further mentions that a circular bearing number 46/90 was issued to the Cabinet, followed by circular 22/2015 (dated 17th November 2015) to give effect to it and resolve the matter at hand.

5. Related legal provisions:

- Chapter 3 of 1978 Constitution
- Criminal Procedure Code No. 15 of 1979
- Penal Code Act No.19
- Police Amendment Act No 41 of 1984
- National Thoroughfares Act No. 40 of 2008
- Orders of the Police Department
- International human rights instruments
 - Universal Declaration of Human Rights
 - International Covenant on Civil and Political Rights.

6. Observations

6.1 HNDA Students and the Assembly;

On 2015/10/29, the HNDA students started a protest march at Fort Railway station moving towards the Ministry of Higher Education. Until they reached Ward Place, the police had been cooperative. This can be established by facts presented by both parties.

It can be observed that no prior notice was given to the officials or police of their protest. From the video tapes and the statements provided by the both parties, it can be observed that the police placed barricades several kilometers away from the Ministry.

It can also be observed that the protest was causing a severe traffic congestion.

It is understood that that the students requested to meet the Minister, but since he was not in the Ministry premises at the time, the police informed them of the opportunity to meet with the Assistant Secretary, which they refused.

It can be clearly observed, that the students behaved peacefully until their demand to meet with the Minister was denied, after which the clash commenced.

6.2 Dispersal of the Assembly;

According to the statement made by the respondent, there was an estimated 1500 students in the aforesaid area. Three water cannon bowasers, thee riot control police units and 257 police officers from 17 police stations were deployed.

The orders and advice pertaining to this incident had been issued by the DIG (Colombo), SSP (Colombo Central), SP (Colombo South), ASP I II & III and 13 OIC's of the Colombo Division.

From videos and photos of the incident, it can be observed that women police officers had not been deployed at the place of the incident.

The respondents state the reason for the erection of barricades away from the Ministry was a precautionary step to avoid damages to State buildings; at an earlier demonstration, students had

behaved with hostility and entered State buildings and damaged property. The Commission observed that the above mentioned precautionary measure was a reasonable one.

The students claim they remained seated after refusing to meet another Ministry official; the respondents claim they made announcements using a loudspeaker, asking the crowd to disperse. However, these two claims cannot be confirmed from the facts stated by both parties and the photos and video footage presented to the Commission.

It can be observed that the students were climbing on the barricades to display their banners and trying to demolish the fences used as barriers, as was claimed by the Respondents.

Water cannons were deployed at that moment to disperse the crowd; students linked arms to stand firm in their position. Tear gas was used as a result in an attempt to disperse the protestors, as can be seen in the video recording.

Video footage shows that soon after firing tear gas at the crowd, there were indications that the crowd was dispersing. However, due to the use of the tear gas some students had fallen on the ground. This can be confirmed from the photos and videos presented to the Commission.

According to the videos and photos presented as evidence and published in the media, the police attacked the students already weakened by tear gas. The police attacked the students who were running away using batons and wooden poles from the back, as well as those who were lying down on the ground. This can be observed from the photos published by newspapers and those presented by the Complainants to the Commission.

The videos recordings showed police officers attacking the upper backs, backs of the head and shoulders and other body parts of the students.

It can be observed that the police officers had neither basic training nor the knowledge of the regulations pertaining to the managing of a public gathering.

6.3 Arrest of the HNDA Students

In relation to this matter, 39 students were arrested and kept in custody at the Bambalapitiya, Cinnamon Gardens, Wellawatta, Kirulupona, Kollupitiya, Narahenpita police stations. On 2015/10/30, they were produced before the Colombo Magistrate courts under the case no. B 40933/1/15 and granted bail.

The B reports indicate that the arrests of the 39 students were made under Sections 32 read together with 140, 153, 14, 316 of the Penal Code and Section 59(1) of the National Thoroughfares Act No. 40 of 2008.

The Complainants stated that the police did not inform them of the reasons for their arrests. The HRC finds that there is not enough evidence to conclude whether the complainants were informed of the reason for their arrest.

6.4. Prevention of Torture, Cruel, Inhuman and Degrading Treatment or Punishment:

As stated in the affidavits provided by the complainants and corroborated by the photographic and video evidence presented, inhuman and degrading treatment was inflicted on the students, causing physical injuries.

In the given video footage, weakened students lying on the ground are seen being brutally attacked over and over by several police officers who were surrounding them. This issue must be given serious consideration.

It can be observed, as is noted in the MLR of the 9 students, they suffered injuries on their backs and the backs of their heads, arms and legs. This indicates the students that were attacked were attempting to escape the police, not charging at them.

6.5 Other factors:

The respondents stated that 6 police officers were injured during the incident and were admitted to the hospital for treatment. The HRC requested the respondents to submit their Medico Legal Reports before 2015/11/24. Since the respondents only submitted medical certificates and not MLRs, the Commission could not reach a conclusion on this matter.

The respondents accepted before the Commission that it was their duty to disperse such an assembly for which they take full responsibility.

7. Legal Findings

7.1 Article 3 of the 1978 Constitution

7.1.1 Prevention of Torture, Cruel Inhuman and Degrading Treatment and Punishment.

Attention should be drawn to the fact no person should be treated in an inhuman and cruel manner as guaranteed under Article 11 of the 1978 Constitution.

By referring to the statements presented by both parties and the facts uncovered at the investigation conducted by the Commission, it can be established that the police brutally attacked students that were weakened by tear gas and water cannons, using batons and wooden poles. They attacked the sensitive parts of the student's bodies (head, back, etc.). This is corroborated by the photos and video evidence. Furthermore, when considering the MLRs it can be observed that the injuries were caused by blunt instruments. Most of these injuries were in the back and sensitive areas of their body. Based on the above observations, it can be affirmed that the actions of the respondents amounted to torture, cruel, inhuman and degrading treatment and punishment.

7.1.2 Equal Protection of the Law and Right to Equality

According to Section 12(1) of the Constitution, the law shall apply equally to all.

Therefore, it should be examined whether the actions of the respondents were in accordance with the regulations of the law.

Even though the duty lies with the respondents under the legal provisions to disperse an unlawful assembly, attention should be drawn to whether the respondents acted according to these legal provisions, at the time of the incident.

The following factors shall be taken into consideration:

1. Provisions available for holding an assembly.
2. Whether procedures to be followed in dispersing assembly were adhered to?

When considering what legal provisions are applicable to holding an assembly, respondents state that this incident falls under the interpretation given in Section 138 regarding an unlawful assembly. An assembly of five or more persons is described as an "unlawful assembly" if the common object of the persons comprising that assembly come under the following:

- To commit any mischief or criminal trespass or other offence;
- By means of criminal, force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do

It also states that a lawful assembly can subsequently become an unlawful assembly.

According to Section 95 of the Criminal Procedure Code, any magistrate or police officer not below the rank of an Inspector of Police can give an order to disperse the assembly.

According to Regulation No. E5 of the Departmental Orders, it is not necessary to give notice to the police or obtain prior approval; however, if the assembly becomes unlawful, the police can order the crowd to disperse.

Since there was a breach of peace in society, the police had the power to lawfully disperse such an unlawful assembly.

Section 77 (1) of the Police Ordinance states that six hours before such a procession is held, the Police OIC of the area must be notified in writing. But it is unclear if in this case the protest march can be interpreted as a procession.

Section 78(1) states that if the assembly or procession of twelve or more people risks a breach of peace, a police officer not below the rank of an Inspector of Police has the power to disperse the unlawful assembly.

It has to be considered whether the complainants' assembly amounts to an unlawful assembly, as indicated by the respondents. From the statements given by the respondents and the complainants

it can be observed that the HNDA students walked from the Fort to Ward Place peacefully and they waited until they were granted the meeting.

From photos and video evidence, it can be gathered that the students started behaving aggressively once they were denied the meeting with a higher authority from the Ministry. They tried to enter the premises of the Ministry by disrupting the barricades.

This confirms the fact that, as the respondents state, the power to disperse an assembly for committing any mischief or criminal trespass or other offence is outlined in Section 138 of the Penal Code and for risking a breach of peace under Section 78(1) of the Police Ordinance.

It is clear that, the police had erected barricades because of past experiences where students had, in a previous march, destroyed the barricades and entered into the Ministry property and caused damage.

It must be considered whether the methods used by the respondents to disperse the students were in accordance with the legal provisions.

The respondent states that the provisions to disperse a crowd is outlined in the Police Department Regulation No 18. This regulation outlines how police should act during such civil struggles. However, it is questionable whether the complainants' assembly comes under such civil struggles. Ethnic discord, religious tensions, social and cast discrimination, inter trade union disputes, political party gatherings and domestic issues amount to civil struggles. Since this incident does not fall under that interpretation, Department Regulation 18 is not applicable

The respondent then states they resorted to the police Department Order A19, which outlines how a police officer should act during an unlawful assembly.

- Take actions to disperse the crowd in a friendly manner with cooperation.
- If it is necessary to use force, the best strategy is a police cordon.
- Using this approach, the crowd can be directed to move away.

Those who had behaved aggressively calmed down in the face of disciplined Police Force. Therefore, use of force was not necessary. Force cannot be used when the individuals are no longer committing an offence. Additionally, they can only use batons to fulfil their objective if they are confident in their strength, or if an armed group of the police force is prepared to support them.

The respondents used water cannons and tear gas to disperse the crowd. From the photos and video evidence, it can be observed that after dispersing the students, the police attacked and chased them using batons. According to 95(2) of the Criminal Procedure Code, although they have the power to use batons in dispersal, that power must be exercised reasonably. It is questionable whether there was a need for the police to attack the students in such a manner since according to the videos and photo evidence, the students were already exhausted after tear gas and cannons had been deployed.

According to the MLRs, the students sustained wounds and injuries on their heads, backs of their heads, backs, spines, shoulders and other sensitive body parts. Thus, it is questionable if the power was exercised by the police reasonably.

Furthermore, in order to explain the force used by the respondents, Report No.AG/24/2013 dated 19.02.2014, submitted by the Attorney-General with instructions to use rubber bullets to control civil struggles is highlighted.

It also mentions the necessity to use minimum force in such cases.

However, even firing rubber bullets could still cause serious injuries and deaths, therefore the decision to use rubber bullets depends on the circumstances of each case. This clearly shows that the minimum force used by the police must be such as to avoid any serious injuries and death. However, the force resorted to by the respondent in this incident is not reasonable according to the circumstance but is an excessive use of force.

When considering the respondents' statement that there is no requirement to use minimum force but reasonable force according to the circumstances, it has to be questioned whether there was a necessity to disperse the crowd by attacking them with batons. The Commission finds that there was no necessity to attack students with batons to disperse them, when they were already weakened by tear gas and water cannons. This fact is collaborated by photo and video footage evidence. The respondents claim they attacked the students with batons to prevent them from regrouping. But the evidence present clearly indicates that after the water cannons and tear gas were deployed, students had started dispersing and some were even weakened and lying on the ground. Since it cannot be determined that the students had attempted to regroup, chasing the students away by attacking them with batons is an excessive use of force.

As the respondents acted contrary to legal provisions to disperse the unlawful assembly, this amounts to a violation under article 12(1) of the Constitution.

According to Section 59(1) of the National Thoroughfares Act No, 40 of 2008, obstruction of public roads is an offence. However, the respondents did not taken action to interrupt the students in their march from Fort to Ward Place.

7.1.3 Freedom from arbitrary arrest, detention and punishment:

Article 13 (1) of the Constitution states that a person may not be arrested except according to procedure established by law

The Commission must consider whether the arrest of 39 students was a violation of Article 13.

According to Section 23(1) of Criminal Procedure Code, in making an arrest the person making the same shall actually touch or confine the body of the person to be arrested unless there be a submission to custody by word or action.

If such person forcibly resists the endeavor to arrest him or attempts to evade the arrest, the person making the arrest may use such means as are reasonably necessary to effect the arrest.

Section 2(A) of the police Department Order A20, states that the procedure of an arrest should occur without violence. However, if there is a necessity to use force prior or post to such arrest, the use of force shall be minimal and as necessary. In the instance when the students were being arrested, it cannot be observed whether the police acted against the above mentioned legal standard and procedures.

When an arrest is made, the suspect must be told why such an arrest is being made under Article 13(1) of the Constitution.

Although the complainant maintains they were not made aware of the reason for their arrest, the respondents state that the arrest was due to the breach of Section 140, 153, 314, 316 which has to read together with section 32 of the Penal Code and Section 59(1) of the National Thoroughfares Act No. 40 of 2008. There is not enough evidence to affirm whether the police made the students aware of the reason for the arrest, therefore it cannot be determined whether there was a violation by the police of Article 13(1) of the Constitution.

7.1.4 Freedom of Expression and Assembly

Article 14(1) of the Constitution protects freedom of expression, peaceful assembly and association.

The Commission considers whether the rights of the students under Article 14 have been violated.

Although the students are entitled to these freedoms, the exercise of these rights is subject to the limitations specified under 15(2), 15(3), 15(4), and 15(7).

According to the National Thoroughfares Act No.40 of 2008 and Section 77 of the Police Ordinance, any procession in public places has to be notified to the OIC of the nearest police station at least six hours prior to the event. The complainants accept they did not provide any such notice to the police - but the police offered their full co-operation to the protest march from Fort to Ward Place and assisted when the students attempted to meet with higher Ministry officials.

The respondents only took measures to disperse the crowd when they began behaving aggressively, therefore there is no evidence to support that there is a violation under Article 14 of the Constitution.

However, it is observed that the measures used by respondents to disperse the gathering go beyond the legal limitations. The force used was not minimum or reasonable – it had exceeded what was within their power.

7.1.5 International Human Rights Law Standards

The Commission finds that students being subjected to torture, cruel, inhuman and degrading treatment and punishment by the respondents amounts to a violation of Article 5 of the Universal Declaration of Human Rights and Article 7 of the of International Covenant on Civil and Political Rights.

Taking into account all evidence submitted by both parties and facts established by the investigation, the Commission affirms that, as the respondents used disproportionate force to disperse the students involved in the protest, their right to equality before the law has also been violated.

8. Recommendations

8.1 Breach of human rights;

Taking into account all the facts established and evidence presented, the Commission affirms that the respondents violated the fundamental rights guaranteed under Article 11 and Article 12(1) of the Constitution of Sri Lanka. Therefore, the Human Right Commission recommends that the students be paid compensation for the injuries they sustained:

1. Sashini Sandeepani Kumarasinghe, the student being treated for the injuries she sustained as a result of the attack should be paid Rs. 25,000/=;
2. A compensation of Rs. 15,000/= should be made to each of the following students for the injuries they sustained as a result of the attack:
 - (a) Nuwan Pradeep Kumara
 - (b) Ayesha Rathnasuriya
 - (c) Supun Ishan
 - (d) Fathima Haneena Hussain
 - (e) Sandunu Chandrasiri
 - (f) Bhuddhi Ukwatte
 - (g) Niluka Nayana
 - (h) Jeeva Rupasinghe

8.2 Preventing Future Occurrence of such Incidents

It can be implied that the actions taken by the Police were a consequence of deficiencies in their professionalism. The Human Right Commission recommends the following measures be taken:

8.2.1 Establishment of Police Regulations to Handle Public Gatherings

This Commission recommends that the police observe the practices employed by other democratic countries in riot control and handling unlawful assemblies and compile a modern mechanism to control riots and unlawful public gatherings in a manner that protects human rights, with assistance obtained from the Police Commission as required. The final draft of this document should be handed over to the Commission by 1st March 2016.

In addition to this, it is essential to provide special training to all police officers to make them aware of the operationalizing of this mechanism. This must be facilitated with the use of a training manual prepared by the relevant authorities; details of the way in which this training was conducted and implemented should be compiled into a report and submitted to the Commission by 1st March 2016.

It is also advised that women police officers be deployed in such events to disperse assemblies in the future. Relevant measures must be taken by the police to that effect and the Commission should be informed of the details of their implementation.

8.3 Disciplinary Action

The Commission recommends the police officers who were involved in the incident in question be identified, and disciplinary action be taken against them for the violation of the students' fundamental rights. A report outlining the details of disciplinary action taken against the relevant officers must be submitted to the Commission by 1st March 2016.

The Commission orders an investigation to identify the police officers who directly carried out the assault in violation of the fundamental rights of the students, the officers who gave order to carry out this attack as well as the supervising officers at the time of the violation in question be carried out and disciplinary action be taken against them.

8.4 Necessity of State Officials to Focus on Resolving Public Issues

The Human Rights Commission observes that the concerns of the HNDA students had persisted for a long time, when they announced through public media their intention to conduct a protest march on 29th October 2015. It is very unlikely that the relevant officials were not aware of these issues. It must be emphasized that public officials have a special duty to prevent such hostile situations from arising.

Therefore, the Commission recommends the responsible authorities take reasonable and prompt measures to resolve such concerns before they become protracted issues. Furthermore, the need to take appropriate and prompt measures when such issues lead to situations like protest marches is stressed, in order to prevent aggressive behavior.

Both parties to the case agree that the second protest held on 3rd November 2015 was peacefully conducted, primarily because the HNDA students had the opportunity to discuss their concerns with the higher officials of the Ministry.

The Human Rights Commission noted that police officers themselves had provided the opportunity to discuss the matter with the relevant authorities

Dr. Deepika Udagama
Chairperson
Human Rights commission of Sri Lanka

Mr. Saliya Peiris
Commissioner
Human Rights Commission of Sri Lanka

Ms. Ambika Satkunanadan
Commissioner
Human Rights Commission of Sri Lanka

Mr. Hameed Ghazzali Hussain
Commissioner
Human Rights Commission of Sri Lanka

Dr. Upananda Vidanapathirana
Commissioner
Human Rights Commission of Sri Lanka

Annexes for Chapter Three

Annex 3A -

Conferences, Seminars & workshops held overseas attended by the officers of HRCSL in 2015

	Name & Designation of officer who attended	Country and Conference / Senior / Meeting / Workshop	Dates with Duration
1	Ms. MenakaHerath,	Thailand	
	Legal Officer	APF - UNDP workshop on the role of	24.02.2015 - 27.02.2015
		NHRIs in promoting and protecting the	
		rights of LGBT persons in Asia-pacific	
		region	
2	Mr. W H Sumanalal - I.O	Nepal	
	Ms. SujeewaKumari - L.O	Sub Regional Blended Learning Course	13.04.2015 - 17.04.2015
	Ms. M S Aponsu - I.O	on Women's and Girls' Human Rights	
	Ampara		
	Ms. W K S Priyanga - I.O		
	Anuradhapura		
3	Ms. D S Weerawickrema	Philippines	20.04.2015 - 24.04.2015
	Legal Officer	Pilot Regional Blended Learning	
		Course onInvestigation and Torture	
		- Regional Workshop -	
		APF	
4	Mr. M A N Chandrasiri - R.O	Bangladesh	04.05.2015 - 08.05.2015
	Mr. P W Chandrasiri - R.C	Invitation to participate in a pilot	
	Ampara	regionalblended learning course	
		on the UN declaration on the rights of	
		Indigenous people – APF	

5	Ms. S J Paranagama	Rwanda	04.05.2015 - 08.05.2015
	Secretary	Working session with the Commonwealth Forum of NHRIs on early and forced marriage and sexual violence	
	Mr. T Kanagaraj		
	R.C. Jaffna		
6	Mr. K T K P Arampath	Thailand	05.05.2015 - 08.05.2015
	Actg. Director - Admin & Finance	Business and Human Rights Training Course -	
		APF	
7	Mr. C K Rajasinghe -	Thailand	20.05.2015 - 22.05.2015
	Network Administrator	Invitation to conference on Human Rights	
	Ms. W A U Samanmali -	Libraries in South and South East Asia -	
	Documentation Officer	Raoul Wallenberg Institute	
8	Ms. S J Paranagama -	Belgium	02.06.2015 - 06.06.2015
	Secretary	Special event with National Human Rights	
		Institutions - European Commission	
9	Mr. K T K P Arampath	Malaysia	03.06.2015 - 09.06.2015
	Actg. Director - Admin & Finance.	Foreign Industrial tour	
10	Ms. SitharaThambiliyagoda	Australia	15.06.2015 - 19.06.2015
	Actg. Director - I & I	Witness and Victim Protection Forum	
		Australian Attorney General's Dept.	
11	Mr. K KVillavarajan	Mongolia	26.08.2015 - 28.08.2015
	Education Officer	20th Annual Meeting and Biennial Conference -	
		APF of NHRIs	

12	Mr. K KVillavarajan	Thailand	22.09.2015 - 23.09.2015
	Education Officer	Workshop on including voices of marginalized women and people of diverse sexual orientation and gender identity in the UPR Process	
13	Ms. S J Paranagama	Thailand	27.09.2015 - 29.09.2015
	Secretary	Regional Consultation on Treatment and Human Rights amongst MSM and Transgender population in South Asia - UNDP	
14	Ms. Sujeeva Kumari	Seoul, Korea	26.10.2015 - 28.10.2015
	Legal Officer	NHRI Special Session on the Rights of older persons	
15	Ms. S J Paranagama	Malaysia	26.10.2015 - 28.10.2015
	Secretary	Senior Executive Roundtable Conference	
16	Ms. Chandrani Silva - I.O	Malaysia	30.11.2015 - 03.12.2015
	Mr. A W M Ahamed - L.O	Workshop on Immigration Detention in	
	Mr. S A Wijayananda - I.O	Kuala Lumpur	