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Human Rights Commission of Sri Lanka

Interim Report of the Committee of
Experts appointed by the Human Rights
Commission of Sri Lanka to investigate the Police
Shooting incident that took place in Rambukkana
on 19th April 2022

28th June 2022

Introduction

1. The Human Rights Commission of Sri Lanka (hereinafter referred to as HRCSL or the Commission) observes that on 19th April 2022, civilians were engaged in a protest in Rambukkana expressing their distress regarding the fuel shortage and the drastic increase of the fuel prices. Subsequently, in the evening of 19th April, a tense situation erupted between the civilians and the police officers which resulted in the death of one civilian, injury to thirteen civilians and fifteen police officers, and damage to property in the vicinity.
2. As the matter under consideration is of grave concern on the safety and the human rights of the people, the HRCSL under its lawful mandate as an oversight body to examine the status of human rights in the country, launched an independent investigation on the matter forthwith.
3. Accordingly, a Committee of experts (hereinafter referred to as COE) was appointed by the Commission to investigate whether the incidents that ensued are in contravention to the constitutionally guaranteed fundamental rights and the international human rights obligations undertaken by Sri Lanka to provide any recommendations to the State to protect and promote the human rights of the people in Sri Lanka.
4. The COE convened at the Human Rights Commission of Sri Lanka on 05th May 2022 and commenced its investigation and inquiry process, taking forward the investigations initiated by the HRCSL officers of the Kandy Regional Office and the HQ.

Objective of the Interim Report

5. The special inquiry was commenced to investigate whether the order to shoot given by the police was justifiable in the said circumstance.

Facts and Observations

On the 19th of April 2022 the facts of the incident are as follows;

6. On 19th April 2022 in the early morning, 200 people living in and around Rabukkana had gathered at the fuel station in the hope of getting fuel for their vehicle. They were aware that the fuel bowser was due to arrive. On arrival of the bowser at the station the people demanded that fuel be released at the early price and not the inflated. This was the reason for the agitation.
7. The gathered crowd continued with their demands, becoming more aggressive. The crowd began throwing stones at the police in retaliation. The video footages of the incident collaborate this fact and also show that the police had thrown stones at the protestors. Meanwhile, more civilians gathered to join this protest. The crowd grew to over 2000 people. By this time the second petrol bowser also had arrived. The police contended that the people

have become more aggressive and the police decided to use tear gas in order to disperse the crowd. At this time the riot police were also present at the location.

8. The police contended that they observed an imminent threat of fire to the two bowsers and the fuel station by the protestors. The police also contended there was eminent threat to the train that was already blocked on the railway line by the protestors. The police observed that use of tear gas did not deter the crowd satisfactorily and therefore as contended by the police officer SSP Keerthiratne had given orders to shoot at the protestors below the knees. However, as the evidence by the following officers had shot not as ordered to shoot below the knees, but arbitrarily decided to shoot to the ground.
9. The names of the police officers who had T56 and who shot to the ground are as follows.
 - i. P.C 69336 H. S. P Jayakody
 - ii. P.C. 29116 Jeevan Lakmal Kapukotuwa
 - iii. P.C. 90427 Janaka Kumara
10. The reason for the order to shoot as contended by the police was due to the imminent danger of setting fire to the 2 bowsers which could have caused massive damage to the people and property at that time.
11. As contained in A19 of Departmental Orders once the officer is ordered to shoot below the knee, if he arbitrarily decides to shoot at a place of his choice, he violates the Police Departmental Orders. Departmental orders A19.

However, the Police officers' evidence on this point is unreliable for the reasons mentioned below.

- i. The police shot at the protestors. These shots had struck not below the knee as seen in the medico-legal reports. This is directly attributed to the lack of training which was apparent throughout the proceedings.
- ii. Additionally, the contention of the police that the shooting was directed on the ground is false as clearly analysed by the ballistic expert and the forensic medical expert who assisted the commission on this inquiry and the report of the Government Analyst.
- iii. Furthermore, in accordance to Police Departmental Orders and training SOP from the STF:
 - a. The Police Officers using lethal weapons during a crowd dispersal **operation must only shoot at a clearly identified target** and should refrain from shooting if the target cannot be clearly ascertained.

- b. Even a well-trained STF officer whose T56 weapons is Zeroed in for their eye specifications, is able **to accurately shoot** below the knee of a person only from an approximate **distance not more than 25M**, especially given the killing range of such weapons is up to 400M.
 - c. Any Police Officer who is following the shooting orders to fire below the knee during crowd dispersal operations, are **not** at any point advised or trained **to shoot at the road** (ground surface) from a T56 weapon, given the lethal nature of such weapon.
12. It is also observed by the committee that although the police have used tear gas to disperse the crowd and the crowd was being gradually dispersed, the police did not continue with this operation until the tear gas was completely exhausted. Therefore, as soon as the tear gas operation stopped the crowd returned back to the protest. Instead of following the due process as contained in the Departmental Order and IG Circulars SSP Keerthiratne took the decision to order shooting below the knee at an undefined large crowd which was clearly a violation and an infringement of the right of the protesters as contained in number 18 and 19 of the police regulations. It is undisputed that the order to shoot was made by SSP Keerthiratne.
13. The police contended that the order to shoot arose, as there was a reasonable apprehension in the mind of SSP Keerthiratne of imminent threat to the safety of the 2 bowser which would cause severe damage to the people and the property. The committee was able to come to a definite and conclusive finding that the contention of the police on this point is unfounded. It was a mere exculpatory and fabricated statement of SSP Keerthiratne when statement of other witnesses on this point are evaluated. This assumption is further established by the facts as revealed in the proceedings that some of the protesters who were standing completely away from the impugned bowser on Madawala road also sustained gunshot injuries. This was revealed in the footages, statement of the police and sketches marked in this proceeding.
14. The COE investigation revealed the following finding
 - i. Four Police Officers who used force at the protest site have been provided with T56 weapons which are lethal in nature, prior to their deployment at the protest site in Rabukkana.
 - ii. One out of the four Police Officers has received his weapon **a day prior to the date of incident** at hand, (18th April 2022) where there was no or very low propensity for violence to erupt during the protests.
 - iii. Out of the four Police Officers who have been summoned for inquiries at the Commission, two of the Police Officers **had very little knowledge on the operation of the lethal weapons** they have thus received to be used as a means of crowd controlling and has also **not received updated and adequate training on the use of such lethal weapons prior to deployment**.
 - iv. Further, one Police Officer stated during the inquiry that he is too old to effectively handle a T56 weapon and is **incompetent of shooting**.

15. In light of all the above, the Committee affirms,

- i. The **provision of lethal weapons** to police officers who does not have the required level of knowledge and training on the use of such lethal weapons.
- ii. **Deploying such officers with lethal weapons to public places**, especially to places where a mass of people congregate is an **eminent threat to right to life** of all the people and amounts to an **arbitrary deprivation of the right to life in its bare minimum of mere existence**.

16. Moreover, the interpretation of the post-mortem findings and medico-legal examination of patients based on analysis of circumstantial evidence, retrospective visit to the scene of incident, perusal of postmortem report performed by Dr. Samantha Wijeratne (Consultant JMO – General Hospital Kegalle), along with perusal of medico-legal reports of clinical examinations performed by Medico-legal teams of Office of the JMO at General Hospital Kegalle and General Hospital Kandy reveals the following.

17. **Interpretation of postmortem findings of Kuruvitage Don Chaminda Lakshan (45y Male)**

- a. Based on the circumstantial evidence, retrospective analysis of scene configuration of the scene of the incident and findings of the postmortem report, it is apparent that the deceased was on the other side of the fuel station behind the wired mesh fence which separates the fuel station and the by-road. It is also apparent that the deceased was shot from the other side of the wired mesh fence from the side of fuel station/main road. Expert medical evidence of the autopsy indicate that the deceased sustained a firearm injury to his abdomen which directs from right to left and downwards. The injuries sustained to the internal organs are attached in the postmortem report. (see post mortem report). At the autopsy a bullet core, distorted bullet jacket and at least two other metallic fragments had been retrieved. The two metallic fragments were later identified by the Government Analyst as lead fragments which are parts of the bullet. (See the report of Government Analyst). These are consistent with a 7.62 x 39mm bullet which is used in a T-56 high velocity rifle bore firearm.
- b. Detachment of the bullet jacket from the core when entered the body are suggestive of the bullet travelling through an intermediate target/object. Retrospective scene analysis with reconstruction indicates that the 7.62x39mm bullet has run through a metal sheet and the two opposite walls of the box bar of the metallic frame of the board which has to be the intermediate target. Examination of the metallic board shows an area of entry and exit where there are shiny traces similar to brass of the bullet jacket present at the entry point of the metallic frame. Therefore, the bullet has entered from the metallic frame as a single entity. The angle of fire of the deceased and the angle of fire of the metallic frame with the board align with each other on reconstruction. The 3 injuries described in the right upper anterior thigh area and elsewhere in the upper and lower limbs could be due to metallic fragments of the box bar of the frame of the board and /or pieces of the distorted bullet jacket/lead particles of the bullet.

- c. The absence of burning, blackening and tattooing on the body and reconstruction of the scene at the retrospective scene visit with the metallic board with the frame indicates that the discharge of the bullet has not occurred at a close range (see attached report of the Government Analyst).

18. Therefore, the Committee reiterates there was no justifiable grounds for the Police Officer to shoot at the deceased for the reasons enumerated below.

- i. He was **shot with a high velocity rifled bore firearm** (T-56 in the given situation).
- ii. The **deceased was unarmed and located behind a wire mesh fence**.
- iii. The weapon had not been discharged within the scorching/blackening/tattooing range.
- iv. The bullet had hit the interposed object (sign board) directly at a downward angle. Hence it was not a shot which had got ricocheted from the ground.
- v. **At the time of shooting there was no threat to the police from the deceased.**

19. Thus, in the above circumstances, the Committee observes, shooting the deceased cannot be legitimately established by the police at the time of him sustaining firearm injuries, as shooting at him by using a T-56 weapon from a distant range across a wire mesh cannot be justified.

20. Summary of the Interpretations of clinical examinations of patients with firearm injuries

- a. Several persons have sustained firearm injuries. At least 5 of them have been found near Madawala road. (Please see sketch provided by the CID) there was no threat for shooting at Madawala road, justification for the police need to justify shooting persons at the location.
- b. Patient named Delanka Pedige Kamal Hemajith Kumara (45y Male – MLEF 752/22) has sustained a firearm injury which had entered from behind and exited from the front (**back to front**). Medico-legal report indicated splenic rupture with bowel perforations. The injury is categorized as fatal in ordinary course of nature, where the patient would have died if prompt and proper medical care is not given. Patient's life was exclusively saved by surgical intervention at General Hospital Kegalle.
- c. There are other patients who have sustained gunshot injuries from **back of the body to the front of the body and sideways**. None of these injuries are directed upwards which indicates that the shots are directed downwards. Analysis of injuries does not indicate that these injuries have not been ricochet by shooting at the road as mentioned by police. This is further confirmed by the findings of the Government Analysts where in it is stated that there are no traces of tar in the processed fragments of the bullets. (Please see Government Analyst report)
- d. Patient named Rajapaksha Arachchige Chaminda Kumara Rajapaksha has sustained a firearm injury to abdomen with bowel perforations which is fatal in ordinary course of

nature. He alleges that he was shot on the abdomen **just as he turned to walk back to his house**. Consultant judicial medical officer who has examined this patient has indicated that it not possible to indicate the accurate direction of fire. However, it is likely that the discharge of the firearm was parallel to the ground if the victim had been in erect position to the ground by the time he was wounded.

Note: The analysis with regard to each person will be followed in the full report.

21. In light of all the above, the Committee affirms,
- i. The police officers have **not followed due process** in resorting to use of firearms as the **last resort** of a crowd dispersal operation.
 - ii. The death of Kuruvitage Don Chaminda Lakshan is a result of **excessive use of force** by the police officers and cannot be legitimately justified by the Police especially in the **absence of any threat by the deceased** to the police officers.
 - iii. The **gunshot injuries sustained by the people** in the vicinity of the protest site, particularly whose shots have been sustained from **back to front**, indicates that the police officers have **used force excessively and longer than it is necessary**.

Legal Provisions in relation to crowd control

22. The Sri Lanka Police Circulars, Criminal Procedure Code and the Police Departmental Order A19, provides guidelines on the procedures to be followed during crowd dispersal operations. Accordingly, the committee aptly refers to the following.

- i. IG Order coded CRTM-282 (Issued on 18th April 2022); If HQ Inspectors and Officers -in-charge observe that a particular group of people who are part of a protest within the territory of his division, is engaged in disruptive activities or any other offence or observe any attempt to commit offences, **they shall advise such persons of the existing legal status, importance of public order and inform them of any cognizable offences they may commit**.
- ii. IG Circular 2595/2016, Section 10; Police Officers should **establish effective communication** to resolve unruly situations **prior to dispersing an unlawful assembly with use of force**. If such communication fails, the **public shall be informed** that the Police will exert force against their behavior and disruptive actions.
- iii. IG Circular 2595/2016, Section 08; use of force in any situation of breach of public peace or order shall be the **last resort** and such force should be executed **with bona fide intention in proportionate** to such situations which warranted the use of force
- iv. IG Circular 2595/2016, Section 07; breach of public peace and unlawful assembly shall be retaliated only **when all efforts to prevent** such unlawful assembly being organized have **proven to be futile**.

- v. IG Circular 2595/2016, Section 03; Police Officers in safeguarding law and order must ensure **not to do any actions that violates the fundamental rights of the people** intentionally or in any other way.
 - vi. Section 95(3) of Criminal Procedure Code: All Commission and non-commissioned officers to **use as little force and do as little injury to person and property and be consistent** with the dispersing the assembly and **arresting and detaining such persons**.
 - vii. Police Departmental Order A19, B(4)(a): Police Officer is entitled to open fire on a mob **only after considering** whether immediate action is necessary **or whether mere presence of the armed party will not be sufficient** to cause the mob to desist.
23. Taking into consideration the aforementioned observations by the committee, it forwards its report to the HRCSL for necessary recommendation.
- I. Immediately hold a disciplinary inquiry against SSP K.B Keerthirathne, who ordered the police officers to shoot
 - II. Take all preventive measures enumerated in this report to prevent any such incidents occurring in the future
 - III. Issue strict guidelines and directives to Sri Lanka Police as mentioned below;
 - i. **Abstain from providing** police officers who are **inadequately trained** on the use of lethal weapons, with lethal weapons such as T56 firearms.
 - ii. **Abstain from deploying police officers who lacks the required skills on using lethal weapons during a crowd dispersal operation**, to disperse mass congregations of people engaged in protests.
 - iii. Frequently **provide the necessary up to date trainings** on the use of lethal weapons to Sri Lanka Police officers, as per the fundamental rights and the international human rights obligations undertaken by Sri Lanka.
 - iv. Abstain from **using excessive force** on persons exercising their constitutionally guaranteed right to peaceful protest and ensure the police officers **uphold basic principles of respecting and protecting human rights**, in their indispensable efforts to uphold rule of law.
24. The COE forwards its report to the commission to direct **the Attorney General to use the findings of the interim report of the expert committee** when directing the police for investigations against SSP K.B Keerthirathna and all the police officers who are responsible for the shooting at the protestors on 19th April 2022.
25. The following members of the multi-disciplinary expert committee appointed by the Commission, authorizes under their signature, the observations and recommendations enumerated in this interim report submitted on 28th June 2022.

Authorization of the Committee of Experts.

26. The following members of the appointed by the Commission, authorizes under their signature, the observations enumerated in this interim report submitted on 28th June 2022.

27. The Committee notes a full report with detailed observations, analysis and recommendations will be submitted to the Commission within the duration of three months.



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Rtd. High Court Judge K.H Sumithrapala



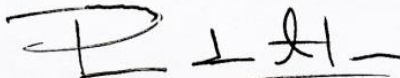
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Rtd. High Court Judge Sudath Gopallawa



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Dr. Channa Perera
Senior Consultant - JMO



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Mr. W.D.G.S Gunatilleke
Former Government Analyst
Forensic Investigator – Firearm,
explosion and motor accident



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Mr. Prasantha Lal de Alwis, PC
Attorney-at-Law



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Mr. Amal A. Randeniya
Attorney-at-Law

Thus, the **Human Rights Commission of Sri Lanka** recommends to the IGP to;

1. Immediately hold a disciplinary inquiry against SSP K.B Keerthirathne, who ordered the police officers to shoot
2. Take all preventive measures enumerated in this report to prevent any such incidents occurring in the future
3. Issue strict guidelines and directives to Sri Lanka Police as mentioned below;
 - i. **Abstain from providing** police officers who are **inadequately trained** on the use of lethal weapons, with lethal weapons such as T56 firearms.
 - ii. **Abstain from deploying police officers** who **lacks the required skills on using lethal weapons during a crowd dispersal operation**, to disperse mass congregations of people engaged in protests.
 - iii. Frequently **provide the necessary up to date trainings** on the use of lethal weapons to Sri Lanka Police officers, as per the fundamental rights and the international human rights obligations undertaken by Sri Lanka.
 - iv. Abstain from **using excessive force** on persons exercising their constitutionally guaranteed right to peaceful protest and ensure the police officers **uphold basic principles of respecting and protecting human rights**, in their indispensable efforts to uphold rule of law.
4. The Commission also **requests the Attorney General to use the findings of the interim report of the expert committee** when directing the police for investigations against SSP K.B Keerthirathna and all the police officers who are responsible for the shooting at the protestors on 19th April 2022.

Justice (Rtd) Rohini Marasinghe
Chairperson
Human Right Commission of Sri Lanka.

Justice Rohini Marasinghe
Judge of the Supreme Court (Retired)
Chairperson
Human Rights Commission of Sri Lanka