



ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව  
இலங்கை மனித உரிமைகள் ஆணைக்குழு  
Human Rights Commission of Sri Lanka

මාධ්‍ය නිවේදන අංක: HRC/P/i/S/19/04/23

## මාධ්‍ය නිවේදනය

2022 අප්‍රේල් මස 19 වන දින කෑගල්ල දිස්ත්‍රික්කයේ රඹුක්කනදී සිදුවූ මහජන උද්ඝෝෂණයක් අතරතුර පොලිසිය විසින් සිදුකරන ලද වෙඩි තැබීමකදී පුද්ගලයෙකු මරණයට පත්විය. ඒ සම්බන්ධයෙන් ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව විසින් සිදුකරනු ලැබූ පරීක්ෂණයේ අවසන් නිර්දේශය 2023 අප්‍රේල් මස 18 වන දින පොලිස්පතිවරයා වෙත යොමු කරන ලදී.

මෙකී පරීක්ෂණය බහු විධ ප්‍රවේශයකින් යුත් විශේෂඥයින් කණ්ඩායමකගේ දායකත්වය ලබාගනිමින් සිදුකරන ලදී.

මාධ්‍ය ප්‍රකාශක

ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව

2023.04.19



ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව  
இலங்கை மனித உரிமைகள் ஆணைக்குழு  
Human Rights Commission of Sri Lanka

**FINAL REPORT OF THE COMMITTEE OF  
EXPERTS APPOINTED BY THE HUMAN  
RIGHTS COMMISSION OF SRI LANKA  
TO INVESTIGATE THE INCIDENTS THAT  
TOOK PLACE IN RAMBUKKANA ON  
19TH APRIL 2022**

**Published on  
18<sup>th</sup> APRIL 2023**

## Table of Contents

CHAPTER 1: INTRODUCTION .....	2
A. BACKGROUND .....	2
B. METHOD OF WORK .....	3
CHAPTER 2: FACTUAL ANALYSIS .....	5
A. CROWD DISPERSAL OPERATION .....	5
B. DEATH OF KURUWITAGE CHAMINDA LAKSHAN .....	7
C. INJURY OF PERSONS IN AND AROUND THE VICINITY OF THE PROTEST .....	9
D. ARREST OF KAVEESHA GUNATHILAKE .....	11
CHAPTER 3: LEGAL ANALYSIS .....	12
A. RIGHT TO PROTEST .....	12
B. CROWD DISPERSAL OPERATION: ORDER TO SHOOT .....	12
C. USE OF FORCE BY LAW ENFORCEMENT OFFICIALS .....	13
D. ARREST OF PM KAVEESHA NAVIN GUNATHILAKE .....	14
CHAPTER 4: SPECIAL OBSERVATIONS .....	16
CHAPTER 6: RECOMMENDATIONS .....	17

## CHAPTER 1: INTRODUCTION

### A. BACKGROUND

1. The Human Rights Commission of Sri Lanka (hereinafter referred to as the HRCSL or Commission) presents this report in furtherance to its *'Interim Report of the Committee of Experts appointed by the HRCSL to investigate the incidents that took place in Rambukkana on 19<sup>th</sup> April 2022'* published on 28<sup>th</sup> June 2022. Accordingly, it presents detailed findings on the chain of events, human rights violations and recommendations thereof pertaining to the incidents that took place on the 19<sup>th</sup> April 2022 in Rambukkana, Sri Lanka.
2. On 19<sup>th</sup> April 2022, the HRCSL observed a tense situation between the civilians and law enforcement officers during a civilian protest in the vicinity of the Rambukkana Cooperative Fuel Station (hereinafter referred to as the scene of crime) to express the people's distress on the prolonged fuel shortages and inflated fuel prices. The tense situation thus erupted resulted in the death of one civilian, injury to eighteen civilians and twenty police officers and damage to property in the vicinity.
3. 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. In addition, by letter dated 20<sup>th</sup> April 2022, the Minister of Public Security also requested the HRCSL to conduct an independent inquiry regarding the incident.
4. Accordingly, building upon the investigations commenced by the HRCSL Officers of the Kandy Regional Office on 19<sup>th</sup> April 2022, the Director of Investigations and Inquiries, Director of Education and Special Programmes, and legal officers from the HRCSL Head Quarters visited the scene of crime on 20<sup>th</sup> April 2022. The investigation process included information and evidence gathering from victims who sustained injuries and witnesses in the vicinity of the scene of crime.
5. Pursuant to the investigation process, on 27<sup>th</sup> April 2022, the Commission summoned IGP C.D Wickramaratne to give evidence before the Commission regarding the incidents that took place and the instruction given by him to the police officers under his lawful command.
6. Consequently, the Commission identifying the multidisciplinary expertise required to accurately ascertain the truth regarding the chain of events and the human rights implications thereof, appointed a special Committee of experts (hereinafter referred to as COE) 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 and provide any recommendations to the State to protect and promote human rights of the people in Sri Lanka. The COE comprised of Justice (Rtd) K.H Sumithrapala, Justice (Rtd) Sudath Gopallawa, Dr Channa Perea (Consultant IDH), Mr WDGs Gunathilake (Former Government Analyst), Mr Prasantha Lal de Alwis, PC and Mr Amal Randeniya (AAL).

## B. METHOD OF WORK

7. The COE in line with the mandate vested upon them, convened at the HRCSL on 5<sup>th</sup> May 2022 to commence its investigation and inquiry process, taking forward the investigations initiated by the HRCSL officers of the Kandy Regional Office and HQ.
8. The COE having understood the mandate, initially perused the investigation reports prepared by the officers of the HRCSL, documentary evidence and video footage available with the Commission. Consequently, a decision was made by the COE to summon before the commission the relevant police officers and also to make a retrospective scene visit to accurately ascertain the truth of the incidents.
9. Accordingly, the law enforcement officers enumerated below were summoned to the HRCSL HQ on the respective dates, to give evidence before the Chairperson and the COE.

10 <sup>th</sup> May 2022	<ol style="list-style-type: none"><li>1. DIG Thilakarathne, CID</li><li>2. SSP Kavinga, CID</li></ol>
12 <sup>th</sup> May 2022	<ol style="list-style-type: none"><li>1. IP MGNP Malandeniya, Scene of Crime Officer, Kegalle Police Station</li><li>2. CI HLS Gunasekara, CID</li></ol>
19 <sup>th</sup> May 2022	<ol style="list-style-type: none"><li>1. SSP KB Keerthirathne</li><li>2. PC 69336 Horanakarayalage Sandaruwan Gunarathne Jayakodi</li><li>3. PC 29116 Jeevan Lakmal Kapukotuwa</li><li>4. PC 90427 Roman Janaka Kumara</li></ol>
03 <sup>rd</sup> June 2022	<ol style="list-style-type: none"><li>1. ASP DWC Darmarathna</li><li>2. CI Sumanasekara</li></ol>
07 <sup>th</sup> June 2022	<ol style="list-style-type: none"><li>1. CI LMN Wijesinghe</li><li>2. PC 42442 Nishantha</li></ol>

10. On 25<sup>th</sup> May the COE made a retrospective scene visit to the scene of crime in Rambukkana along with IP Malandeniya (Scene of Crime Officer) and his team, CI Thilakarathna (CCD, Homicide Section) and his team, OIC Anurapaksha, Yatiyanthota Police Station, Dr Sampath Wijerathna (Judicial Medical Officer), Mr Ajith (Government Analyst) and Mr Madawala (Government Analyst).
11. Moreover, on 07<sup>th</sup> June 2022, the Commission summoned the representatives from the Training Divisions of SL Army, SL Police and Special Task Force to present before the COE the nature and standard of weapon training given to the law enforcement officers in Sri Lanka.

12. Upon concluding the investigation and inquiry process, the COE collectively analyzed the findings of the inquiries, retrospective scene visit, judicial medical reports, government analyst reports, digital recordings and all other available evidence.
13. Thus, the COE having presented its Interim Report in June 2022, proceeds to present its detailed findings and recommendations to the Commission through its final report, for the Commission to forward it to the relevant authorities for their reference and action.

## CHAPTER 2: FACTUAL ANALYSIS

### A. CROWD DISPERSAL OPERATION

#### **Evidence based on the statements made by the victims and witnesses**

14. The COE gathered the following information on the chain of events that took place on the 19<sup>th</sup> April 2022, including the crowd dispersal operation, based on the statements given by the victims who sustained injuries at the protest vicinity, witnesses of the incident and video footage available to the Commission.
15. Accordingly, the people living in and around Rambukkana have waited for three consecutive days in the fuel queue of the Rambukkana Cooperative Fuel Station, expecting the arrival of a fuel bowser. By the early hours of 19<sup>th</sup> April the number of people who have gathered in the vicinity to obtain fuel have increased upto around 200.
16. However, contrary to the expectations of the people, as the fuel bowsers did not arrive, the number of people gathering at the vicinity had significantly escalated warranting the intervention of the police officers. The police officers at the site have then made arrangements for the arrival of two fuel bowsers. Later, upon arrival of a fuel bowser the people have been informed that the fuel will be sold at a significantly higher price based on the revision made on the previous night. Displeased about the price hike, the people had stationed the fuel bowser across the railway track and also disrupted the free movement of vehicles on the road.
17. Towards the afternoon hours, the second fuel bowser had also arrived at the fuel station and the number of people assembling at the vicinity has gradually increased. With the mounting displeasure of the people and the increase of the police presence, the people have set fire to tyres in the middle of the road.
18. The police with the intention of dispersing the crowd have used tear gas on the people and in retaliation the people have started throwing stones at the police officers. As evidenced by the video footages and also stated by the witnesses, the police officers too have thrown stones at the people in return. As testified by one of the witnesses who was present in the fuel queue for three consecutive days prior to the incident, the people have got agitated and threw stones only after the police started to fire tear gas.
19. Observing the continuous hurling of stones, the law enforcement officers have then proceeded to shoot the unarmed protestors with live ammunition fire arms to disperse the civilians in the vicinity. It was revealed during investigations that mere by standers and passersby have also sustained injuries as a result of the shooting by the police officers.
20. The HRCSL officers who visited the crime scene on the following day, observed the burnt tyres on the road, and stones scattered all over the road and fuel station. Damage to the office of the fuel station was also observed.

#### **Evidence based on the statements made by the law enforcement officers**

21. The COE enumerates the contentions of the law enforcement officials regarding the chain of events that took place in dispersing the crowd, based on the statements given by the police officers who were summoned before the commission as follows.
22. The people in and around Rambukkana were protesting from the early hours of 19<sup>th</sup> April 2022 near the Cooperative Fuel Station. As similar incidents took place in different locations of the country and the police officers were able to make arrangements to request for the delivery of fuel bowsers, the Police Officers in the Kegalle Police station too made arrangements for the arrival of two fuel bowsers. Consequently, two fuel bowsers arrived at the Cooperative Fuel Station Rambukkana, one around 9.30AM in the morning and the other around 12.30 PM. Although the fuel bowsers arrived, the people were against the fuel being sold at the new price which was inflated the previous day at midnight.
23. Later, the number of people assembling at the vicinity gradually increased. Although several attempts were made by the police officers to negotiate, disperse the crowd and resume refuelling, all attempts to arrive at a satisfactory negotiation failed. Consequently, the people began to behave in a disorderly manner.
24. Observing the people becoming increasingly aggressive, a decision was made to fire tear gas at the people and disperse them from the vicinity. The police contended they observed an increased risk of violence at the protest site as there were people who were under the consumption of alcohol. It was contended that they observed an imminent threat of fire to the two fuel bowsers, the fuel station and the train that was already blocked on the railway line by the protestors. Therefore, as the tear gas also did not deter the crowd satisfactorily, the police officer SSP Keerthirathne has ordered to shoot the protestors below the knees.
25. The contention of SSP Keerthirathne was that the order to shoot arose as there was a reasonable apprehension in his mind of an imminent threat to the safety of the two fuel bowser which would cause severe damage to the people and the property.
26. However, it was evident the law enforcement officers present at the location were all stationed behind the fuel bower fully exposing the fuel bowser. The contention of the police on their placement was that they abstained from moving forward due to the fear of being hit by stones and some of the police officers being already injured.

#### **Findings of COE based on the analysis of the available evidence**

27. The COE at this juncture notes, that an adequate number of law enforcement officers present at the scene, were equipped with helmets, protective shields, batons and tear gas guns. Therefore,



the failure to surround and protect the fuel bowser due to the fear of being hit by stones by civilians cannot be accepted as a justifiable defence. Further, they also did not take any other necessary action to surround the fuel bowser and prevent people from approaching the fuel bowser even before the people started throwing stones.

28. Thus, the contention that there was a threat to the safety of the two fuel bowsers and the only means of protecting the fuel bowser and dispersing the people from the vicinity was by firing live ammunition at the unarmed people cannot be justified nor accepted.
29. Accordingly, perusal of all the available evidence the COE was able to come to a definite and conclusive finding that the contention of the police on the cause for the order to shoot is unfounded. It was a mere exculpatory and fabricated statement of SSP Keerthiratne when statement of other witnesses on this point are evaluated.
30. Furthermore, the documentary evidence before the COE revealed, 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. The operation has been ceased when there were 19 tear gas bullets and 28 more tear gas bombs available with the police officers at the time.
31. However, as soon as the tear gas operation stopped the crowd returned back to the protest. At that time instead of following the due process as contained in the Departmental order and IG Circulars (elaborated in the next chapter) SSP Keerthiratne has taken the decision to order shooting below the knee at an undefined large crowd.
32. Thus, the COE concludes that the police officers have not followed due process in resorting to use of firearms as the last resort of a crowd dispersal operation.

#### B. DEATH OF KURUWITAGE CHAMINDA LAKSHAN

33. The COE based on documentary evidence and statements gathered that four police officers were equipped with T56 weapons during the crowd control operation. Out of which the following three police officers contended that they only shot at the ground and not the people, when the order to shoot was given to them by SSP Keerthirathne.
  - a. PC 69336 HSP Jayakody
  - b. PC 29116 Jeevan Lakmal Kapukotuwa
  - c. PC 90427 Janaka Kumara
34. However, upon a thorough analysis made by the ballistic expert and the forensic medical expert of the Committee, it is conclusively proven that the contention of the police that the shooting was directed only towards the ground is blatantly false.

35. Furthermore, the COE directs its attention to the CCTV footage bearing the date 2022-4-18 which clearly evidentiates a police officer single handedly shooting Kuruwitage Chaminda Lakshan from a distance of around 25M.
36. Accordingly, the COE spotlights on the CCTV evidence screened at the following time frames.
- a. CH9 – 2022-04-18-160000-2022-04-18-170000-ID04135 at 04 hours 53 minutes and 41 seconds clearly displays a police officer single handedly shooting the unarmed deceased who was throwing stones from a distance. There footage displays no evidence of the police officer attempting to accurately identify the legally prescribed target area which is below the knees)
  - b. CH8 – 2022-04-18-160000-2022-04-18-170000-ID04134 at 04 hours 53 minutes and 41 seconds displays the deceased falling on to the ground upon sustaining injuries, at a time he was not posing any threat to the police officers or the surrounding property.
37. Thus, the COE unquestionably concludes that Kuruwitage Chaminda Lakshan succumbed to death as a result of disproportionate use of force by a police officer who irresponsibly fired live ammunition at a civilian without clearly identifying the target.
38. The above position is further substantiated with the following 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.
- 39. 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 indicated 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 bullet of a 7.62 x 39mm cartridge which is used in a T-56 high velocity rifled 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).

#### **Findings of COE based on the analysis of the available evidence**

- 40. The COE conclusively reveal that Kuruwitage Chaminda Lakshan succumbed to death as a result of disproportionate use of force by a police officer who irresponsibly fired live ammunition at a civilian without clearly identifying the target.
- 41. Excessive use of force by the police officer cannot be legitimately justified by the Police as;
  - 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.

#### **C. INJURY OF PERSONS IN AND AROUND THE VICINITY OF THE PROTEST**

- 42. The COE inquired into the positioning of the victims at the time of sustaining gunshot injuries at the hand of the law enforcement officers. Accordingly, the COE observes that none of the victims who sustained injuries were persons who were engaged in any violent act at the protest site. As corroborated by medical evidence, some victims have been merely bystanders or persons running away from the protest site whereas some were persons who were on Madawala road which is away from the two fuel bowsers and the fuel station.
- 43. Accordingly, the instances at which some of the victims sustained injuries on 19<sup>th</sup> April 2022 are as follows.

- a) Delanka Pedige Kamal Hemajith Kumara, a person who has been in the fuel queue when tensions arose between the civilians and the law enforcement officers, upon witnessing the police officers damaging the motorbikes and the three-wheelers parked in the fuel queue, has decided to move his motorbike to the hospital junction. Consequently, when he was pushing his motorbike to the hospital junction, he has sustained gunshot injuries below his waist by police officers from a distance of about 250 – 300m.
  - b) Ashen Chamikara Samaranayake, a person who has come to Rambukkana town to pick his brother from classes around 3.00PM, has been shot in the left leg and right hand when he was running away from the tear gas.
  - c) Buddhika Lakshan Edirisinghe, a person who was in the fuel queue to refuel his motorbike has sustained gunshot injuries in his left leg. He also been assaulted by the police officers with the use of batons.
44. Moreover, the excessive use of force by the law enforcement officers during the incident, including on people not connected to the incident is further substantiated by the COE with the medical evidence. Accordingly, the summary of the interpretation of clinical examinations of patients with firearm injuries are as follows.

45. **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.

#### **Findings of COE based on the analysis of the available evidence**

46. The COE concludes all the aforementioned persons have been injured as a result of the shooting or beating by the police.
47. Taking into consideration the location and the role of the victims who sustained injuries, no legitimate nexus can be established between the victims and their potential to set fire to the fuel bowsers and the fuel station.
48. The victims have been shot by the police officers without accurately and responsibly analysing the situation and the people who were capable of actually causing damage to the fuel bowser. Instead gun shots have been fired at people who were running away.
49. The police officers have aimlessly shot at the people and failed to target the shooting within the legally prescribed target area, which is below the knee of a person.
50. Thus, the COE reiterates that gunshot injuries sustained by the people in the vicinity of the protest site, particularly whose shots have been sustained from back to front, is indisputable evidence that the law enforcement officers have used force excessively and longer than it is necessary.

#### **D. ARREST OF KAVEESHA GUNATHILAKE**

51. The COE gathered the following information regarding the arbitrary arrest of Kaveesha Gunathilake.
52. Accordingly, PM Kaveesha Navin Gunathilake has left home on or about 4.00 PM accompanied by his brother to attend classes. At the time police officers have been firing tear gas at the people. While they were moving away from Madawala Road which is about 300 meters away from the railway track in which the fuel bowsers were stationed, his brother has been shot by the police officers on his right leg.
53. Consequently, he has been assisting his brother and standing beside him until he was taken to hospital. After his brother was taken to the hospital in an ambulance, he has been arrested by the police officers. As corroborated by video evidence, he has been assaulted in an inhuman manner by the police officers at the time of putting him into the police vehicle.
54. The police have arrested him on the grounds of behaving in a disorderly manner whilst being a part of an unlawful assembly.
55. The COE directs its special attention to the fact that only he has been arrested in connection to the incident out of the large crowd present at the protest.

## CHAPTER 3: LEGAL ANALYSIS

### A. RIGHT TO PROTEST

56. The right to protest enshrined in Article 14 of the constitution encapsulates key fundamental rights of the citizens of Sri Lanka namely the freedom of speech and expression, the freedom of peaceful assembly and the freedom of association. Accordingly, the people can exercise their right to protest even as far as supporting or criticizing the Government and political parties, policies and programmes as it is essential to maintain the democratic fabric of governance in the country.
57. However, an essential prerequisite for the right to protest to be promoted and protected is ensuring non disruption of public order or peace during the course of the peaceful protest. Any activity which disrupts the daily activities of the public or causes any inconvenience to the public who are not part of the protest, negates the peaceful nature of the protest and is out of the legitimate parameters of the right to protest.
58. In this instance, it is observed the blockade of the free movement along the main road and railway track and burning of tyres eliminates the peaceful nature of the protest. In such instances, the law enforcement authorities are permitted by law to launch a crowd dispersal operation to maintain public order and peace. However such operation must strictly follow the procedures enumerated in the law and resort to mechanisms which are only necessary and proportionate to achieve the intended objective.

### B. CROWD DISPERSAL OPERATION: ORDER TO SHOOT

59. According to the domestic legislation applicable, law on dispersal of an unlawful assembly includes the Sri Lanka Police Circulars, Criminal Procedure Code and the Police Departmental Order A19, which provides guidelines on the procedures to be followed during crowd dispersal operations. Accordingly, the COE aptly refers to the following.
- i. IG Order coded CRTM-282 (Issued on 18<sup>th</sup> 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.
60. In this instance it can be observed the police officers have attempted several times to arrive at a mutual consensus in dispersing the crowd. However, prior to using tear gas to disperse the crowds there are **no evidence to support that the effective communication on the use of force was established.**
61. Further, as detailed in the previous chapter **the order to fire live ammunition has been given by SSP Keerthirathne prior to exhausting the tear gas operation.** Had the police officers continued the tear gas operation fully, the people could have been effectively dispersed without any threat to the fuel bowsers or the fuel station, as it was proven that the people did start to withdraw from the protest site when the tear gas operation was launched.
62. Thus it can be affirmatively concluded that **the order to shoot not only bypassed the procedure enumerated in law but also is an order stemming from a blatantly miscalculated judgement.** The failure of the officer to accurately analyse the situation and the orders given on such wrongful analysis is a violation of the law pertaining to crowd dispersal operations.

### C. USE OF FORCE BY LAW ENFORCEMENT OFFICIALS

63. Police Departmental Order No. A19 states in the event an officer is ordered to shoot below the knee such officer must only shoot if he is able clearly shoot below the knee. Accordingly, **an arbitrary decision to shoot at a place of his choice is a violation of the Police Departmental Orders.**
64. This position is further substantiated in the training SOP submitted by the STF to the Commission which states, 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.**

65. Furthermore, the officers from the STF who were present before the Commission to explain to the COE the nature and standard of weapon training in the tri-forces and the police stated, 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. This was mainly attributed to the killing range of such weapons being up to 400M.
66. They further stated no police officer who is following the shooting orders to fire below the knee during crowd dispersal operations, are at any point advised or trained to shoot at the road (ground surface) from a T56 weapon, given the lethal nature of such weapon.
67. In light of the above, the COE concludes that, the police officers act of aimlessly **shooting the deceased prior to accurately ascertaining the lawfully prescribed target area is a violation of the police departmental orders** and a violation of constitutionally guaranteed right to protest.
68. Furthermore, the COE observes, although the contention made by the three police officers equipped with T56 weapons stating they shot at the ground, was disputed by the medical and ballistic evidence (mentioned in the previous chapter), **the act of shooting to the ground by a T56 weapon in its self is a clear violation of the police departmental orders** and accepted practices of weapon handling.

#### D. ARREST OF PM KAVEESHA NAVIN GUNATHILAKE

69. Article 13 of the Constitution of Sri Lanka guarantees the freedom from arbitrary arrest, detention and punishment and prohibition of retroactive penal legislation. Accordingly, no person shall be arrested except according to procedures established by law.
70. As detailed in the previous chapter, PM Kaveesha Navin Gunathilake has been arrested by the police on 19<sup>th</sup> April 2022 on the ground of behaving in a disorderly manner whilst being a part of an unlawful assembly.
71. This was a protest where over 200 people were present. The reason for dispersal of the protestors were the imminent danger of the fuel bowser being set on fire and in extension the damage to other people and property. Out of all the people, only Kaveesha has been arrested, who was nowhere closer to the fuel bowser nor has been part of the protest.
72. It is clear that the police officers at the protest has not adequately studied the situation nor have been observant enough to identify the people who were most likely to cause damage or was even actively involved in the protest. Furthermore, the arresting officers have failed to analyse the individual behaviour of Kaveesha prior to arresting him as it was very clear he only remained at the site to assist his brother who was injured and taken to hospital.



73. Adding on to the miscalculated judgement of arresting the victim, the conduct of the police officers at the time of arresting him is also in violation of his rights for he has been assaulted in an inhuman manner when he was put into the police vehicle. Thus, it can be concluded that the **arrest of PM Kaveesha Gunathilake is an outright violation of his right to be free from arbitrary arrest and no legitimate justification can be given for the conduct of the police officers in the manner of arresting him.**

## CHAPTER 4: SPECIAL OBSERVATIONS

74. The COE observes that four of the police officers who were equipped with T56 weapons during the crowd control operation was given the T56 weapons which are lethal in nature prior to their deployment at the protest site in Rambukkana. As revealed by one of the police officers he has received his weapon a day prior to the date of incident (e.i 18<sup>th</sup> April 2022) when there was no or very low propensity for violence to erupt during the protests in Rambukkana.
75. The COE further observes, two out of the four aforementioned police officers had very little knowledge on the operation of the lethal weapon that was given to them to be used during the crowd control operation. Upon inquiry it was also evidenced that they have not been provided with updated and adequate training on the use of such lethal weapon by the relevant authorities prior to their deployment for the crowd control operation.
76. It was also revealed that one of the police officers was of the opinion that he was too old to effectively handle a T56 weapon and is incompetent of shooting despite him being deployed to a crowd control operation with a lethal weapon.
77. The COE thus makes the following special observations, taking into consideration the threat and danger to human life of providing lethal weapons to law enforcement officers who have not been sufficiently trained to use a lethal weapon, especially prior to and during crowd controlling operations.
78. Accordingly, the COE observes;
  - 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  
and
  - 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.**

## CHAPTER 6: RECOMMENDATIONS

79. In extension to the recommendations made by the Commission through its interim report and in light of all the above, the HRCSL further recommends the following to render justice to the grave injustices caused;
- I. **To the IGP**
    - a. Use the evidence and special findings of this report, in particular the CCTV footage to conduct an inquiry and ascertain the exact police officer responsible in shooting Chaminda Lakshan.
    - b. Forward such finding regarding the responsible police officers to the Attorney General for his reference and necessary action.
  - II. **To the Department of Police**
    - a. Pay adequate compensation to the victims who have suffered injuries as a result of the excessive use of force by police officers.
    - b. Pay adequate compensation to the wife and two children of the deceased who was the sole breadwinner of the family.
80. Pursuant to the Commission's follow up mechanism, to inquire into the status of the recommendations made by the HRCSL to the IGP through its interim report submitted in June 2022, the Commission requests the following from the IGP;
- I. **Update the HRCSL** on the progress of the disciplinary inquiry held against SSP K B Keerthirathna who gave an illegal order to shoot.
  - II. Update the HRCSL on measures taken by SL Police to abstain from deploying police officers who lack the adequate knowledge and training on the use of lethal weapons to crowd control operations with lethal weapons
  - III. Update the HRCSL on steps taken to provide the necessary up to date weapon trainings to police officers
81. The Commission also recommends law enforcement officers to follow the below mentioned guidelines during crowd control operations to ensure the right to protest of the people are not unduly curtailed by the law enforcement officers in future.
- I. **On use of force**
    - a. The order to use force must be given solely on an **exceptional basis**, only after clearly announcing the intention to use force and allowing sufficient time for the participants to exit the area.
    - b. A minimum of three warnings should be given on the use of force to the people, prior to ordering the use of force.
    - c. Upon delivering such order to use force, the abiding officers must use force only to the minimum extent necessary, following the principles of restraint, proportionality, minimization of the damage, and preserving life.
    - d. Law enforcement must not physically pursue protesters fleeing the protest site.
    - e. Once the need for any use of force has passed, such as when a violent individual is safely apprehended, no other resort to force is permissible. Law enforcement

officials may not use greater force than is proportionate to the legitimate objective of either dispersing a protest, preventing a crime, or effecting an arrest. Once the legitimate objective is realized, law enforcement officials must end the use of force immediately.

- f. All use of force by law enforcement officials must be documented promptly in a transparent report. Where an injury occurs, the report should contain sufficient information to establish whether the use of force was necessary and proportionate by setting down details of the incident, including the reasons for the use of force.
- g. Where injuries or deaths result from using force, an independent, open, prompt, and effective investigation must be undertaken, by a panel of individuals appointed for such purpose and who possess integrity and competence. Those officers responsible should be sanctioned appropriately, and victims should be informed about possible remedies.
- h. Obedience to superior orders is not a defence if law enforcement officials knew that an order to use firearms resulting in a person's death or severe injury was manifestly unlawful, and had a reasonable opportunity to refuse to follow it.

## **II. Chain of command and co-ordination during the protest**

- a. Ensure that every police officer assigned to crowd management duty has received crowd management and de-escalation training in line with Part II of Police Order A19 and Chapter VIII and X of the Code of Criminal Procedure Act No.15 of 1979 as amended.
- b. Ensure that a trained senior officer is assigned to the post of the commanding officer at the site of the protest to review and respond to the circumstances of the protest.
- c. Officers deployed to carry out crowd control at the protest site to which they are assigned should be familiar with the geographic and demographic details of that area. Every method available should facilitate smooth and prompt communication between the commanding officers and those under their command.

## **III. Accountability during and after the protest**

- a. Currently, according to Police Order No. A19, the In addition to the watch report, information book, and officer's report maintained by police in accordance to Police Order No.A19, it is also necessary to maintain detailed assessment reports in writing, including but not limited to the actual measures deployed out at the protest, their impact, the number of personnel and equipment, any specific incident of note that occurred, the aftermath, and any recommendations to improve crowd control at protests in the future.
- b. The commanding officer at the site of the protest should complete a comprehensive After-Action Report (AAR), irrespective of whether a protest is peaceful or unlawful, with no exception.

- c. Further, any officer who opened fire, for whatever reason, regardless of its effect, should submit a report including but not limited to the rounds fired, the target, the reason for firing, the command issued to fire, if any, the identity of the officer who issued the command, and the identity of the senior most officer in command at the protest site.
  - d. All written reports should be completed by the commanding officer on site as soon as possible after the event and handed over to his immediate superior, and through the hierarchy to the IGP or, at the very least, the Senior DIG of the relevant Province in order to ensure all high-ranking police officers have a detailed report of the occurrence.
  - e. If at any point an officer should uncover a discrepancy between the report and what occurred or a breach of duty, a complaint must be submitted for disciplinary inquiry against the officer involved, and legal action should be taken where necessary.
82. All the above recommendations have been made by the HRCSL as per its lawful mandate under the Human Rights Commission of Sri Lanka Act No. 21 of 1996 to ensure full protection of human rights as per the national laws and the international human rights obligations undertaken by the State.
83. In reference to section 15(7) of the HRCSL Act, the IGP is requested to submit a report regarding the implementation of the above recommendations to the Commission on or before **18<sup>th</sup> May 2023**.

Justice Rohini Marasinghe  
Chairperson  
Human Rights Commission of Sri Lanka

Anusuya Shanmuganathan  
Commissioner  
Human Rights Commission of Sri Lanka