

මගේ අංකය
எனது இல.
My No.

ඔබේ අංකය
உமது இல.
Your No.



දිනය
திகதி
Date.

ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව
இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

The Briefing of the Diplomats on 08th, 09th, & 10th of February 2022 on the Road Map of the HRCSL for 2022 held at the Human Rights Commission Headquarters.

(1) The establishment of the National Preventive Mechanism. (NPM)

According to Sri Lanka's accession to the Optional Protocol to the Convention against Torture & other cruel inhuman or degrading treatment or punishment (OPCAT), the government of Sri Lanka designated the HRCSL as the National Preventive Mechanism.

Hence HRCSL will implement the NPM by establishing a separate unit within the HRCSL on 15th February 2022 with the existing resources. The primary purpose is to develop a system of regular visits to prevent torture and all other degrading treatments. i.e. detention centres, prisons etc. which includes all those in involuntary incarceration.

(2) The repeal of the Prevention of Terrorism Act. (PTA)

Notwithstanding the amendments already suggested by the government, the HRCSL advocates the complete abolition of the PTA.

The Commission believes that the offence of terrorism should be included in the Penal Code with a new definition for terrorism. It is explicitly for those who threaten or use violence unlawfully to target the civilian population by spreading fear thereof to further a political-ideological or religious cause. The Commission advocates that terrorism should be investigated under the General Law of the country with necessary amendments. The Commission also supports that it is not required to exclude the application of the Evidence Ordinance for the offence of terrorism. The indefinite period of detention violates the Constitution. "Deprivation of liberty of a person pending investigation or trial shall not constitute punishment" (Art 13 (4))

Amendments to the Penal Code, the Code of Criminal Procedure Code. Judicature Act and the Bail Act require modifications for this purpose.

The HRCSL recommends these amendments under section 10(d) of the HRCSL, Act to be placed before a Parliamentary Select Committee

The HRCSL advocates amendments to the Human Rights Commission Act No: 21 of 1996 to address the Commission's composition, mandate, and independence.

Human Rights Commission, by its powers granted under section 10(d) of the Human Rights Commission Act 21 of 1996, would like to bring to His Excellency's attention the need to ensure that the Constitution of the Democratic Socialist Republic of Sri Lanka is amended to guarantee greater independence and transparency in the appointment of Commissioners to the Human Rights Commission.

With the establishment of the Parliamentary Council under the 20th amendment to the Constitution, there appears to be a lack of transparency as to the manner in which such appointments are made. To safeguard the independence of the Commission, a Constitutional amendment is necessitated.

In the alternative, recognizing the difficulty of amending the Constitution, the Commission recommends the following;

- (a) For the formulation of Regulations stipulating the criteria that should be adopted regarding appointments made in section 3 of the Human Rights Commissions Act 19 of 1996.
- (b) To publish the said criteria through a gazette notification.

The above will ensure that such appointments comply with the principles relating to the status of National Institutions (Paris Principles) adopted by General Assembly Resolutions No.48/ 134 of 20th December 1993.

The Commission further believes that the definition of 'human rights' should be extended to cover all Covenants absorbed into law.

The HRCSL shall have these amendments placed before a Parliamentary Select Committee under section 10(d) of the HRC Act.

It was explained to the Diplomats that although the Commissioners are appointed in terms of the Constitution by the President on the observation of the Parliamentary Council, the manner of removal of the Commissioners can only be done after an address and a vote in Parliament.

The powers of investigation and recommendations stipulated in the HRC Act are a complete detachment to the executive arm of the government.

Reconciliation. The HRC has established regional officers in Puttalam, Killinotchchi, and Mannar to address public services to those living in the North and East and the land distribution. Many do not have any documents, and meetings with the Land Development Officer in those areas are scheduled. Intercommunity discussions were held after the Easter Bomb attack in all regions.

The Jaffna HRC, the Coordinator, is scheduled to visit the Jaffna, Mannar and Killinotchchi areas to meet the civil society and report on their grievances. The Commission has directed the Coordinator to identify families of missing persons and report to the HRC headquarters. To take the matter with the Commission of Missing persons and move to arrive at a settlement. The critical aspect of the issue is to solve the whereabouts of these people.

The HRC had informed the Inspector General Police that enrollment of Tamil officers to the North and East is critical. The IG had promised to recruit Tamil officers to these areas. The HRC has called for a progress report from IG in this regard.

IG was briefed as to the rights of the detainees under the HRC Act. The particulars of each detained should be informed to the HRC immediately at the point of arrest. Any movement of that detainee from any point to another point should be reported to the Commission before the detainee is moved.

The Commission had also briefed the Police spokesman on the activities in the social media and the freedom of speech.

The HRCLS is strengthening the cooperation with the Civil Society by having a continuous meeting in person and via ZOOM.

The Regional officers are advised to have meetings with the Civil Society. From May this year, the commissioners will be travelling around the country to address the issues of Civil Society. The Commissioners will first inform the Civil societies to forward their grievances to be discussed in HRC head quarters by the participation of all the Commissioners. The Commissioners will take the solutions when the representatives of the Civil Society are met in May.

The Computer system is to be upgraded with an application to enable the complainant himself to find out the progress of his complaint.

The Commission advocates an amendment to the Presidential Pardon mentioned in Article 34(1) of the Constitution. Currently, if there is an apparent miscarriage of justice and all appeals are exhausted only remedy is a Presidential Pardon. The amendment is to confer a referral power to refer such a case for re-trial or rehearing the appeal.

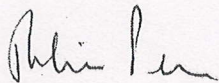
The referral power to the President needs an amendment to the Constitution.

But the Supreme Court has the power through passing Regulation to rehear any appeal.

The Prison Parole Board may consist of a Member of the HRC.

The HRC is designing a project to address the issues of the Plantation workers. The Commission has identified the shortcomings in delivering public services to the rural and Plantation workers. This includes their right to clean water, proper shelter and housing and education for the children.

For this purpose, the Commission has already identified premises to establish a new office in the Nuwara-Eliya District. The Women's Day activities sponsored by the HRC is scheduled to be held in Nuwara-Eliya.



Justice Rohini Marasinghe
Retired Judge of the Supreme Court
Chairperson
Human Rights Commission of Sri Lanka

Justice Rohini Marasinghe
Judge of the Supreme Court (Retired)
Chairperson
Human Rights Commission of Sri Lanka

15th February 2022