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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Press Notice No: HRC/P/i/E/19/06/25

Press Notice

Repeal of the Prevention of Terrorism Act

The Human Rights Commission of Sri Lanka (HRCSL) wrote to Hon. Harshana Nanayakkara Minister of Justice and National Integration with respect to the repeal of the Prevention of Terrorism Act, No. 48 of 1979 (PTA). It also forwarded its findings and recommendations in Case No. SUO MOTU-08-25, which have a direct bearing on the current process through which the Government of Sri Lanka aims to repeal the PTA.

The Commission pointed out that Case No. SUO MOTU-08-25 concerned the arrest and detention of Mohamad Liyaudeen Mohamed Rusdi by the Counter Terrorism and Investigation Division (CTID) of Sri Lanka Police under the PTA. 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.

The Commission informed the Minister of Justice that, despite the 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 a 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 eventual 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. Notably, the Commission found that the PTA does not permit 'preventive' detention, and any arrest, detention order or restriction order under the PTA should be based on reasonable suspicion of an offence being committed by the person concerned. Moreover, the

Commission found that Mr. Rusdi had been subjected to ‘racial profiling’ by the CTID in violation of his fundamental right to non-discrimination.

The Commission informed the Minister that it found 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. It also conveyed to the Minister its key recommendations to the Director, CTID, including the discontinuation of the restriction order against Mr. Rusdi.

The Commission informed the Minister that it was 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. It highlighted five egregious features of the PTA, i.e., vague and open-ended offences, long-term detention without a trial, the dispensing of the requirement to produce a suspect before a Magistrate within a stipulated period of time, the denial of bail, and the admissibility of confessions made to police officers. It emphasised that the PTA should be repealed for these reasons.

Additionally, the Commission presented 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 stated 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.

The Commission also cautioned against enacting a special counter-terrorism law, and pointed to the fact that Mr. Rusdi’s case raises a serious concern with respect to the tendency of law enforcement officials to act in a manner that is in fact *ultra vires* even the provisions of the PTA. The Commission cautioned the Minister about the possibility that institutional actors may seek to legitimise ‘preventive’ detention orders through a new special counter-terrorism law, whereby the purpose of detention is primarily to evaluate a suspect’s ‘state of mind’ in terms of their capability of committing an offence in the future. The Commission accordingly cautioned against attempts to enhance police powers under a new special counterterrorism law 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 assured the Minister of its willingness to constructively engage the Ministry of Justice on important legislative reform that impacts human rights in Sri Lanka.

Copies of the Commission’s letter to the Minister and its findings and recommendations in Case No. SUO MOTU-08-25 were forwarded to the Hon. Attorney-General, the Inspector General of Police, and Mr. Rienzie Arsecularatne, P.C. the Chairman of the committee of experts appointed by the Minister of Justice to draft a new anti-terrorism Bill.

Nihal Chandrasiri
Media Spokesperson / Director –Research & Monitoring Division
Human Rights Commission of Sri Lanka

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Telephone: 011 2505595
Email: rm.director.hrcsl@gmail.com