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இலங்கை மனித உரிமைகள் ஆணைக்குழு  
Human Rights Commission of Sri Lanka

Press Notice No: HRC/P/i/E/31/01/25

## Press Notice

### **Report on the Status of Rohingya Asylum Seekers Detained in Mullaitivu, and Related Issues**

The Human Rights Commission of Sri Lanka (HRCSL) issued a Report on the Status of Rohingya Asylum Seekers Detained in Mullaitivu, and Related Issues. On 19 December 2024, a multi-day trawler carrying 116 persons, including 57 children, from the Rohingya community in Myanmar drifted towards the coast off Mullivaikkal in Mullaitivu. Local fishermen provided humanitarian assistance including water and food, and the Sri Lanka Navy escorted the boat to Trincomalee. Several persons had in fact perished during the journey. Later, the survivors were brought before the Trincomalee Magistrate and eventually detained at the Mullaitivu Air Force Camp.

The HRCSL is empowered under section 11(d) of the HRCSL Act, No. 21 of 1996 to ‘monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention.’ Moreover, the HRCSL is designated as the National Preventive Mechanism on torture in Sri Lanka. Accordingly, the HRCSL visited the Mullaitivu Air Force Camp on 9 January 2025 to assess the conditions of detention of the asylum seekers and make appropriate recommendations.

This report presented the applicable domestic and international legal norms and standards, the key interventions by the HRCSL, and the HRCSL’s recommendations. The HRCSL recalled that according to section 5(2) of the International Covenant on Civil and Political Rights Act, No. 56 of 2007, all state authorities must treat the best interests of the child as being of paramount importance in all matters concerning children. It clarified that this standard is not limited to citizens of Sri Lanka and extends to all persons within the jurisdiction of Sri Lanka. The HRCSL also emphasised the principle of *non-refoulement*, which is guaranteed to all persons under section 18(1) of the International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018. The Act provides: ‘No person shall be expelled, returned, surrendered or extradited to another State where there are substantial grounds for believing that such person would be in danger of being subjected to enforced disappearance.’ The HRCSL noted that credible reports including the report of the UN Independent International Fact-Finding Mission on Myanmar refers to the risks faced by Rohingya with respect to being subject to enforced disappearance. In this context, the HRCSL observed that the Sri Lankan government is bound by domestic law to meaningfully consider this risk of enforced disappearance when taking any decision with respect to returning Rohingya persons to Myanmar.

The HRCSL expressed deep concern that human rights defenders (HRDs) advocating for the rights of Rohingya asylum seekers have forwarded complaints to the HRCSL with respect to harassment by law enforcement officials on account of their legitimate activities. It emphasised the need for all state officials to fully implement the HRCSL's General Guidelines and Recommendations, No. 1 of 2024 on the Protection of Human Rights Defenders. In this respect, the HRCSL stated that it will take necessary action to summon parties for an inquiry in terms of the HRCSL Act.

The key recommendations of the HRCSL were as follows:

1. The Department of Immigration and Emigration and Sri Lanka Air Force should appoint a focal point to accept aid, including clothing, sanitaryware, and certain food items, particularly for children, and enable such aid to reach the asylum seekers without delay.
2. The Department of Immigration and Emigration and Sri Lanka Air Force should provide regular and meaningful access to state officials with specialisations in child protection and welfare to ensure that the best interests of the children among the asylum seekers are appropriately safeguarded.
3. The Department of Immigration and Emigration and Sri Lanka Air Force should provide access to relevant specialised United Nations entities including UNHCR to ensure that the asylum seekers can be appropriately vetted and, depending on the outcome of the process, formally registered as asylum seekers.
4. The Department of Government Information should take steps to facilitate the access of journalists to the Rohingya asylum seekers so that the Sri Lankan public can be kept informed about their status.
5. The Department of Immigration and Emigration and Sri Lanka Police should take immediate measures to ensure that female asylum seekers at the Mullaitivu Air Force Camp are provided security at all times by trained women police officers, and the Department of Immigration and Emigration and Sri Lanka Air Force should ensure that adequate sanitary facilities are provided to the female asylum seekers.
6. The Department of Immigration and Emigration should take measures to transfer the asylum seekers to a facility that is fit for the purpose of housing men, women and children with specific welfare needs. It was recommended that any detention should be strictly temporary and only to the extent necessary for a considered decision to be taken with respect to the status of an asylum seeker. Therefore, where an asylum seeker is duly registered by UNHCR, they should be released from custody.
7. All state institutions, including law enforcement authorities, should respect the rights of HRDs to express themselves and organise and participate in peaceful assemblies for the purpose of protesting any government policy, including any decision to repatriate Rohingya asylum seekers. State institutions should refrain from threatening, intimidating, or harassing HRDs who organise and participate in such peaceful assemblies.
8. The Government of Sri Lanka should ratify the 1951 Convention on Refugees, the 1954 Convention Relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness, and work towards guaranteeing the rights of refugees and stateless persons within Sri Lanka's domestic legal system.

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இலங்கை மனித உரிமைகள் ஆணைக்குழு  
Human Rights Commission of Sri Lanka

# **REPORT ON THE STATUS OF ROHINGYA ASYLUM SEEKERS DETAINED IN MULLAITIVU, AND RELATED ISSUES**

**January 2025**

## 1. Background

On the morning of 19 December 2024, a multi-day trawler carrying 116 persons from the Rohingya community in Myanmar drifted towards the coast off Mullivaikkal in Mullaitivu. Local fishermen identified this boat and provided humanitarian assistance including water and food. The boat was, thereafter, escorted by Sri Lanka Navy to the Ashroff Jetty in Trincomalee Harbour later that day. The boat eventually landed in Trincomalee on 20 December 2024. It transpired that the survivors on the boat had endured considerable hardship at sea, including starvation and illness. Several persons had in fact perished during the journey. Initially, the survivors were hosted at the Jamaliya School in Trincomalee and provided medical care, food, and water by public officers and non-governmental organisations. Subsequently, the survivors were brought before the Trincomalee Magistrate, who was informed that they had arrived in Sri Lanka seeking asylum.

It was then established that out of the group of 116 asylum seekers, twelve persons were allegedly responsible for facilitating their journey. At the time of writing this report, all 116 persons were being held at the Mullaitivu Air Force Camp.

The Rohingya are a community in Myanmar that remains stateless due to Myanmar's 1982 Citizenship Law, which excludes the Rohingya from the list of recognised ethnic groups eligible for full citizenship. As a result, this community is denied citizenship and many associated rights in Myanmar despite claims of long-standing presence in the Rakhine State of Myanmar.

While the Human Rights Commission of Sri Lanka (HRCSL) has not conducted studies of its own on the status of Rohingya in Myanmar, it recalls several credible reports on the subject. These reports include the report of the United Nations (UN) Independent International Fact-Finding Mission on Myanmar, on which former chairperson of the HRCSL, Dr. Radhika Coomaraswamy served. The 2019 report of the Fact-Finding Mission noted at the time that the approximately 600,000 Rohingya remaining in Myanmar face systematic persecution and live under the threat of genocide.<sup>1</sup> It is in this overarching context that the 116 asylum seekers arrived in Sri Lanka in December 2024.

## 2. HRCSL Mandate

The HRCSL is empowered under section 11(d) of the HRCSL Act, No. 21 of 1996 to 'monitor the welfare of **persons** detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention' (emphasis added). Moreover, section 28(2) of the Act provides that officers authorised by the Commission 'may enter at any time, any place of detention, police station, prison or any other place in which **any person** is detained by a judicial order or otherwise and make such examinations therein or make such inquiries from any person found therein, as may be necessary to ascertain the condition of detention of the persons detained therein' (emphasis added).

It is noted that the powers and functions of the HRCSL apply to 'any person' who is detained and not only Sri Lankan citizens. Accordingly, the HRCSL is statutorily mandated to enter any place of

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<sup>1</sup> Human Rights Council, *Detailed findings of the Independent International Fact-Finding Mission on Myanmar*, 16 September 2019, A/HRC/42/CRP.5.

detention at which the above-mentioned asylum seekers are kept in custody and has the authority to assess the conditions of detention of the said asylum seekers including the children among them.

Moreover, in 2017, Sri Lanka became a party to the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and designated the HRCSL as the National Preventive Mechanism in Sri Lanka. The HRCSL, therefore, has a special mandate to visit places of detention in view of observing conditions of detention and making recommendations to prevent torture or other cruel, inhuman, or degrading treatment or punishment.

### **3. Applicable Legal Norms and Standards**

Several human rights norms and standards contained in Sri Lankan law are directly applicable to Rohingya asylum seekers.

First, all persons, including those who are not citizens of Sri Lanka, are entitled to the rights guaranteed by **Article 11 of the Sri Lankan Constitution**, which provides: ‘No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.’ Therefore, any form of detention that amounts to cruel, inhuman, or degrading treatment amounts to a violation of this Article.

Second, all persons, including those who are not citizens of Sri Lanka, are entitled to the rights guaranteed by **Article 12(1) of the Constitution**, which provides: ‘All persons are equal before the law and are entitled to the equal protection of the law.’

Third, all persons, including those who are not citizens of Sri Lanka, are entitled to the full spectrum of rights concerning the freedom from arbitrary arrest, detention and punishment, and the right to a fair trial under **Article 13 of the Constitution**.

Fourth, such persons, if charged with a criminal offence under any written law, are entitled to the fair trial rights guaranteed by **section 4 of the International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007**, including the right ‘to have the assistance of an interpreter where such person cannot understand or speak the language in which the trial is being conducted’.

Finally, the HRCSL recalls **section 5(2) of the ICCPR Act, No. 56 of 2007**, which provides: ‘In all matters concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interest of the child shall be of paramount importance.’ Notably, this provision is not limited to citizens of Sri Lanka and extends to all persons within the jurisdiction of Sri Lanka.

Sri Lanka is not a party to the Convention Relating to the Status of Refugees of 1951, the Convention on the Status of Stateless Persons of 1954, or the Convention on the Reduction of Statelessness of 1961. However, it remains bound by international legal norms found in relevant human rights treaties and customary international law. For instance, the HRCSL recalls the principle of *non-refoulement*, which is an essential norm under international human rights, humanitarian, and customary law, and which prohibits states from transferring or removing individuals from their jurisdiction when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return. Sri Lanka is party to a number of international human rights treaties that legally bind it to abide by

the principle of *non-refoulement* and to refrain from repatriating those who are at risk of persecution, torture, ill-treatment or other serious human rights violations upon their return.

Sri Lanka's domestic law recognises the principle of *non-refoulement*. **Section 18(1) of the International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018** ('Enforced Disappearance Act') provides: 'No person shall be expelled, returned, surrendered or extradited to another State where there are substantial grounds for believing that such person would be in danger of being subjected to enforced disappearance.' It is noted that the above-mentioned report of the UN Independent International Fact-Finding Mission on Myanmar refers to enforced disappearances in Myanmar and the risks faced by Rohingya with respect to being subject to enforced disappearance. In this context, the Sri Lankan government is bound by the Enforced Disappearance Act to meaningfully consider this risk of enforced disappearance when taking any decision with respect to returning Rohingya persons to Myanmar.

## **4. Interventions by the HRCSL**

### **4.1 Interventions of the Regional Office, Trincomalee**

On 20 December 2024, the officers of the HRCSL Regional office in Trincomalee held discussions with the Divisional Secretary of Trincomalee Town and Gravets as well as the Senior Superintendent of Police (SSP) in Trincomalee to collect pertinent information with regard to the situation of the Rohingya asylum seekers. A request was made to the SSP in Trincomalee for a detailed report on the situation, and the SSP forwarded a response on 26 December.

According to the report, 120 persons had endured a sixteen-day journey at sea in three vessels. Two of the three boats broke down during the journey, leaving the refugees with no choice but to crowd onto a single, smaller vessel. Five persons, including two men, two women, and one child, lost their lives during the voyage. The causes of death are believed to be dehydration and exhaustion.<sup>2</sup> In keeping with maritime traditions, the deceased were buried at sea. According to the report, on 19 December 2024, the remaining 115 survivors<sup>3</sup> arrived at the Mullaitivu coastal area of Sri Lanka. Sri Lanka Navy responded by transporting them to Trincomalee overnight. On the Morning of 20 December, they were provided shelter at Ashraf Jetty in Trincomalee Harbour, and eventually accommodated at the Trincomalee Jamaliya Muslim Maha Vidyalaya later that same day. In the interim, essential food supplies were provided by the Government Agent and Divisional Secretariat based on the immediate needs of the asylum seekers. Non-governmental organisations (NGOs) also stepped in to offer humanitarian assistance. For example, the AHAM Humanitarian Resource Center contributed to these efforts by providing food and water facilities.

The HRCSL Regional office, Trincomalee learnt that on 21 December, at 7:45 am, the asylum seekers began a journey to Colombo. However, upon reaching Habarana, they were unexpectedly sent back to Trincomalee. When the Regional Coordinator, Trincomalee sought an explanation from the SSP Trincomalee, it was clarified that arrangements were not completed at the Mirihana Detention Centre, and that, therefore, the asylum seekers were brought back to Trincomalee.

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<sup>2</sup> It is noted that according to information later received by the HRCSL, six persons had perished during the journey.

<sup>3</sup> The total number of asylum seekers was later confirmed to be 116.

On 23 December 2024, out of the group of 115, 103<sup>4</sup> Rohingya asylum seekers refugees were transferred to the Mullaitivu Air Force Camp. The remaining twelve persons were produced before the Trincomalee Magistrate in terms of section 45 of the Immigrants and Emigrants Act, No. 20 of 1948 (case no. B 1683/MIS/24) and subsequently remanded at Trincomalee Remand Prison for fourteen days.

On 24 December 2024, officers of the HRCSL Regional office, Trincomalee visited the Trincomalee Remand Prison to monitor the welfare of the twelve Rohingya persons remanded there. During the visit, the HRCSL officers communicated with the twelve persons and the Assistant Superintendent of the Remand Prison to assess their immediate needs, particularly in relation to security, clothing, sanitation, and health. Translation services were provided by a prison officer who is proficient in Hindi, as there was one Hindi-speaking person among the detained persons. During the discussion, the Assistant Superintendent of the Prison highlighted the urgent need for additional supplies, especially clothing and sanitary items, due to the inadequate provisions available for the remanded persons. The limited resources in the remand prison made it challenging to meet the basic living standards for those held in custody. According to the request from the Assistant Superintendent of the Prison, the HRCSL Regional Office, Trincomalee circulated the request among civil society organisations in Trincomalee. AHAM Humanitarian Resource Center, a local organisation, responded promptly to the call for assistance. On 25 December 2024, AHAM Humanitarian Resource Center supplied essential items, including clothing and sanitary products to the twelve persons remanded at the Trincomalee Remand Prison.

On 7 January 2025, the twelve asylum seekers held at the Trincomalee Remand Prison were transferred to the Mullaitivu Air Force Camp by magisterial order.

#### **4.2 First Visit to the Mullaitivu Air Force Camp on 26 December 2024**

A team of HRCSL officials headed by the Director of the Research and Monitoring Division visited Mullaitivu Air Force Camp on 26 December 2024 to monitor the conditions of the asylum seekers detained there. The team arrived at the Air Force Camp in the morning to meet the asylum seekers but were not permitted entry to the premises by the Air Force officers on duty. The reasons given for the denial of entry was that no one could visit these asylum seekers without prior permission obtained by the Department of Immigration and Emigration.

The HRCSL team thereafter made efforts to gain access to the Camp by contacting the Controller General of the Department of Immigration and Emigration. Despite these attempts, including sending permission requests via email by the Secretary to the HRCSL, no authorisation was granted to enter the premises. One of the Commissioners of the HRCSL also spoke to the officer in charge of the Camp to clarify the mandate of the HRCSL and seek an explanation as to why the HRCSL team was not permitted entry. The said officer maintained that he had received orders not to permit any person into the Camp to meet the asylum seekers without the prior permission of the Department of Immigration and Emigration.

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<sup>4</sup> The total number of asylum seekers transferred to Mullaitivu on 23 December 2024 was later confirmed to be 104.

Following the verbal instructions of the Commissioners of the HRCSL, the HRCSL team remained on-site, hoping for an opportunity to gain access. However, after waiting for nearly five hours, their efforts were unsuccessful, and the team was compelled to return.

During the discussions with the officials at the Air Force Camp, the HRCSL team ascertained the following:

- Police officers stationed near the Camp provided security to the asylum seekers, while Air Force personnel provided security in the surrounding areas.
- The Department of Immigration and Emigration ensured that the asylum seekers received daily provisions for meals by allocating funds to the Air Force Camp, which then provided the said meals.
- No aid or services from external sources were permitted to be provided to the asylum seekers.

#### **4.3 Letter to H.E. the President on 27 December 2024**

The Chairman of the HRCSL wrote to H.E. the President on 27 December 2024 requesting his intervention with respect to the Rohingya asylum seekers.<sup>5</sup> The letter drew attention to the best interest of the child standard, and the fact that this standard is clearly articulated in section 5 of the ICCPR Act. It was pointed out that this standard is applicable to all children within the jurisdiction of Sri Lanka regardless of citizenship. The letter also observed that the HRCSL is statutorily mandated to enter the above-mentioned Sri Lanka Air Force Camp in Mullaitivu to ascertain the conditions of detention of the said asylum seekers including the children among them.

Accordingly, the Chairman of the HRCSL requested the President's urgent intervention as Commander-in-Chief of the Armed Forces and Minister of Defence to issue necessary directions to Sri Lanka Air Force and other relevant authorities to cooperate with the HRCSL in granting its officers unimpeded access to the asylum seekers in question.

#### **4.4 Summoning of State Officials on 31 December 2024**

The HRCSL decided to call relevant state officials including the Controller General of Immigration and Emigration to the Head Office of the Commission to provide an explanation for denying the HRCSL access to the Mullaitivu Air Force Camp on 26 December 2024. The Acting Controller of Immigration and Emigration, representatives of the Commander of Sri Lanka Air Force, and the representatives of the Secretary to the Ministry of Public Security attended the meeting held on 31 December 2024.

At the meeting, the Acting Controller General of Immigration and Emigration clarified that the Department of Immigration and Emigration respects and supports the mandate of the HRCSL. It was claimed that on 26 December, the Department of Immigration and Emigration had instructed the Mullaitivu Air Force Camp not to allow any person to meet the Rohingya asylum seekers due to public health concerns. However, further clarity was not provided as to whether such public health concerns were ascertained and documented by Public Health Inspectors. The Acting Controller General thereafter confirmed that the HRCSL is welcome to visit the Mullaitivu Air Force Camp.

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<sup>5</sup> See <https://www.hrcsl.lk/the-hrcsl-writes-to-the-president-regarding-the-detention-conditions-and-well-being-of-asylum-seekers-from-myanmar/>.



At the said meeting, the HRCSL presented the following interim recommendations to the Department of Immigration and Emigration with respect to the asylum seekers held in the Mullaitivu Air Force Camp:

- **Ascertaining the status of asylum seekers:** Take steps to ascertain the status of the persons claiming asylum, including the risk of persecution in their home country.
- **Enhance assistance:** Take steps to increase support from the government to ensure that the asylum seekers' basic needs are met, including food, shelter, and healthcare.
- **Provide access to the Office of the United Nations High Commissioner for Refugees (UNHCR):** Take steps to provide UNHCR (the UN agency with a specific mandate to register and assist asylum seekers access to the asylum seekers to enable UNHCR to provide the required assistance to the asylum seekers and advise the government. It is noted, however, that the UNHCR office has ceased operations in Sri Lanka and is currently only functioning as a Liaison Office that can register asylum seekers.
- **Relocate to a separate facility:** Take steps to move the asylum seekers to a location other than the Mullaitivu Air Force Camp to ensure better accommodation and security, and in particular, to ensure necessary nutrition and care for the children among the asylum seekers.

At the time of writing this report, the above interim recommendations were yet to be implemented.

#### 4.5 Second Visit to the Mullaitivu Air Force Camp on 9 January 2025

Following negotiations with the government on gaining access to the Mullaitivu Air Force Camp, a team of HRCSL officials headed by the Regional Coordinator, Jaffna visited the Rohingya asylum seekers at the Camp on 9 January 2025. It was observed that the Squadron Leader is the officer-in-charge of this Camp. Additionally, ten police officers including three women police officers are deployed at the Camp to provide security to the asylum seekers. The asylum seekers were visited twice by officials from the Department of Immigration and Emigration on 24 December 2024 and 7 January 2025.

At the time of the visit, it was made clear that the number of asylum seekers was in fact 116 persons (and not 115 as previously stated), as a very young infant had not been counted earlier. The following table presents the disaggregated data with respect to these asylum seekers:

Table 1  
Gender and Age Distribution of the Rohingya Group

Category		Male	Female	Total
Held at the Mullaitivu Air Force Camp		53	63	<b>116</b>
Children	3 months child	01	--	01
	1-5 years	08	09	17
	6-15 years	17	18	35
	16-18 years	02	02	04
	<b>Total</b>	<b>28</b>	<b>29</b>	<b>57</b>

The key observations of the HRCSL team that visited the Mullaitivu Air Force Camp are presented below.

#### **a. Vulnerable persons**

The HRCSL observed four categories of vulnerable persons among the group of asylum seekers:

- 57 persons are children (i.e., persons below the age of 18) including seventeen children who are between the age of one and five years and one three-month-old child. One twelve-year-old girl was observed to have arrived without her parents.
- There is a pregnant mother aged 21 years. She is also the mother of two other children and was recorded to be nine-months pregnant at the time of the visit.
- There is a breastfeeding mother aged 31 years with a three-month-old child, and who is also the mother of six other children. Her husband was observed to be a person with a disability.
- The said person with a disability aged 47 years had a disability in his right leg and left hand, both affected by Polio. This person used a bamboo stick to support walking.

#### **b. Condition of the detention facilities**

The Mullaitivu Air Force Camp is located in a forest area and is fenced off with electric fences to keep out elephants. It was observed that, although three women police officers are deployed at the Camp, during the night, these officers are not deployed at the Camp and are stationed at their quarters outside the Camp. Therefore, the female asylum seekers among the group do not have access to women police officers at all times. Notably, there are no women Air Force Officers serving in the Camp.

The asylum seekers are housed in two separate dormitories, as male and female. While all males above the age of twelve years are in the male dormitory, male children under twelve were accommodated with their mothers.

The asylum seekers had brought clothes, and mats for sleeping. Sri Lanka Red Cross (SLRC) had also provided certain essential items, such as bedsheets, pillows, towels, soaps, detergents, toothpastes, toothbrushes, and sanitary napkins.

Toilet facilities are provided in separate areas for males and females. Six toilets were provided for females and twelve toilets were provided for males. The person with a disability notified the HRCSL that he faced difficulties accessing the toilets at night, as the facilities were not easily accessible to a person with disabilities.

The males are provided with two tanks for bathing and washing clothes and the females are provided with a bathroom in an enclosed area divided into ten compartments and a tank for washing clothes.

#### **c. Food and drinking water**

An allocation of LKR 500/- is provided for each person per day. Based on this limited budget, rice is served as a meal three times a day for every person, including children, with egg or fish or chicken, and a vegetable and leaf curry. On occasion, noodles is served for dinner. Additionally, a Thriphosha

supplement is provided to the woman who is pregnant, and milk is provided to the woman who is breastfeeding. Filtered drinking water is provided to all asylum seekers.

There is a separate hall for dining, and all asylum seekers are required to sit on the ground to have their meals.

The asylum seekers notified the HRCSL that the meals were difficult for the children to eat, as they were not used to the spices and curries. The HRCSL thus noted that the very young children among the asylum seekers were not receiving adequate nutrition. The asylum seekers also stated that biscuits were initially given to the children through a contribution from SLRC, but that had been discontinued by the time of the HRCSL's visit. Moreover, they were prevented from obtaining such items from outside the Camp, including from NGOs.

#### **d. Healthcare**

The HRCSL observed that the asylum seekers had not undergone medical examinations prior to being brought to the Camp. It was observed that two male medical personnel from the Air Force are on duty at the Camp, but no female officers have been deployed.

On 24 December 2024, one Dr. Sutharsan from the Ministry of Health (MOH) Office in Mullaitivu visited this camp. Thereafter, all asylum seekers underwent medical examinations, were screened for HIV, and were vaccinated against Malaria. Notably, Health camps were carried out by the MOH on 3, 4, and 7 January 2025.

The HRCSL was informed that in case of any emergency, patients would be taken to the nearest Mulliyavalai Hospital. At the time of the HRCSL visit, three asylum seekers had been admitted to the Mulliyavalai Hospital due to illness. A 66-year-old man was admitted due to pneumonia, and a 32-year-old woman and twelve-year-old girl had been admitted due to diarrhoea. As previously mentioned, this twelve-year-old girl had come to Sri Lanka without her parents. A women police officer was posted on duty to look after this child at the hospital.

The asylum seekers notified the HRCSL that they are affected by rashes due to the quality of the water. When the HRCSL inquired about this matter, the Air Force officers clarified that the water was well water, and that Air Force officers also use the same water without encountering health issues. It may, therefore, be important that relevant public health inspectors from MOH investigate the matter further.

#### **e. Right to peaceful assembly**

The HRCSL observed that a group of civil society actors and human rights defenders (HRDs) staged a public protest in Mullaitivu against the deportation of Rohingya asylum seekers to Myanmar. The protest was organised by the North-East Coordinating Committee. The HRCSL was later reliably informed that two HRDs were summoned by the Human Trafficking, Smuggling, and Maritime Crimes Investigation Division of the Criminal Investigation Department (CID) to record statements with respect to the said protests. Upon inquiring about this matter, CID officials informed the HRCSL that these statements were being recorded owing to the involvement of these persons in the protest.

The HRCSL recalls its General Guidelines and Recommendations, No. 1 of 2024 on the Protection of Human Rights Defenders. The said General Guidelines and Recommendations provide in paragraph 1.5 that ‘State authorities should not subject HRDs to unwarranted legal and administrative proceedings or any other forms of misuse of legal authority, including arbitrary arrest and detention, as well as other sanctions for their legitimate activities.’ In particular, paragraph 5.1 and 5.2 of the General Guidelines and Recommendations reinforce the right to peaceful assembly:

5.1 The state should respect and protect the right of HRDs, individually and in association with others, at the domestic and international levels, to meet or assemble peacefully for the purpose of promoting and protecting human rights, as guaranteed by Article 14(1)(b) of the Constitution.

5.2 Such right to peaceful assembly includes the right to be protected effectively under national law when protesting, reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to the state that result in violations of human rights, as well as human rights violations, including environmental rights violations, committed by private actors.

The HRCSL observes that no allegations have been made that the above-mentioned protest was in any manner disruptive or violent. It could be accurately described as a peaceful assembly. In this context, the HRCSL is concerned that HRDs advocating for the rights of Rohingya asylum seekers have forwarded complaints with respect to harassment by law enforcement officials on account of their legitimate activities. In this respect, the HRCSL will take necessary action to summon parties for an inquiry in terms of the HRCSL Act.

## **5. Recommendations**

The HRCSL presents the following recommendations with respect to the status of the Rohingya asylum seekers held in custody in Mullaitivu. These recommendations are based on the premise that all persons, including asylum seekers, have the inherent right to dignity, regardless of their nationality or status as stateless persons. The recommendations are framed in terms of sections 10(d) and 10(e) of the HRCSL Act, which respectively authorise the HRCSL ‘to make recommendations to the Government regarding measures which should be taken to ensure that national laws and administrative practices are in accordance with international human rights norms and standards’ and ‘to make recommendations to the Government on the need to subscribe or accede to treaties and other international instruments in the field of human rights’.

### **a. Appoint a focal point to enable aid to reach the detained asylum seekers**

It is recommended that the **Department of Immigration and Emigration and Sri Lanka Air Force** appoint a focal point to accept aid, including clothing, sanitaryware, and certain food items, particularly for children, and enable such aid to reach the asylum seekers without delay. Aid in the form of special equipment to assist the asylum seeker with a disability should also be accepted and distributed to the relevant asylum seeker.

**b. Grant specialised state institutions and service providers access to the detained asylum seekers**

It is recommended that **the Department of Immigration and Emigration and Sri Lanka Air Force** provide regular and meaningful access to officials with specialisations in child protection and welfare (including from the Department of Probation and Child Care Services) to ensure that the best interests of the children among the asylum seekers are appropriately safeguarded. Ensuring the adequate nutrition of these children should be a priority. Moreover, mental health professionals should be given access to the detained asylum seekers to ensure treatment for potential conditions, including post-traumatic stress disorder. The Department of Immigration and Emigration and Sri Lanka Air Force should meanwhile continue to provide regular and meaningful access to public health officials to enable them to conduct health examinations, including with respect to the children in the Camp. These officers should also be invited to examine the quality of the water provided to the asylum seekers.

**The Department of Immigration and Emigration and Sri Lanka Air Force** should provide access to relevant specialised UN entities including UNHCR to ensure that the asylum seekers can be appropriately vetted and, depending on the outcome of the process, formally registered as asylum seekers. The HRCSL notes that UNHCR has the necessary expertise to advise the Government of Sri Lanka on the status of the asylum seekers detained at the Camp. Therefore, providing access to relevant UN officials would be an important measure of cooperation between the Government of Sri Lanka and the UN.

It is recommended that the **Department of Government Information** take steps to facilitate the access of journalists to the Rohingya asylum seekers so that the Sri Lankan public can be kept informed about their status. The HRCSL observes that the Sri Lankan public has a general right to accurate information on any matter of public importance, and that the right to access information is guaranteed under Article 14A of the Sri Lankan Constitution. Reasonable access of journalists remains crucial to countering disinformation and harmful narratives with respect to asylum seekers, particularly across social media platforms. The HRCSL notes that such disinformation and harmful narratives, if not effectively countered, may threaten the physical safety of asylum seekers in Sri Lanka.

**c. Address the specific needs of female asylum seekers**

It is recommended that **the Department of Immigration and Emigration and Sri Lanka Police** take immediate measures to ensure that female asylum seekers at the Mullaitivu Air Force Camp are provided security at all times by trained women police officers.

Moreover, **the Department of Immigration and Emigration and Sri Lanka Air Force** should ensure that adequate sanitary facilities, including an adequate number of toilets, are provided to the female asylum seekers.

**d. Transfer the asylum seekers to a facility that is fit for purpose and ensure timely processing of asylum seekers**

It is recommended that the Department of Immigration and Emigration take measures to transfer the asylum seekers to a facility that is fit for the purpose of housing men, women and children with specific welfare needs. The HRCSL is of the view that an Air Force Camp cannot be used for this specific purpose. A centre with proper accommodation, sanitary facilities, a dining area, and a recreational area including for children should be selected as an alternative to such a Camp.

Moreover, the detention of asylum seekers, including children, should not be long-term, and such asylum seekers should be vetted and registered by a specialised entity, such as UNHCR without delay. Therefore, any detention should be strictly temporary and only to the extent necessary for a considered decision to be taken with respect to the status of an asylum seeker. Where an asylum seeker is duly registered by UNHCR, they should be released from custody.

**e. Respect the rights of HRDs to freedom of expression and peaceful assembly**

It is recommended that all state institutions, including law enforcement authorities, fully implement the HRCSL's General Guidelines and Recommendations, No. 1 of 2024 on the Protection of Human Rights Defenders. In particular, state institutions are required to respect the rights of HRDs to express themselves and organise and participate in peaceful assemblies for the purpose of protesting any government policy, including any decision to repatriate Rohingya asylum seekers. Such peaceful assemblies are protected under Article 14(1)(b) of the Sri Lankan Constitution, and state institutions should refrain from threatening, intimidating, or harassing HRDs who organise and participate in such peaceful assemblies.

**f. Accede to the 1951 Convention on Refugees, the 1954 Convention Relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness**

It is recommended that the Government of Sri Lanka consider ratifying the 1951 Convention on Refugees, the 1954 Convention Relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness. Sri Lanka, being a country of origin of numerous asylum seekers and refugees, and a country that was confronted with the issue of statelessness (i.e., primarily with respect to the Malaiyaha Tamil community) has a special responsibility to formally recognise the international legal norms found in these treaties. Formal accession to these treaties would be an important step towards eventually guaranteeing the rights of refugees and stateless persons within Sri Lanka's domestic legal system.