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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Press Notice No: HRC/P/i/E/22/05/25

Press Notice

HRCSL writes to the Minister of Justice and National Integration regarding sections 365 and 365A of the Penal Code

The Human Rights Commission of Sri Lanka (HRCSL) wrote to Hon. Harshana Nanayakkara, Minister of Justice and National Integration 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 its previous letters dated 22 November 2023 and 13 August 2024 sent to the Ministry with reference to sections 365 and 365A of the Penal Code (Chapter 19). The said sections relate to ‘unnatural offences’ and ‘acts of gross indecency between persons’ and have been used to criminalise sexual activity between persons of the same sex.

The Commission recalled that a Private Member’s Bill was recently presented with the stated intent to repeal / amend the said provisions in the Penal Code. The Commission was of the view that the passage of the Bill would ensure full compliance with Sri Lanka’s obligations under international law, including under the International Covenant on Civil and Political Rights (ICCPR), which under articles 2 and 26 guarantees the right to non-discrimination. The Human Rights Committee, the treaty body tasked with supervising the implementation of the ICCPR, has observed that the right to non-discrimination includes non-discrimination on the grounds of sexual orientation. The Committee, in its Concluding Observations on Sri Lanka (26 April 2023), observed that the continued criminalisation of same-sex conduct under sections 365 and 365A of the Penal Code violated articles 2 and 26 of the ICCPR. It also observed that such continued criminalisation, the arrest and detention of persons under these sections, and the ill-treatment of suspects, violated the right to freedom from torture or cruel, inhuman or degrading treatment (article 7), the right to liberty and security of persons (article 9), and the right to privacy (article 17) guaranteed under the ICCPR. It accordingly recommended the repeal of sections 365 and 365A of the Penal Code.

The Commission was deeply concerned by the continued prevalence of hostile and discriminatory discourse against the LGBTIQ community in Sri Lanka. A recent campaign featuring physical demonstrations, targeted hate campaigns, and digital propaganda, driven by organised groups, has created an atmosphere of fear, intimidation, and discrimination that is fundamentally at odds with the principles of dignity, equality, and non-discrimination enshrined in both our Constitution and international human rights law. As noted in the Commission's previous letter to the Ministry of Justice in August 2024, hostile discourses popularised by organised groups often features disinformation that the abovementioned Private Member's Bill legalises same sex marriage, when in fact the Bill does not amend the law in any manner apart from decriminalising certain sexual acts between consenting adults.

In the above-mentioned circumstances, the Commission recommended that the Minister considers adopting the said Bill as a government proposal and initiates a process to amend the Penal Code.

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22.05.2025

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