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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Hon. Harshana Nanayakkara
Minister of Justice and National Integration
Ministry of Justice and National Integration
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Hon. Minister,

General Observations on the Prevention of Organised Crime Bill

We write to you with reference to the draft Bill titled 'Prevention of Organised Crime' published in the Gazette on 6 October 2026. We have conducted an initial review of the said Bill and wish to share our general observations in terms of our mandate under section 10(c) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996. The said provision empowers the Commission to 'advise and assist the government in formulating legislation...in furtherance of the promotion and protection of fundamental rights'.

At the outset, the Commission wishes to acknowledge that the activities of organised crime groups can have a serious impact on human rights, including the rights of women and children as well as the rights of victims and witnesses of crimes. In this context, the Commission welcomes legislation that seeks to combat organised crime, provided that such legislation fully complies with the fundamental rights chapter of the Sri Lankan Constitution and international human rights treaties to which Sri Lanka is a party.

Having reviewed the contents of the proposed Bill, however, the Commission observes that the Bill is wholly incompatible with the fundamental rights chapter of the Sri Lankan Constitution and international human rights treaties. The Bill introduces a radical new legal regime for issuing detention orders against suspects of 'serious crimes', and makes confessions to police officers admissible as evidence. Based on its initial review of the Bill, the Commission is of the opinion that the Bill is potentially more draconian than the Prevention of Terrorism Act, No. 48 of 1979 (PTA).

The Commission observes that section 47 of the Bill makes confessions to police officers not below the rank of Assistant Superintendent of Police admissible as evidence against a person. The Commission is disturbed to note that this provision virtually replicates section 16 of the PTA. It recalls its previous statements with respect to the use of section 16 of the PTA, and in particular, its observations that the admissibility of confessions to police officers tends to incentivise torture, and cruel, inhuman, and degrading treatment of persons in custody.

As explained below, under the proposed Bill, police officers can obtain detention orders to facilitate the interrogation of suspects in police custody for extended periods of time. The

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Commission is of the view that the admissibility of confessions to police officers alongside such prolonged police detention can be a recipe for torture, and cruel, inhuman and degrading treatment.

Clause 21 of the Bill empowers the Inspector General of Police (IGP), or any officer not below the rank of a Deputy Inspector General of Police authorised by the IGP, to obtain a detention order from the Secretary to the Ministry of Public Security to detain a suspect 'who is connected with or concerned in a serious crime' at a police station for any purpose specified in subsection (4) of the said clause. The said subsection includes the purpose of questioning the suspect in detention. Such a detention order may be issued for an initial period of two months and then be renewed every two months upon an order of the High Court, up to an aggregate period of twelve months.

The Commission is deeply concerned about the inordinate scope of the term 'serious crime', which under clause 3 of the Bill includes: (a) offences specified in the Bill; (b) offences specified in the First Schedule to the Bill; or (c) any offence punishable by a maximum term of imprisonment of four or more years. The First Schedule to the Bill in fact includes a range of potentially non-serious offences, such as those connected to forfeiture or penalty under any section of the Customs Ordinance (Chapter 235), the import of mammals, birds, reptiles, fishes, and invertebrates without permits under the Fauna and Flora Protection Ordinance (Chapter 469), acts prohibited under the Forest Conservation Ordinance (Chapter 451), providing false, misleading, or inaccurate information under the Gambling Regulatory Authority Act, No. 17 of 2025, infringement of copyright, industrial designs, patents, or marks under the Intellectual Property Act, No. 36 of 2003, and obstructing a public servant in the discharge of his public functions under the Penal Code (Chapter 19). Strikingly, the police are effectively empowered under the Bill to seek a detention order against a person for allegedly 'obstructing' a police investigation into *any* offence.

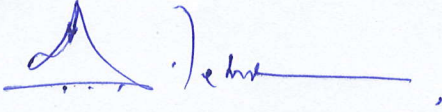
The Commission also notes that clause 4(2) of the proposed Bill includes an extremely broad basis for determining whether any person is or acts as a member of an organised criminal group. This basis includes involvement in physical or virtual meetings with known members of the organised criminal group, the adoption of the style of dress, hand signs, language or tattoos used by known members of the organised criminal group, and even mere association with known members of the organised criminal group. It is observed that the Bill, therefore, casts a wide and unreasonable net over Sri Lankan citizens with respect to determining whether they are members of an organised criminal group.

The Commission recalls that article 13(2) of the Constitution 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* (emphasis added). It is observed that, contrary to article 13(2), the Bill strips the judiciary of its ordinary discretionary powers to determine whether a suspect should be discharged, released on bail, or remanded. For instance, clause 20 of the Bill compels a Magistrate to remand a suspect or give effect to a detention order. The Commission notes that the power to issue a detention order is vested in an administrative official, i.e., the secretary to a ministry, and a magistrate has no option to set aside the detention order even where they are of the opinion that it lacks a basis. In this context, the Commission wishes to reiterate its recommendations made with respect to the Protection of the State from Terrorism Bill that a judicial officer must, *at all times*, be vested with meaningful authority to discharge a suspect or grant bail to any suspect.

In the above context, the Commission is of the considered opinion that the proposed Bill ought to be withdrawn and substantially revised to ensure full compliance with the fundamental rights

chapter of the Sri Lankan Constitution and international human rights treaties to which Sri Lanka is a party. We thank you for your Ministry's cooperation and continued engagement.

Sincerely,



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: H.E. Anura Kumara Dissanayake
President of the Republic of Sri Lanka
Minister of Defence,
Presidential Secretariat
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