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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Press Notice No: HRC/P/i/E/16/05/25

Press Notice

Misapplication of Section 3 of the ICCPR Act and Other Legal Provisions in relation to Commemoration Events

The Human Rights Commission of Sri Lanka (HRCSL) wrote to the Acting Inspector General of Police (IGP) in terms of its mandate under section 10(d) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996.

In its letter, the Commission recalled that in May 2024, it wrote to the Acting IGP's predecessor regarding the practice of Sri Lanka Police with respect to commemoration events held in the North and East of Sri Lanka. The Commission was concerned by the misapplication of section 3 of the International Covenant on Civil and Political Rights Act, No. 56 of 2007 (ICCPR Act) to arrest persons who engaged in peaceful acts of remembrance including the staging of peaceful protests. It was also brought to the Commission's notice that Sri Lanka Police endeavours to obtain temporary orders from magistrates in terms of section 106(1) of the Code of Criminal Procedure to prevent persons from engaging in the commemoration of Tamil deceased who perished during the armed conflict in 2009. The Commission recalled that, in November 2024, the newly elected government announced that it would not interfere with peaceful commemoration events. Yet Sri Lanka Police applied for court orders to prevent certain commemoration events, and some of these applications were dismissed.

The Commission emphasised that peaceful acts of commemoration cannot be considered forms of incitement to discrimination, hostility, or violence, and are protected under the right to the freedom of speech and expression guaranteed under article 14(1)(a) of the Sri Lankan Constitution. The use of section 3 of the ICCPR Act in such instances amounts to a gross misapplication of the section and could result in the harassment of persons, including the unreasonable denial of bail, and the violation of the right to the freedom of speech and expression. The Commission clarified that acts of commemoration form part of 'collective reparations', and the Sri Lankan state has a statutory duty to respect and protect the right to collective reparations under the Office for Reparations Act, No. 34 of 2018.

In this context, the HRCSL recommended that the Acting IGP issue clear guidance, in all three languages, to all divisions of Sri Lanka Police, that peaceful acts of commemoration (i.e., remembrance of deceased persons), are recognised in the law as a part of what aggrieved persons within the Tamil community are entitled to as collective reparations. Furthermore, it should be

emphasised that acts that do not amount to advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence, should be respected and protected. The said guidance should also direct officers-in-charge of police stations in relevant administrative divisions to refrain from seeking court orders preventing any peaceful acts of commemoration.

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