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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

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Press Notice

Report on the Status of Rohingya Asylum Seekers Detained in Mullaitivu, and Related Issues

The Human Rights Commission of Sri Lanka (HRCSL) issued a Report on the Status of Rohingya Asylum Seekers Detained in Mullaitivu, and Related Issues. On 19 December 2024, a multi-day trawler carrying 116 persons, including 57 children, from the Rohingya community in Myanmar drifted towards the coast off Mullivaikkal in Mullaitivu. Local fishermen provided humanitarian assistance including water and food, and the Sri Lanka Navy escorted the boat to Trincomalee. Several persons had in fact perished during the journey. Later, the survivors were brought before the Trincomalee Magistrate and eventually detained at the Mullaitivu Air Force Camp.

The HRCSL is empowered under section 11(d) of the HRCSL Act, No. 21 of 1996 to ‘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.’ Moreover, the HRCSL is designated as the National Preventive Mechanism on torture in Sri Lanka. Accordingly, the HRCSL visited the Mullaitivu Air Force Camp on 9 January 2025 to assess the conditions of detention of the asylum seekers and make appropriate recommendations.

This report presented the applicable domestic and international legal norms and standards, the key interventions by the HRCSL, and the HRCSL’s recommendations. The HRCSL recalled that according to section 5(2) of the International Covenant on Civil and Political Rights Act, No. 56 of 2007, all state authorities must treat the best interests of the child as being of paramount importance in all matters concerning children. It clarified that this standard is not limited to citizens of Sri Lanka and extends to all persons within the jurisdiction of Sri Lanka. The HRCSL also emphasised the principle of *non-refoulement*, which is guaranteed to all persons under section 18(1) of the International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018. The Act provides: ‘No person shall be expelled, returned, surrendered or extradited to another State where there are substantial grounds for believing that such person would be in danger of being subjected to enforced disappearance.’ The HRCSL noted that credible reports including the report of the UN Independent International Fact-Finding Mission on Myanmar refers to the risks faced by Rohingya with respect to being subject to enforced disappearance. In this context, the HRCSL observed that the Sri Lankan government is bound by domestic law to meaningfully consider this risk of enforced disappearance when taking any decision with respect to returning Rohingya persons to Myanmar.

The HRCSL expressed deep concern that human rights defenders (HRDs) advocating for the rights of Rohingya asylum seekers have forwarded complaints to the HRCSL with respect to harassment by law enforcement officials on account of their legitimate activities. It emphasised the need for all state officials to fully implement the HRCSL's General Guidelines and Recommendations, No. 1 of 2024 on the Protection of Human Rights Defenders. In this respect, the HRCSL stated that it will take necessary action to summon parties for an inquiry in terms of the HRCSL Act.

The key recommendations of the HRCSL were as follows:

1. The Department of Immigration and Emigration and Sri Lanka Air Force should appoint a focal point to accept aid, including clothing, sanitaryware, and certain food items, particularly for children, and enable such aid to reach the asylum seekers without delay.
2. The Department of Immigration and Emigration and Sri Lanka Air Force should provide regular and meaningful access to state officials with specialisations in child protection and welfare to ensure that the best interests of the children among the asylum seekers are appropriately safeguarded.
3. The Department of Immigration and Emigration and Sri Lanka Air Force should provide access to relevant specialised United Nations entities including UNHCR to ensure that the asylum seekers can be appropriately vetted and, depending on the outcome of the process, formally registered as asylum seekers.
4. The Department of Government Information should take steps to facilitate the access of journalists to the Rohingya asylum seekers so that the Sri Lankan public can be kept informed about their status.
5. The Department of Immigration and Emigration and Sri Lanka Police should take immediate measures to ensure that female asylum seekers at the Mullaitivu Air Force Camp are provided security at all times by trained women police officers, and the Department of Immigration and Emigration and Sri Lanka Air Force should ensure that adequate sanitary facilities are provided to the female asylum seekers.
6. The Department of Immigration and Emigration should take measures to transfer the asylum seekers to a facility that is fit for the purpose of housing men, women and children with specific welfare needs. It was recommended that any detention should be strictly temporary and only to the extent necessary for a considered decision to be taken with respect to the status of an asylum seeker. Therefore, where an asylum seeker is duly registered by UNHCR, they should be released from custody.
7. All state institutions, including law enforcement authorities, should respect the rights of HRDs to express themselves and organise and participate in peaceful assemblies for the purpose of protesting any government policy, including any decision to repatriate Rohingya asylum seekers. State institutions should refrain from threatening, intimidating, or harassing HRDs who organise and participate in such peaceful assemblies.
8. The Government of Sri Lanka should ratify the 1951 Convention on Refugees, the 1954 Convention Relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness, and work towards guaranteeing the rights of refugees and stateless persons within Sri Lanka's domestic legal system.

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