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**இலங்கை மனித உரிமைகள் ஆணைக்குழு**  
**Human Rights Commission of Sri Lanka**

Hon. Harshana Nanayakkara  
Minister of Justice and National Integration  
19 Sri Sangaraja Mawatha,  
Colombo 01

Hon. Minister,

**Findings and Recommendations in Case No. SUO MOTU-08-25, and Repeal of PTA**

We write to you to bring to your attention the findings and recommendations of the Human Rights Commission of Sri Lanka (HRCSL) in Case No. SUO MOTU-08-25. These findings and recommendations have a direct bearing on the current process through which the Government of Sri Lanka aims to repeal the Prevention of Terrorism Act, No. 48 of 1979 (PTA) and are brought to your attention in terms of section 10(d) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996. Section 10(d) mandates the Commission 'to make recommendations to the Government regarding measures which should be taken to ensure that national laws...are in accordance with international human rights norms and standards'.

**Findings and Recommendations in Case No. SUO MOTU-08-25**

The case in question concerns the arrest and detention of Mohamad Liyaudeen Mohamed Rusdi under the PTA and the subsequent issuance of a restriction order against Mr. Rusdi. Mr. Rusdi was arrested and detained by the Counter Terrorism and Investigation Division (CTID) of Sri Lanka Police on 22 March 2025. A detention order was issued against him by H.E. the President in his capacity as Minister of Defence on 24 March 2025. The primary allegation against Mr. Rusdi was that he had displayed two stickers at the shopping centre Colombo City Centre, containing the phrase 'Fuck Israel. End Apartheid', that he was allegedly associating with 'members of extremist or terrorist organisations', and that, in the opinion of the CTID, he held 'extremist' views and could potentially commit offences under the PTA in the future. Owing to the lack of evidence that he had committed any offence under the PTA, the detention order against Mr. Rusdi was suspended, and he was released on 7 April 2025 subject to certain restrictions contained in a restriction order issued by the Minister of Defence.

The Commission held an inquiry into this matter on 10 April 2025 and 21 May 2025 at which Mr. Rusdi and his representatives and officers of the CTID were provided an opportunity to make submissions and answer queries raised by the Commission. Following the completion of the inquiry and a thorough review of the documentation provided by the CTID, the Commission issued its findings and recommendations with respect to this case on 12 June 2025 a copy of which is annexed for your perusal (**Annex 1**).

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தலைமைக் காரியாலயம் } 14, ஆர்.ஏ.த.மெல் மாவத்தை, கொழும்பு-04.  
Head Office } 14, R.A.De Mel Mawatha, Colombo - 04.  
දුරකථන } 94-11- 2505580/81/82  
தொலைபேசி }  
Telephone }

කතෘති } 011-2505451  
தவிசாளர் }  
Chairperson } 1  
ලේකම් } 011-2505521  
செயலாளர் }  
Secretary }

ෆැක්ස් } 011 2505541/74  
தொலைநகல் }  
Fax }  
ක්ෂණික } 011-2505575  
தூரித அழைப்பு }  
Hotline } 1996

විද්‍යුත් තැපෑල } sechrcsl@gmail.com  
மின்னஞ்சல் }  
E-mail }  
වෙබ් } www.hrcsl.lk  
இணையம் }  
Web }



The Commission notes with concern that this case presents a stark example of the inherent dangers of the PTA and the propensity of law enforcement officials to deploy the PTA's provisions in bad faith. Despite the total lack of evidence that Mr. Rusdi had committed any offence, the CTID proceeded to arrest him, to refrain from producing him before a judicial officer, to secure a detention order against him, and to hold him in custody for fourteen days before eventually recommending his release. Moreover, on 30 May 2025, the Media Division of Sri Lanka Police issued an extremely prejudicial official media statement referring to Mr. Rusdi's alleged 'mental state' and the possibility that he could commit an act of 'religious extremism' due to his 'mental state'. Mr. Rusdi's release was then subjected to conditions stipulated in a restriction order, which remains in force to date. The conditions include informing the CTID if he planned to change his place of residence, seeking the prior permission of the CTID if traveling overseas, and reporting to the CTID every week.

During the inquiry before the Commission, the CTID acknowledged that the specific words found in the stickers displayed by Mr. Rusdi did not in and of themselves constitute any offence under the PTA. It was revealed to the Commission that, despite the lack of evidence, the CTID sought Mr. Rusdi's continued detention, and thereafter stringent restrictions against him, solely on the belief that he held 'extremist' views that could potentially lead him to commit offences in the future. Having evaluated the submissions of the parties and the material before the Commission, the Commission concluded that the so-called 'extremist' views attributed to Mr. Rusdi were merely views with respect to the practices of Western countries and the State of Israel stemming from outrage over events taking place in Gaza in Palestine. Moreover, it was revealed that the CTID's method for establishing that Mr. Rusdi was 'associating with members of extremist or terrorist organisations' was merely to rely on Mr. Rusdi's 'third party contacts' based on his telephone records. The Commission was disturbed to learn that, according to the CTID, a person's 'third party contacts' is merely a reference to the fact that they may share a mutual telephone contact with a person who is accused of an offence under the PTA, and not to the fact that the person actually has a direct association with such an accused person.

The Commission found that the arrest of Mr. Rusdi due to his expressions violated his fundamental rights to the freedom of expression guaranteed by article 14(1)(a) of the Constitution, the freedom of thought, conscience and religion guaranteed by article 10 of the Constitution, and the freedom from arbitrary arrest guaranteed by article 13(1) of the Constitution.

The Commission observed that the detention order issued under section 9(1) of the PTA was *ultra vires* the PTA, it was purely 'preventive' in nature and was not based on reasonable suspicion or belief that Mr. Rusdi had committed an offence under the PTA. The Commission pointed out that the PTA only permits detention for the purpose of investigations and does not authorise purely preventive detention. Accordingly, the Commission found that Mr. Rusdi's detention violated his fundamental right to the freedom from arbitrary arrest guaranteed by article 13(2) of the Constitution.

The Commission also found that the CTID had subjected Mr. Rusdi – a 22-year-old Muslim citizen – to racial profiling. It was revealed that the factors on which the CTID relied to suggest that Mr. Rusdi was 'radicalised', i.e., distance from one's parents, challenges in one's personal life, and outrage towards global politics and events, would not have been relevant had Mr. Rusdi not been a Muslim. The Commission accordingly concluded that Mr. Rusdi's right to equality before the law and equal protection of the law guaranteed by article 12(1) of the Constitution, the right to non-discrimination on the basis of race and religion guaranteed by



article 12(2) of the Constitution, and the right to the presumption of innocence guaranteed by article 13(5) of the Constitution were violated.

The Commission found that the restriction order issued against Mr. Rusdi under section 11(1) of the PTA had no legal basis and violated his freedom of movement guaranteed by article 14(1)(h) of the Constitution. The said restriction order and the official media statement of 30 May 2025 also violated his freedom to engage in a lawful occupation guaranteed by article 14(1)(g) of the Constitution, as they served to cause prejudice to Mr. Rusdi in the mind of the public and prospective employers despite the lack of any evidence that he had committed any offence.

In view of the findings that Mr. Rusdi's fundamental rights guaranteed by articles 14(1)(a), 10, 13(1), 13(2), 13(5), 14(1)(h), 14(1)(g), 12(1), and 12(2) of the Constitution had been violated by the CTID, the Commission issued the following key recommendations to the Director, CTID in terms of section 15(3)(c) and (4) of the HRCSL Act:

- 1. Take immediate measures to recommend to the Minister of Defence the discontinuation of the restriction order against Mr. Rusdi dated 7 April 2025 in view of the fact that section 11(1) of the PTA does not authorise the said restriction order.**
- 2. Establish a procedure to obtain the advice of the Director (Legal), Sri Lanka Police and the Attorney-General's Department prior to arresting any suspect in any matter concerning an offence under section 2(1)(h) of the PTA or any similar offence concerning expressions.**
- 3. In compliance with article 13(2) of the Sri Lankan Constitution, establish a standard practice of producing suspects before a Magistrate within 72 hours of arrest.**
- 4. Provide a copy of the Commission's findings and recommendations in the present case to all officers of the CTID with instructions to read and comprehend these findings and recommendations.**
- 5. Issue clear instructions in writing to all officers of the CTID to issue a Receipt of Arrest to a suspect's next of kin on the date of the arrest.**
- 6. Issue clear instructions in writing to all officers of the CTID to refrain from meeting or engaging a suspect's next of kin in a place other than an official place, such as a police station.**
- 7. Re-circulate the IGP's Circular RTM CRTM - 231 dated 14 February 2022 and the Sri Lanka Police Departmental Order No. D5 on the Use of and Providing Information to Newspapers and Radio among officers of the CTID and direct all officers to refrain from supplying prejudicial content about a suspect or investigations to the media.**
- 8. Issue clear instructions in writing to all officers of the CTID to refrain from 'racial profiling' and to conduct investigations on objective factors alone without undue consideration of a suspect's racial or religious background.**
- 9. Issue clear instructions in writing to all officers of the CTID that, where a suspect's 'state of mind' or other psychological factor becomes relevant to an investigation, a report from a trained independent professional in criminal psychology, psychiatry,**



**or similar field, should be obtained prior to proceeding with the investigation. Where any mental health issue is identified, the suspect should immediately be examined by a Judicial Medical Officer (JMO), and if the JMO recommends so, the suspect should be placed in the care of a relevant institution to receive necessary treatment.**

### ***Repeal of the PTA***

The Commission is of the view that Mr. Rusdi's case is emblematic of the oppressive nature of the PTA and the ease in which law enforcement authorities could abuse its provisions.

The PTA remains a serious blight on Sri Lanka's statute book and the time for its repeal cannot be more appropriate. While the PTA is in many ways incompatible with the fundamental rights chapter in the Constitution, the Commission wishes to highlight five features of the PTA that are particularly egregious.

First, the PTA contains vague and open-ended offences, such as the offence found in section 2(1)(h) of the PTA, which makes it an offence to cause 'religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups' through 'words either spoken or intended to be read or by signs or by visible representations'. The said offence can, and has been, used to punish expressions, such as those of Mr. Rusdi and others before him.

Second, the PTA permits long term detention – up to twelve months – without a trial. The Commission notes the scores of cases in which persons accused of offences under the PTA have languished in detention without any substantial progress in framing charges against them.

Third, the PTA dispenses with the requirement to produce a suspect before a Magistrate within a stipulated period of time in total contravention of article 13(2) of the Constitution. Mr. Rusdi's case illustrates the danger in granting such inordinate discretion to law enforcement officials, and the propensity of such officials to use this discretion to arrest and detain suspects first and thereafter attempt to find evidence to justify such arrest and detention. In the context of such abusive practices, producing a suspect before a judicial officer becomes a crucial safeguard to ensure that the suspect is not subject to torture or any other form of ill-treatment, and is guaranteed the right to a fair trial.

Fourth, the PTA denies bail to the accused once an indictment is served in the High Court. The PTA displaces the ordinary trust the law places on trained judicial officers to impartially determine whether a person should be released on bail and the conditions attached to such bail. The Commission observes that disempowering the judiciary of such authority to determine whether an accused person should be granted bail amounts to a serious affront to the independence of the judiciary and the doctrine of separation of powers.

Fifth, the PTA makes confessions to police officers admissible as evidence, thereby incentivising the abuse of suspects in custody.

The Commission is of the view that the PTA should be repealed for the above-mentioned reasons. Additionally, the Commission wishes to present the following recommendations with respect to basic legal standards applicable to any future offence of 'terrorism':

- 1. Reiterating its previous observation, expressed in Press Notice dated 26 October 2022 and its letter to the former President on 12 September 2023, the Commission recommends that the offence of 'terrorism' be dealt with under general law. Any new**



offence with respect to ‘terrorism’ introduced under the general law should contain a specific and narrow definition of ‘terrorism’, such as the following: ‘Any person who by the use of force or violence unlawfully targets the civilian population or a segment of the civilian population with the intent to spread fear among such population or segment thereof in furtherance of a political, ideological, or religious cause commits the offence of terrorism’.

2. It is recommended that any person arrested with respect to the offence of ‘terrorism’ be produced before a judicial officer without delay as envisaged by article 13(2) of the Constitution, which provides that no person is ‘held in custody, detained, or deprived of personal liberty except upon and in terms of the order of [a] judge made in accordance with procedure established by law’.
3. It is recommended that a judicial officer be vested with meaningful authority to grant bail to any suspect taken into custody on suspicion of the offence of ‘terrorism’ or to a person accused of the offence of ‘terrorism’ in terms of the Bail Act, No. 30 of 1997.
4. It is recommended that any person arrested or kept in custody with respect to the offence of ‘terrorism’ be granted prompt access to legal counsel. Persons deprived of liberty ought to be guaranteed prompt and meaningful access to legal counsel without arbitrary or unreasonable conditions being placed on such access.
5. It is recommended that only a confession made by a person (suspected of the offence of ‘terrorism’) before a judicial officer be admissible in a court of law. Confessions or any other statements made before police officers should be inadmissible as evidence in terms of section 25(1) of the Evidence Ordinance, No. 14 of 1895.

The Commission is of the view that any new legal provision under the general law relating to the offence of ‘terrorism’ should comply with the above-mentioned standards through the application of the ordinary law on criminal procedure and evidence.

Separately, however, the Commission notes that Mr. Rusdi’s case raises a serious concern with respect to any new ‘special’ law that may be proposed to replace the PTA. As the foregoing analysis reveals, at present, law enforcement officials have a tendency to act in a manner that is in fact *ultra vires* the provisions of the PTA. In essence, seeking a detention order in the nature of a ‘preventive’ order, whereby the purpose of detention was primarily to evaluate a suspect’s ‘state of mind’ in terms of his capability of committing an offence in the future, falls wholly outside the scope of section 9(1) of the PTA. Similarly, in the absence of any reasonable suspicion that an offence under the PTA has been committed, the restriction order sought under section 11(1) of the PTA to subject a person to monitoring and surveillance also falls outside the scope of the PTA. Therefore, Mr. Rusdi’s case is an example of how law enforcement authorities may venture even beyond the PTA and reveals an institutional demand for *enhancing* police powers under a new special counterterrorism law. While preventive detention and racial profiling in the absence of any reasonable suspicion of an offence are not permitted under the PTA, a new special counterterrorism law could very well legitimise such measures.

Therefore, the Commission wishes to caution the Ministry of Justice and all those involved in the current process to repeal the PTA to be conscious of the dangers inherent in any suggestion to enhance the powers of law enforcement authorities. Such enhancement may pertain to new powers being granted to law enforcement authorities to ‘detect’, ‘monitor’ and potentially ‘rehabilitate’ persons who are not reasonably suspected of any offence, but based on racial profiling, estimated to be ‘radicalised’ or

**prone to 'religious extremism' and capable of offences in the future.** The Commission encourages all those involved in the current process to repeal the PTA to fully appraise themselves of the views of the Supreme Court of Sri Lanka in the case of *Centre for Policy Alternatives & Others v. The Attorney General & Others* SC (F.R.) 91, 106 and 107/2021. In this case, the Court found that the Prevention of Terrorism (De-radicalization from Holding Violent Extremist Religious Ideology) Regulations No. 01 of 2021 issued under the PTA were unlawful and violated the fundamental rights of the people.

We look forward to constructively engaging your Ministry on important legislative reform that impacts human rights in Sri Lanka.



Justice L.T.B. Dehideniya,  
Chairman,  
Human Rights Commission of Sri Lanka

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

Cc: Hon. Attorney-General  
Attorney General's Department,  
Colombo 01200

Inspector General of Police,  
Sri Lanka Police Headquarters,  
Colombo 00100

Mr. Rienzie Arsecularatne, P.C.,  
Chairman, Committee on the Prevention of Terrorism Act