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The role played by the Human Rights Commission of Sri Lanka in promoting and protecting the rights of human rights defenders

The Human Rights Commission of Sri Lanka [HRCSL], as an independent State body, was established under the Act No: 21 of 1996 and comes under the purview of the 18th amendment to the Constitution of the democratic Socialist republic of Sri Lanka. The HRCSL is entrusted with the broad task of promotion and protection of the rights of people. The members of the Commission are appointed by the H. E. the President with consultation of a Parliament committee for the term of three years. The Commission is financed by the government while some projects are funded by various donor agencies.

According to Section 10 of the Act, the HRCSL inquires into and investigates complaints regarding procedures, to ensure the compliance with the provisions of the Constitution related to Fundamental Rights¹ and infringement or imminent infringement of fundamental Rights and to provide resolutions by conciliation and mediation². Section 11 confers a wide array of powers to the Commission, including powers to inquire into and investigate complaints regarding infringement or imminent infringements of Fundamental Rights³, visit Police and other all kind of detention centers⁴.

The Commission may, on its own motion or on & complaints made to the Commission by an aggrieved person or group of persons or a person acting on behalf of and aggravated persons or a group of persons, investigate an allegation of a violation of fundamental rights caused by executive and administration action; or as a result of an act which constitutes an offence under the Prevention of terrorism Act No. 48 of 1979⁵. The Supreme Court of Sri Lanka may refer any matter arising in the course of a hearing of an application made to the Court to the Commission for inquiry and to report⁶.

HRCSL advises the Government in bringing national laws and administrative measures in accordance with Fundamental Rights guaranteed by the Constitution⁷ and also international standards and to promote awareness and education in relation to Human Rights⁸. Furthermore the Commission can advise and assist the Government in formulating legislation and administrative directives and procedures for the furtherance of the promotion and protection of fundamental rights⁹ and also could make recommendations to

¹ Section 10 (a)

² Section 10(b)

³ Section 11(a)

⁴ Section 11(b)

⁵ Section 14 (a) & (b)

⁶ Section 12

⁷ Section 10 (d)

⁸ Section 10 (f)

⁹ Section 10 (c)

the Government on the need to ascribe to or accede to treaties that are related to Human Rights¹⁰. The HRCSL has the National Office in Colombo and nine regional offices around the country. Presently HRCSL hold the status of “associate membership” under the ICC.

The Commission, since its establishment promoted the services of human rights defenders [HRDs], facilitated HRDs, their work and organizations, and intervened to ensure protection of them. Further, the Commission conducts its monitoring, advocacy and human rights education programmes with the human rights defenders and their organizations. Recognizing the value of their services, opinion and experiences the HRCSL has formed civil society forums¹¹, at national and regional¹² level, for wider range of consultation and for working together. The regional offices of the Commission conducts regular meeting with the HRDs as well. Strengthening the individuals’ capacities as well as relationship, in collaboration with the Center for Policy Alternative, the Commission studied the implementation of official language policy and made an advocacy to the government¹³.

Widening the service of the HRDs, facilitating to gain social recognition and equipping with the human rights knowledge and skills, the Commission conducted short term and long term training programmes for human rights defenders through its regional offices and projects¹⁴.

The HRCSL, in response to the recommendations made by the ANNI - the Asian NGO’s Network on National Human Rights Institutions - 2011, one member of the Commission has been appointed as the focal point for the human rights defenders. This ensures easy access for the HRDs to the HRCSL. The Commission is vigilant about the security of HRDs and when the Commission came to know that the rights of human rights defenders are violated or imminent infringements of Fundamental Rights, the Commission take appropriate and prompt action as own motion cases¹⁵. The Commission identifies this procedure as fast track system.

Acknowledging the services rendering by the human rights defenders in promotion and protection of human rights in the country, the Commission is of the view that it is one of the

¹⁰ Section 10 (e)

¹¹ The Uva Province committee was given training on human rights to the committee members and presently developing a combine action plan with the human rights organizations for the protection and promotion of human rights.

¹² Some are at Provincial level and some are at district level that based on the availability of the regional offices

¹³ <http://www.colombotelegraph.com/index.php/cpa-welcomes-language-equality-in-information-on-pharmaceuticals/>, accessed on 26th September 2012, 01.50 pm

¹⁴ The Central Regional Office trained 75 young girls and boys as HRDs and created human rights cells. The Jaffna Regional Office also trained Tamil youths as HRDs. The IDP Project of the Commission conducted 7 month training programme and trained over 1700 HRDs since 2004 [<http://www.idpsrilanka.lk/html/SpecialProgrammes/hrdprogramme.php>]

¹⁵ Ex. (1) The HRCSL proceeded on own motion case on the attack on eminent human rights lawyer Mr. J C Weliamuna in 2008 (2) When the Commission came to know in the year 2009 that Dr. Sarawanamuttu, The Executive Director of the Centre for Alternatives [CPA] was under the death threat the Commission directed the Secretary Defence to take immediate protective measures regarding the safety and freedom to the work of Dr. Sarawanamuttu and to conduct investigation. (3) When a human rights defender, Mr. Jayampathy Shantha Nihal Pranando of National Christian Council was arrested and detained under the Police in 2009 the HRCSL made a surprise visit and observed the reasons for detention and the condition of detention, (4) In the year 2010, the HRCSL visited the place of detention of General Fonseka, the Presidential Candidature and recommended to the Secretary Defence to ensure his protection and condition of detention according to the international human rights standards (5) the HRCSL investigated and inquire into the missing of Mr. Lalith Kumar Weeraraju and Kuan Murugansan, in 2011.

responsibilities of the NHRIs to protect HRDs and their organizations and promote the service of human rights defenders. While stating here that the monitoring of violation of human rights includes the protection of human rights defenders, the HRCSL would like to suggest following activities that is already engaged as in good practices in role of NHRIs in protection and promotion of human rights defenders that:-

1. NHRIs would have a focal point for human rights defenders to ensure easy access and constructive communication.
2. NHRIs would have a separate data link of complaints regarding the human rights defenders and could report them separately in the NHRIs Annual Report / country human rights situation report.
3. The NHRIs will take prompt and appropriate action when rights of human rights defenders are violated or imminent infringements of fundamental rights.
4. NHRIs could translate the declaration of human rights defenders into national languages, make available in print media as well as in the NHRIs websites.
5. NHRIs could include the content of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms into their training curricula and NHRIs could promote the value of the services of human rights defenders among the state actors, especially among the members of Police and Armed Forces.
6. NHRIs is could as has been done accommodate human rights defenders in their planning committees, study and advocacy programmes and human rights education programmes.

Secretary,
Human Rights Commission of Sri Lanka