Press Notice No: HRC/P/i/E/12/10/26

Press Notice

HRCSL Issues Recommendation on Seizure of Four Books by B. Piratheepan by Sri Lanka Customs

The Human Rights Commission of Sri Lanka (HRCSL) issued its recommendation in Case No: HRC/KIL/031/26 concerning the decision of the Director General, Sri Lanka Customs to seize four books authored by B Piratheepan. The books 'Ippothum Inge Irandu Thesangalthaan', 'Elluttal Nan Yuttam Ceykiren', 'Bayangaravaathi', and 'Cyanide' are Tamil language books printed in Chennai, India, and were imported to Sri Lanka. Sri Lanka Customs seized the books on 27 March 2026 and had informed the Complainant that they would only be released upon obtaining approval from the Ministry of Defence. Following an opinion issued by the Arts Council of Sri Lanka and the State Literary Sub-Panel, two of the books, 'Bayangaravaathi' and 'Cyanide' were released on the basis that the experts on the Council had concluded that these books were works of fiction. Copies of the remaining two books 'Ippothum Inge Irandu Thesangalthaan' (75 copies) and 'Elluttal Nan Yuttam Ceykiren' (147 copies) were not released and remained under detention.

At the conclusion of its inquiry, the Commission noted that none of the Respondents wished to take direct responsibility for the continued seizure of the remaining two books. It observed that the handling of the matter was marked by indecision and opacity at every stage.

Sri Lanka Customs purported to act under section 135, read with section 12 and Schedule B of the Customs Ordinance, which authorises it to prohibit 'Any newspaper, pamphlet, leaflet, book or picture containing matter calculated to lead to acts made punishable under section 120 of the Penal Code'. Relying on the recent judgment of the Supreme Court in *Mohamed Razik Mohamed Ramzy v. Officer-in-Charge, Criminal Investigation Department & Others* SC (F.R) No. 135/2020, the Commission found that intent remains an indispensable element of section 120 of the Penal Code and that this mental element is reinforced in Schedule B to the Customs Ordinance by the inclusion of the term 'calculated'. The Commission accordingly observed that *both* causation and intent, which are necessary features of individual culpability, must be established for a person to face legal consequences in terms of section 120 of the Penal Code. The Commission concluded that the 1st Respondent must be of the reasonable opinion that these elements of individual culpability, causation and intent, are present in a given case to justify the

permanent seizure of any publication. However, the 1st Respondent had not demonstrated that he had reached such an opinion.

The Commission observed that, while the impugned content in the Complainant's two books (e.g. allegations that the Sri Lankan military had attacked civilians, and allegations that the Janatha Vimukthi Peramuna supported violence) may be classified as 'shocking', even 'offensive' to some, or 'disturbing', there is no evidence to suggest that the impugned passages were *calculated* to excite disaffection against the state, promote feelings of ill-will between communities or bring about any other harmful outcome listed in section 120 of the Penal Code. The Commission reiterated that section 120 of the Penal Code concerns expressions that are directly inciteful and have the capacity to influence large portions of the population to act in a harmful manner. It found that the impugned passages in the two books merely contain sentences that make allegations, which may prompt reflection among some readers, and which may be dismissed by other readers. They, in the opinion of the Commission, lack the potency expected of content that was likely to 'excite disaffection' or 'promote ill-will'. It found that the continued seizure of the two books, which acted as a form of prior censorship of its contents, is both unnecessary and disproportionate in terms of meeting the legislative aims found in section 120. The Commission also noted that the contents of these two books were claimed to already be in the public domain and had previously featured in Tamil language newspapers. Therefore, the Respondents had not demonstrated how such content had thus far contributed to disaffection or promoted feelings of ill-will between communities. In this context, the Commission was unconvinced that the limitation in question is reasonable and concluded that the 1st Respondent's continued seizure of the two books 'Ippothum Inge Irandu Thesangalthaan' and 'Elluttal Nan Yuttam Ceykiren' authored by the Complainant violated his right to the freedom of expression including publication guaranteed by article 14(1)(a) of the Constitution.

The Commission separately found that the sequence of events, and the explanations provided by the Respondents, indicated that the language of the Complainant's books, i.e., the Tamil language, was pivotal to their seizure. It observed that several state institutions that encountered these books treated them with prejudice and suspicion, which would not have been afforded to books of another language. Given that the Complainant's two books have remained in detention for a prolonged period, i.e. more than six months, with no formal procedure, the Commission found a violation of article 12(1) of the Constitution. It also found that the actions of the 1st Respondent were discriminatory on the basis of language, and violated his right to non-discrimination on the grounds of language guaranteed by article 12(2) of the Constitution. Commenting on the application of article 14(1)(f) of the Constitution, the Commission found that Tamil-speaking peoples are a linguistic minority in Sri Lanka who enjoy the protection of both article 14(1)(f). The Commission recalled that the marginalization of Tamil-speakers throughout Sri Lanka's post-independence period has been one of the root causes of the country's ethnic conflict. Therefore, state functionaries should be particularly sensitive to the implications of

treating Tamil language publications with prejudice. The Commission recognized that the essence of the freedom to promote one's own culture and to use one's own language is that citizens should have autonomy over the cultural and literary content they wish to produce or consume. The state should not interfere with this freedom except in very limited circumstances governed by article 15 of the Constitution. Accordingly, it found that the 1st Respondent, through the continued seizure of the Complainant's two books 'Ippothum Inge Irandu Thesangalthaan' and 'Elluttal Nan Yuttam Ceykiren', violated his fundamental right to the freedom to enjoy and promote his own culture and to use his own language.

In the circumstances, the Commission recommended that the 1st Respondent forthwith release from detention all copies of the two books titled 'Ippothum Inge Irandu Thesangalthaan' and 'Elluttal Nan Yuttam Ceykiren' authored by the Complainant.

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