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எனது இல.
My No. }

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உமது இல.
Your No. }



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திகதி
Date. } 15.10.2024

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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

H.E. Anura Kumara Dissanayake,
President of the Republic of Sri Lanka,
Presidential Secretariat,
Colombo 01.

Your Excellency,

Special Powers under Section 12 of the Public Security Ordinance

The Human Rights Commission of Sri Lanka (HRCSL) wishes to extend its congratulations to Your Excellency on being elected the Executive President of Sri Lanka.

The Commission writes to you with reference to the Order published in Extraordinary Gazette No. 2403/47 dated 26 September 2024 issued under section 12 of the Public Security Ordinance (Chapter 40). The said Order calls out all the members of the Sri Lanka Army, Sri Lanka Navy and Sri Lanka Air Force 'for the maintenance of public order' in every administrative district of Sri Lanka with effect from 27 September 2024 onward for a period of one month. We write to you in terms of section 10(d) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996, which empowers the HRCSL 'to make recommendations to the government regarding measures which should be taken to ensure that...administrative practices are in accordance with international human rights norms and standards.'

The HRCSL draws Your Excellency's attention to section 12(1) of the Public Security Ordinance, which provides:

Where **circumstances endangering the public security** in any area have arisen or are imminent and **the President is of the opinion that the police are inadequate to deal with such situation** in that area, he may, by Order published in the Gazette, call out all or any of the members of all or any of the armed forces for the maintenance of public order in that area (emphasis added).

The HRCSL invites Your Excellency to consider the strict criteria contained in the abovementioned provision, particularly with respect to forming the view that 'circumstances endangering the public security' have arisen and that 'police are inadequate to deal with such situation'. Notably, to deploy the armed forces under section 12 of the Public Security Ordinance, Your Excellency would be required to form the view that special circumstances endangering public security have arisen and that Sri Lanka Police are not capable of maintaining public order in the country. The HRCSL wishes to emphasise that such criteria point to the *exceptional* nature of an order issued under section 12 of the Public Security Ordinance. Although such orders have become common practice during the past few years, the HRCSL is of the view that such orders should only

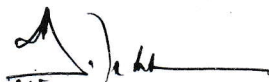
be issued in exceptional circumstances that endanger public security, and where Sri Lanka Police, including the Special Task Force of the Police, are inadequate to deal with such circumstances. The relevant international human rights norms and standards oblige states to deploy armed forces to exercise police powers only in exceptional circumstances. For instance, the United Nations Human Rights Committee, the treaty body authorised to supervise the implementation of the International Covenant on Civil and Political Rights, has expressed serious concerns about the deployment of armed forces to discharge police functions. The negative impact that such deployment can have on the human rights situation in a country is well documented.

Your Excellency is, therefore, encouraged to reconsider the issuing of such orders, and to restore the practice of relying on civilian authorities, i.e., Sri Lanka Police, to ensure public security.

Given that parliamentary elections have been called, and Sri Lanka is now in an election period, the HRCSL also draws Your Excellency's attention to article 104D of the Constitution. The said provision empowers the Election Commission of Sri Lanka 'to make recommendations to the president regarding the deployment of the armed forces...for the prevention or control of any actions or incidents which may be prejudicial to the holding or conducting of a free and fair election'. Your Excellency may also consider whether an order under section 12 of the Public Security Ordinance is warranted in the absence of any such recommendation by the Election Commission.

Finally, Your Excellency is also invited to consider section 21(4) of the Public Security Ordinance, which provides that 'an Order made under section 12...may be amended or rescinded by resolution of Parliament...' This provision ensures crucial parliamentary oversight with respect to any order made by the president under section 12 of the Public Security Ordinance. Therefore, Your Excellency is encouraged to consider the appropriateness of issuing such an order under section 12 of the Public Security Ordinance at a time when parliament stands dissolved.

The HRCSL thanks Your Excellency in advance for considering its observations on this matter. Please be assured that the Commission is prepared to offer its continued advice and assistance with respect to administrative practices that impact the protection and promotion of human rights in Sri Lanka.



Justice L.T.B. Dehideniya,
Judge of the Supreme Court (Retired),
Chairman,
Human Rights Commission of Sri Lanka.

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Cc: The Hon. Attorney-General
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Colombo 12.