

article 2

of the International Covenant on Civil and Political Rights

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special compilation

torture &

ill-treatment

in Sri Lanka

any person whose rights or freedoms are violated shall
have an effective remedy, determined by competent
judicial, administrative or legislative authorities

NEW PUBLICATION

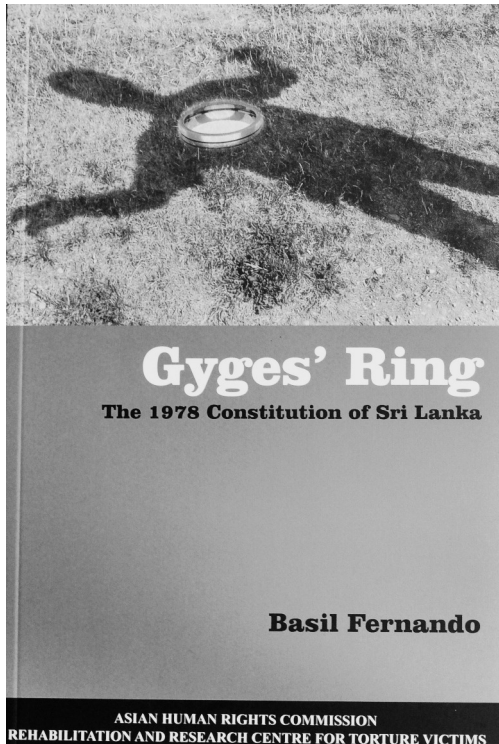
Gyges' ring: The 1978 Constitution of Sri Lanka *By Basil Fernando*

Published in August 2011 by the Asian Human Rights Commission (AHRC, Hong Kong) and the Rehabilitation and Research Centre for Torture Victims (RCT, Denmark), 177 pages, ISBN: 978-962-8314-51-5

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This book is the most incisive study of the 1978 Constitution of Sri Lanka to-date. It is a contribution to the study of constitutional law and criminal law as well as the politics and history of the country. The author traces the origins of the 1978 Constitution and its impact during the last 33 years.

The title Gyges' Ring is based on a Greek story told by Socrates and recorded by Plato in The Republic. Gyges was a peasant who came upon a ring by the use of which he could become invisible. Having learned the tricks that could be played by being invisible Gyges entered the palace, raped the queen, murdered the king and took over the throne. He then built a dynasty. The author contends that the impact of the 1978 Constitution on the political and legal system of Sri Lanka is no different to that of Gyges' Ring.



A book consisting of “coruscating pointers, which to my knowledge and awareness have never been touched upon before, leave alone being academically and/or professionally critiqued... [Fernando’s] ability to expose and consequently condemn in coruscating style, with the stroke of his pen, social hypocrisy and double standards on the part of self-proclaimed elitists is one aspect of the book that struck me most...”

*- Dr. J. de Almeida Gunaratne,
President’s Counsel*

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Torture and ill-treatment: The tip of the iceberg that is Sri Lanka's dysfunctional justice system

Basil Fernando, Director, Policy & Programme
Development, Asian Human Rights Commission &
Asian Legal Resource Centre, Hong Kong

Between January and the start of November 2011, the Asian Human Rights Commission (AHRC) issued some 106 urgent appeals on torture and ill-treatment in Sri Lanka, some of which led to custodial deaths. The majority of these appeals, concerning 85 separate cases, constitute the bulk of this edition of *article 2*.

None of the descriptions in the cases that follow, however brutal and inhuman, will come as a surprise to anyone who has followed the work of the AHRC on Sri Lanka. Over the last decade, the commission has published a sequence of pathbreaking and minutely detailed reports on the incidence of torture and ill-treatment in Sri Lanka, with extensive, original analyses of its causes and diagnoses of what needs to be done to deal with it. These include the first-ever report on the topic, as dealt with by the AHRC, *Torture committed by the police in Sri Lanka*, in August 2002 (*article 2*, vol. 1, no. 4) and a follow-up report less than two years later, *Endemic torture and the collapse of policing in Sri Lanka* (*article 2*, vol. 3, no. 1). Subsequent reports have included a special submission to the 46th session of the UN Committee Against Torture in 2005, a book entitled *Recovering the authority of public institutions in Sri Lanka*, which included the details of a large number of cases, and a report issued in mid-2011, which contained over 300 cases from previous years, selected out of a total of around 1500.

Despite the very large number of cases documented and reported upon, it is a damning indictment upon the institutions of Sri Lanka that up to now not a single case has led to a satisfactory conclusion from the point of view of redress under international standards. Consequently, the long lists of case descriptions in these reports together constitute evidence of blatant and systematic denial of justice.

The cases documented have deliberately been limited largely to those concerned with torture and ill-treatment by the police, and have been documented from the south of Sri Lanka, where the majority of inhabitants are Sinhalese. That these cases constitute the body of the research is deliberate. These reported cases of torture and ill-treatment cannot for the most part be attributed to the conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam in the north and east, where the AHRC in any case did not have the possibility of interviewing Tamil victims of torture and ill-treatment, let alone making interventions on their behalf. Rather, it was the intention of the AHRC to demonstrate that widespread use of torture and ill-treatment in Sri Lanka is a result of the failure of the entire system of justice and not due explicitly, solely or even primarily to any ethnic conflict or any other extraneous factor.

As the cases in this latest edition of *article 2* again reveal unequivocally, the widespread use of torture and ill-treatment in Sri Lanka is not a characteristic specifically of a war setting. Rather, it is an indication of a dysfunctional system of justice. This means that the country's system of investigation into crimes and human rights abuse, the prosecutor's office maintained under the Attorney General's Department and the judiciary are institutions that at every level and in every part of the country are dysfunctional.

The word "dysfunctional" means here more or less the same thing as it does when referred to a mental illness in psychology, where a person is considered dysfunctional when the illness has reached such a point that the individual is incapable of functioning in a rational and normal fashion. When a justice system is incapable of achieving the aims for which it stands and behaves irrationally, producing the opposite of what is being required, such a system too is rightly termed dysfunctional.

From a human rights point of view a dysfunctional system may be described in terms of the failure of a state to fulfil the obligations under article 2 of the International Covenant on Civil and Political Rights, and furthermore, to have no interest even in fulfilling these obligations. Article 2 requires that a state party who agrees to implement the human rights obligations enshrined in a particular covenant or convention will take administrative, legislative and judicial measures to ensure the realisation of those rights by the people living within the territory of that state. When the state fails to take such administrative, legislative and judicial measures, the system becomes dysfunctional and the state's signature to the convention amounts to no more than an empty parchment promise.

To the people of Sri Lanka human rights commitments in international law of the state are indeed no more than empty parchment promises. The state having pushed the judiciary to a subordinate position to the executive through the constitution

“A dysfunctional system may be described in terms of failure of a state to fulfil obligations under article 2 of the ICCPR ”

“International organizations seem to feel shy to recognize and state publicly that the Sri Lankan system of justice is dysfunctional”

itself and by its failure to provide adequate funding for the administration of justice has caused the public institutions of justice to be dysfunctional.

It is unfortunate that international organizations, in particular those of the United Nations, seem to feel shy to recognize and state publicly that the Sri Lankan system of justice is a dysfunctional one. There may be many reasons for their shying away from recognising the obvious facts, which have been revealed in practically every report on human rights in Sri Lanka. Perhaps the most prominent of these reasons is the fact that the international community has not yet developed the jurisprudence and capacity to deal with systems of administration of justice which are dysfunctional, as shown by its responses not only to the situation in Sri Lanka but to those of a number of other similarly dysfunctional jurisdictions in Asia.

Human rights theory and practice since the adoption of the Universal Declaration of Human Rights has been confined to two main areas: the articulation of international norms and standards, and the push to have such norms and standards adopted as local legislation in different countries. The assumption behind such activity has been that if the legislation recognises an international norm or standard, the system of justice concerned will have, or somehow develop, perhaps with international assistance and the goodwill of the people in the country concerned, the capacity to ensure the implementation of such laws. Sometimes the assumption has some justification; however, if and when the assumption is wrong then the entire effort of the international community has little to commend itself to people in countries like Sri Lanka who daily continue to suffer from the types of torture and ill-treatment described in the pages of this edition of *article 2*.

The accumulated findings on torture and ill-treatment in Sri Lanka by the Asian Human Rights Commission over the last decade, which now come to literally thousands of pages of detailed documentation of the sort found in this publication, together constitute a profound challenge to the international human rights community. The challenge is this: how to make the normative commitments to rights found in conventions like the ICCPR real for the people whose cases are described herein, and not merely for sections of the populations of people living in more developed countries. It is a challenge that the AHRC faces in its work every single day and it is a challenge that surely the United Nations and other agencies concerned with these issues needs to take more seriously, and more fundamentally, if they are to make real headway.

In addition to the cases set out in this edition of *article 2* are some extracts from an Alternative Report to the UN Committee Against Torture in Connection with the Third Periodic Report of Sri Lanka, by the Asian Legal Resource Centre, REDRESS, RCT and ACAT. That the Government of Sri Lanka quite clearly and blatantly refused to take with the Committee's work seriously,

despite being a signatory to the Convention Against Torture, speaks volumes of why the sorts of abuses as set out in this edition continue to occur with alarming frequency under its watch, and without any prospects of redress.

The government spent most of its time before the committee on 8 November 2011 giving a very general commitment, stating that the eradication of torture and ill-treatment is a common concern of all, including that of Sri Lanka. However, it failed to address the causes for the widespread use of torture and ill-treatment in the country and also the widespread impunity. The questions of the constitutional justification of impunity arising out of article 35 of the Constitution of Sri Lanka, which places the executive president above the law and outside the jurisdiction of the courts, thus making widespread impunity possible; the virtual stopping of serious investigations into torture by the Special Investigation Unit; the failure to implement the Convention Against Torture Act, No. 22 of 1994, the problems caused by policy changes at the Attorney General's Department which now takes the side of the alleged perpetrators, rather than the victims of torture, enormous delays in the judicial process which frustrates any judicial action against torture and other serious defects in the system of the administration which acts to benefit of the perpetrators; the failure of the government to bring before the parliament and pass the witness protection law that has been pending for many years; the enormous defects in the exercise of fundamental rights jurisdiction; the pauper-like compensation awarded for serious violations of torture and the complete absence of the rehabilitation of victims, were all ignored in the government's presentation. No commitment of any sort was given on any concrete action to remedy these fundamental defects of the administration of justice.

The government harped on about what it calls an Action Plan for Human Rights, which is not a law and about which very little known in Sri Lanka. It is more a cabinet paper designed for the purpose of being presented at international forums than for any practical purpose within the country. This Action Plan does not provide any answers to the questions mentioned above.

At the second day of hearings, on November 9, the Sri Lankan delegation was required to reply to the long list of questions posed by the committee members the previous day. However, Mr. Mohan Peiris, who spoke on behalf of the government, preferred to give a long tedious lecture on the law in Sri Lanka instead of answering questions that were about factual situations and actual violations.

Even on the law the impression that Mr. Peiris tried to create about Sri Lanka having a good system of law is altogether false. The 1978 Constitution has caused a complete collapse of the rule of law system in Sri Lanka, as I have most recently described in detail in the publication of *Gyges Ring* (see inner front sleeve of this edition of *article 2* for details), by placing the executive president above the law and outside the jurisdiction of the courts.

“The 1978 Constitution has caused a complete collapse of the rule of law in Sri Lanka”

“The habeas corpus procedure, which should be speedy, takes many years in Sri Lanka, totally defeating the whole purpose of the application”

Some of the statements of Mr. Peiris were blatantly false. For example, a statement that *habeas corpus* in Sri Lanka has fallen out of fashion due to the provisions of Fundamental Rights under the 1978 Constitution is sheer nonsense. Hundreds of habeas corpus applications have been filed since 1978, and as a recent study by Kishali Pinto-Jayawardena and Jayantha de Almeida Guneratne has clearly established, most of these applications have failed due to trivial reasons (see inner back sleeve of this edition of *article 2* for details). Besides this, the habeas corpus procedure, which should be speedy, takes many years in Sri Lanka, totally defeating the whole purpose of the application. Thus, people's unwillingness to file habeas corpus applications is due to the popular realisation of the futility of pursuing this remedy. This sense of futility of pursuing redress for violations of rights is a result of a judicial system that is being neglected and which has failed.

In the same manner, the government spokesman refused to answer questions posed on the attacks on journalists and human rights defenders. When asked about the publication in Ministry of Defence website naming several lawyers as traitors his reply was that the publication, in fact, did no harm. He was unwilling to consider the liability of the Ministry of Defence in making such inflammatory claims against these lawyers. When asked as to what action was taken against the persons responsible in the Ministry for making such publications or what measures in place to ensure that this would not recur, it did not occur to Mr. Peiris to address such questions of accountability.

Without any sense of ethics and responsibility Mr. Peiris made some remarks, for example, on the issue of the forced disappearance of Prageeth Ekmaligoda. He said that according to reliable information, Mr. Ekmaligoda has taken refuge in a foreign country and that the campaign against his disappearance is a hoax. Mr. Peiris failed to provide detailed information on the alleged whereabouts of Mr. Ekmaligoda despite claiming that he had “reliable information”.

The committee questioned the willingness of the government to ratify the Optional Protocol to the Convention against Torture, the Convention against Forced Disappearances and the Rome Statute of the International Criminal Court. Despite repeating the questions for the second time, there was no answer forthcoming from Mr. Peiris on these matters.

On answering a question relating to the throwing of a grenade at the house of a lawyer, Mr. Peiris replied that as the lawyer, Mr. Weliamuna himself could not tell the government who threw the grenade it was not possible to identify the culprit of this act. If this principle is followed in all cases of crimes the burden will be squarely laid on the victim to discover the perpetrator, thus exonerating the state from conducting investigations into the crime and discovering the culprits through competent investigations. Considering that Mr. Mohan Peiris once held the post of Attorney General this answer demonstrates that he may

not have had the basic knowledge of criminal law and procedure to qualify for such a position, or perhaps, that the system of which he was a part does not have the basic attributes of a system of criminal law at all.

If we look into the reasons as to why Sri Lanka has become incapable of implementing the CAT, we can easily find the explanation as to the manner in which the Sri Lankan delegation participated in, or, some would say, did not participate in a dialogue with the committee.

The reasons for the incapacity to implement the CAT are fundamental, because they are constitutional. Sri Lanka's Constitution guarantees impunity to the head of the state as well as to any agency of the state of which he is the head. Article 35 of the Constitution places the executive president above the law and outside the jurisdiction of the courts. As total control of all actions of the executive is with the president, almost all acts done by state officers are virtually outside the jurisdiction of the courts. All matters of public policy come from the president.

The direct result of this situation has been the profound displacement of all public institutions of Sri Lanka, the police, the election commission and the civil service. By 2001 there was a general realisation that all the basic public institutions had ceased to function as intended due to over-politicization via the control of the executive president.

Responding to public protest at this highly dissatisfactory state of affairs, the parliament with near unanimity passed an amendment to the Constitution, which is known as the 17th Amendment, and which brought about some limitations on the power of the president to make appointments, transfers, promotions and dismissals of public servants working in the abovementioned institutions. This was an attempt to bring about at least some limited control over the president's constitutional superpowers.

The present government got rid of these limited controls over the president by passing the 18th Amendment, which virtually negated the 17th Amendment. The direct result was that all public institutions are now under the direct control of the president.

Here lies the basic incapacity of the Sri Lankan state to respect international norms and standards relating to human rights. The political 'order' created by the 1978 Constitution and the practices that have become entrenched in the following 33 years have created a situation in which the commands of the president have become law. For example, extrajudicial killings of those persons who are considered as unwanted or bad criminals have now become a frequent practice as a way of dealing with law and order as understood by the regime.

The control by the president of all public institutions directly resulted in the disempowerment of those who hold higher positions in these institutions. For example, in the police the

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“Today when torture is practiced at police stations there is hardly any possibility for higher-ranking officers of the police to impose disciplinary sanctions and punish recalcitrant officers”

Inspector General of Police and his deputies today have very little control over their subordinates. This has led to the virtual collapse of disciplinary procedures that earlier had worked reasonably well.

Today when torture is practiced at police stations there is hardly any possibility for higher-ranking officers of the police to impose disciplinary sanctions and punish recalcitrant officers. The institution thus faces serious internal difficulties and is incapable of functioning in order to achieve goals of the sort that would be consistent with the CAT and with the expectations of the UN committee.

It is not surprising that persons who have had their upbringing and education in developed democracies fail to grasp what the Sri Lankan legal system is today. This is perhaps the challenge the committee will be faced with in preparing to make recommendations on Sri Lanka. The recommendations of the last session were totally ignored by the government. The usual generic recommendations for investigating, prosecuting and providing judicial remedies are of course always valid but in terms of Sri Lanka are unlikely to produce any positive result.

Under the 1978 Constitution the word ‘impunity’ does not carry much meaning as a human rights problem, since it is implicitly written into the contents of the charter. Impunity for all executive actions is guaranteed by the constitution itself. Thus, the security forces are protected from any legal consequences as long as the executive can exercise such impunity.

The courts in Sri Lanka do not have the legal capability to alter this situation. Unfortunately, in the past the judiciary has interpreted article 35 of the Constitution to mean that presidential impunity is absolute. Over the last 33 years the jurisdiction of the courts in public law and criminal justice issues has been greatly curtailed. In response, public expectations of the courts have also diminished greatly, as manifest from the contents of this latest publication documenting the problem.

We hope that this latest edition of *article 2* together with other reports and documentation on the same will contribute to further thinking in the international community on the limitations of its jurisprudence and its own practices in ensuring respect for human rights through actual attempts to implement these rights through a functioning public institutions of justice, and on what can instead be done to give meaning and life to the norms found in United Nations conventions in places like Sri Lanka where up to the present day they remain little more than figments of the imagination, buried under the iceberg of torture and ill-treatment, of which the contents of this edition and those of other publications published by the AHRC and ALRC over the last decade are but the tip.

Urgent Appeals on Sri Lanka issued by the Asian Human Rights Commission in 2011

1. Police refuse to conduct investigation into malpractice during the Sri Lanka Law College exam and threaten the life of the complainant

Mr. Dasanayaka Mudiyanseelage Thushara Jayarathna complained to the Keselwatte Police Station and other law enforcement agencies regarding a malpractice that occurred at the recently held exam at the Sri Lanka Law College. The Keselwatte Police recorded his complaint only after the intervention of the Police Headquarters. However, the other agencies refused to accept his complaint. He began receiving continuous threats to his life. Furthermore, the Registrar of the Law College contacted him by telephone and threatened him to withdraw his complaint. Neither the complaint about the malpractice at the exam nor the threats to Thushara's life have been investigated.

On 3 December 2010, a final year student of the Sri Lanka Law College, Mr. Dasanayaka Mudiyanseelage Thushara Jayarathna of No. 4/8, Edirisinghe Road, Nugegoda discovered that one of the papers for the final examination held recently at the Law College for which he sat had been leaked before the designated time, which clearly constitutes a malpractice in the exam procedure of the Sri Lanka Law College. He immediately made a complaint to the invigilator of the exam and to the principal of the Law College but neither person accepted his complaint nor took steps to investigate the incident.

On the same day he attempted to make a complaint to the Keselwatte Police Station about the incident but they refused to record his complaint. Upon learning of their refusal he then made a complaint to the Police Headquarters in Colombo regarding the irregularity that occurred at the Keselwatte Police Station and it was only after the intervention of this office that the officers

January 5, 2011 -
Urgent Appeal Case:
AHRC-UAC-002-2011
April 12, 2011 -
Urgent Appeal Update:
AHRC-UAU-020-2011

ISSUES: Threat to the
life; police inaction in
criminal investigation;
impunity; rule of law

The 85 cases that follow consist of Urgent Appeals from Sri Lanka issued by the Asian Human Rights Commission featured in this compilation are for the period of 1 January to 11 October 2011. For all appeals and other interventions on Sri Lanka by the AHRC, visit the AHRC website: www.humanrights.asia/countries/srilanka

Abbreviations & terminology

AG	Attorney General
AHRC	Asian Human Rights Commission
ASP	Assistant Superintendent of Police
CAT Act	Convention Against Torture Act
CID	Criminal Investigation Division
DIG	Deputy Inspector General
DMO	District Medical Officer
FTZ	Free Trade Zone
HQI	Headquarters Inspector
HRC	Human Rights Commission of Sri Lanka
IGP	Inspector General of Police
IP	Inspector of Police
JMO	Judicial Medical Officer
LTTE	Liberation Tigers of Tamil Eelam
MLEF	Medico Legal Examination Form
NPC	National Police Commission
OIC	Officer-in-Charge
PC	Police Constable
PS	Police Sergeant
Rs.	Sri Lankan Rupees
SI	Sub-Inspector
SP	Superintendent of Police
SSP	Senior Superintendent of Police
STF	Special Task Force
Three-wheeler	Motorized trishaw
TID	Terrorist Investigation Division
UAC	Urgent Appeal Case of the AHRC

at Keselwatte Police Station recorded his complaint under the number M.O.B. 81/39. However, no inquiries took place on the basis of his complaint.

When Thushara realised that no action was going to be taken he attempted to record a further complaint at the Commission against Bribery and Corruption, but his request was once again turned down. One of the officers explained to him in Sinhala that it is the law of nature for big animals to eat the small ones, and that if he did not learn to live with this understanding, he might find it difficult to survive.

Thushara then came under severe pressure when the Registrar of the Law College made threatening calls, demanding that he withdraw the complaint. He also received threats from other quarters and, for his own security, he had to stay away from sitting for two subsequent papers.

It is believed that a powerful politician's son was sitting for this same exam and that for this reason there was reluctance on the part of the Law College authorities and all other agencies to intervene into this issue.

In April, the young man sent the following letter about his case to the Chief Justice of Sri Lanka:

Honorable Chief Justice,
Supreme Court Complex,
Colombo 12.

11th April 2011

Dear Sir,

Furthermore, Threats and Harassment Against Law Student - Thushara Jayarathne

My name is D.M. Thushara Jayarathne. I am a Sri Lankan national bearing National Identity Card No. 720692368V. I am a final year student at the Sri Lanka Law College, registered to sit for the final year examinations between October and December 2010. Furthermore, to my previous letter to your Lordship, on 15th December 2010, citing several irregularities relating to the final year examinations conducted by Sri Lanka Law College, I wish to bring to my Lords' attention several further threats made against me following my complaint including an abduction and interrogation.

Following my complaint on 3rd December 2010, to the Keselwatta Police, regarding serious examination irregularities, the Principal, Law College, ordered me to appear before an internal inquiry on 11th January at the Law College premises. The Principal threatened that if I failed to appear and state reasons my allegations, legal action will be taken against me for making false allegations against Law College officials. I gave evidence before the inquiry panel on 11th December despite fears regarding my security. I was assured that further inquiry would be conducted and steps taken based on my evidence.

However I have not received any information regarding any such measures undertaken by Law College to date.

Ever since my complaint to the police on 3rd December, I have received continuous threatening calls on my mobile phone asking me to withdraw the complaint against Law College. Several calls were made from the Law College landline number which was recorded on my mobile phone. On 4th March 2011, I was abducted, at or around 11 am, by two unidentified men from a public bus stop in Colombo. The men took me to an undisclosed location and questioned me for several hours regarding my complaint against Law College and association with international human rights groups and the United Nations. I was finally released around 11 pm the same day.

I submitted complaints regarding threats faced and the abduction to the National HRC (NHRC) and the IGP by registered post but to my knowledge no action has been taken based on my complaints so far.

By its letter dated 3rd March 2011, the NHRC informed me that no further action would be taken regarding my complaint regarding exam irregularities at Sri Lanka Law College since the subject matter fell outside the NHRC mandate. On 7th March 2011, the NHRC informed me that it would take no further action based on my complaint regarding the

abduction on 4th March, since the matter fell outside the purview of its legal mandate and did not disclose a violation of my fundamental rights under the Constitution. However, I was visited by two uniformed police officers who recorded my statement and claimed to be acting on the NHRC complaint submitted by me. However, the officer refused to record my specific complaints against the Registrar, Law College and Mr. Namal Rajapakse, a final year student at the Law College and the son of President Mahinda Rajapakse.

On 10th April 2011, at around 11 pm, two men in civil clothing visited my home and forced me to sign two documents which were written in English. I recognised one of the men as a person who visited my home and threatened me in March 2011. The men did not explain the contents of

the document to me and did not give me an opportunity to read the document. Since I was afraid for my life and safety I complied with their orders and signed the document under duress. I am not aware of the purpose of this visit and I am afraid that it might be an attempt to force me to withdraw the complaint against Law College. I wish to state that apart from my current complaint against the Law College, I have no other problems or conflict with any other individual or institution in Sri Lanka. Therefore I believe that the documents I was forced to sign, relate in some manner to the ongoing complaint against Law College.

My Lord, I wish to bring this incident to your attention as a means of protecting myself against any attempt to produce these documents before court and falsely represent that I had willingly consented to withdraw my complaints against the Law College and its officials. I fully intend to maintain my ongoing complaints regarding examination irregularities and the threats and harassment faced by me.

However, as a result of these threats and intimidation, I live in constant fear of a further attack and believe that I am no longer safe in my home. I am under tremendous pressure to withdraw the complaint against the Law College. As a result of these threats, I am compelled to leave my home immediately. I will be grateful if your Lordship could inquire into my case and communicate any decision by the Law College or the Legal Education Council to me by electronic communication.

I will be grateful if your Lordship will look upon my case with kindness and take steps to ensure my safety and security in Sri Lanka.

Thanking you,

Yours Sincerely

D.M. Thushara Jayarathne

2. Young Tamil complainant in a bribery case against a police officer faces attempts on his life and is in hiding

A complainant in a bribery case received death threats from the police officers attached to the Hatton Police Station. The complainant made a complaint against IP Wijesuriya of the said police station on 6 November 2007 to the Bribery Commission of Sri Lanka. Later he was threatened by the same officer and on many occasions was threatened with his life. Furthermore, the police have filed two fabricated cases against him. One case was settled and concluded. The complainant went into hiding, since his life was in danger.

Mr. Devarathnam Yogendra (28) of Shanon Estate, Hatton is the complainant in a bribery case number: 50600/01 in the Chief Magistrate's Court Colombo, against IP Wijesuriya of the Hatton Police Station, who has been indicted on a charge of obtaining bribes. This charge has been filed on the basis of a complaint made by Yogendra on 6 November 2007 and the police officer was arrested by a decoy from the Bribery Commission immediately after accepting a bribe. Ever since the arrest of this police officer Devarathnam Yogendra has faced several attempts on his life, according to several complaints that he has made to the police, including the IGP and also many other authorities, including the HRC. Yogendra has also complained that several fabricated charges have been filed, one of which was dismissed by the Magistrate on 11 January 2011.

Four days after the first case was dismissed Yogendra faced another threat to his life. On 15 January 2011 around 1.30am about five police officers in police t-shirts had come to Yogendra's house and woke him up and said that they needed to question him. When his father asked the reason for his arrest, the police officers said that there was a complaint against Yogendra and they need to question him. Then they took Yogendra, walking towards a white van with tinted glasses and pushed him into the van. It was not a police jeep.

Inside the van he was blindfolded and handcuffed and they took him about 200 metres into a lonely place where there was a cemetery. When he was taken out of the van, the cloth that blindfolded him was removed and Yogendra was asked to kneel down. Then he was threatened and told that they would kill him if he acted against the police. Yogendra was then assaulted on his shoulders and his body and at this stage Yogendra identified a police officer by the name of Sergeant Sarath. Yogendra told him that if he were killed the whole world would know that the Hatton police officers had done it. At this stage the police officers were drinking, laughing and making merry. After this they further assaulted him and took out a gun, which they fired in the air. Then they showed him the cemetery and said that he would be soon be there if he continued to act against the police officers. Having kept him for more than one hour he was threatened repeatedly. Then the handcuffs were removed and the officers left in the van.

When he went to report to the police station on 30 January 2011 at around 9.30am the officer on duty informed him that he should bring a copy of his photograph to the station or they would not allow him to sign in the station book and take steps to cancel the bail given by the court in the second case pending against him. Out of fear of this threat and the concern for his surety he complied with the order. But Mr. Yogendra feared that he would be killed, as the police now had his photograph, which they could distribute at will.

January 19, 2011 -
Urgent Appeal Case:
AHRC-UAC-007-2011
February 2, 2011 -
Urgent Appeal Update:
AHRC-UAU-006-2011

ISSUES: Extrajudicial
killing; death threats;
impunity; rule of law

This is one more case of a person being hunted by the police due to complaints made by him to the Bribery Commission and other authorities. Sugath Nishanta Fernando from Negombo was killed after making complaints against the police regarding torture and bribery. At the time he was killed, several police officers were being charged by the Bribery Commission and were also made respondents in a torture case. Earlier, Gerard Perera, who was pursuing his complaint against torture by several officers from the Wattala Police was killed while he was traveling on a bus. A case is before the Negombo High Court relating to the murder of Gerard Perera in which the accused is a police officer and an accomplice who was earlier charged under the CAT Act, No. 22 of 1994, for torturing him.

3. A complainant was illegally arrested, detained and tortured by officers of the Kiribathgoda Police Station

A man was illegally arrested by police officers attached to the Kiribathgoda Police Station in the district of Gampaha after making a complaint to the police regarding a death plot. He was severely tortured and the OIC of the Kiribathgoda Police Station later informed that it had been a case mistaken identity. He was treated at the Emergency Service Unit of National hospital. The complainant was receiving death threats via phone calls.

According to Mallikarachchige Don Indika Shashiranga Senevirathna (25) of No. 286, Temple Road, Dalugangoda, Kalaniya, a registered 'substitute post' of the Sri Lanka Postal Department, on 27 October 2010, around 12.30am, he was awoken from sleep when he heard somebody knocking at the door. His mother opened the door and four police officers entered his home and stated that Mr. Darmadasa, a neighbour, had passed away and he was responsible for the death, as he had assaulted the man. Indika and his mother both vehemently denied the accusation. The officers told him that they had received a message from the hospital police post that Darmadasa has died due to an assault with a stone by Indika. Again he denied the charge.

Then one of the officers held his neck tightly and demanded that he accompany the officers. At that point Indika's mother started to scream and he told her that he would return soon as he was innocent. Then he noted that another officer in civilian clothes, holding a pole was waiting at a jeep parked near his home with a pole. They put him in the jeep and moved away.

Just after half a kilometer they stopped the vehicle. Then the officers ordered Indika to remove his trousers and t-shirt, which he did due to fear. Then the officers started to slap him several times. Three officers who were in the rear started to squeeze his penis. Indika told the officers that the OIC of the Kiribathgoda Police Station, Mr. Chaminda Edirisuriya, knew him personally and that he was innocent, but the officers replied that the OIC loved them more. Furthermore, the officers told that the 'Ralahami' (village level state officer, or Grama Niladari) treated

January 24, 2011 -
Urgent Appeal Case:
AHRC-UAC-009-
2011

ISSUES: Illegal
arrest; arbitrary
detention; torture;
impunity; rule of law

them nicely and they revealed the name of that officer as Mr. Saman. Indika noticed that all the officers on board were drunk. He was tortured for around 10 to 15 minutes. Then when the jeep came close to the police station the officers asked him to get dressed again.

Indika was brought inside the police station and asked to stay near the front gate of the station. Then another officer came to him and cut the rope that held up his trousers, following which his trousers dropped down. This man also squeezed his penis. Then he started to smoke and blew the smoke in his face. He did it for two cigarettes. Then a police officer noticed that Indika was wearing a holy thread about his wrist and the officer burned the thread with his cigarette. He also scolded him with obscene language.

Then Indika was locked up in a cell. There was one officer who was drinking arrack (alcohol). He came to Indika and warned him that if he did anything to the people of the neighbouring house he would face future consequences. He was threatened that his skin would be cut off. Then the officer insisted that he drink arrack, which he refused stating that he is teetotaler.

One hour later, Indika's mother came to the police station and he told her of how he had been tortured. Furthermore, he told that he could not urinate, as the police officers had tortured his penis. Then his mother started to cry. She said that he would be released by the morning.

The following morning, October 27, Indika's mother and sister went to the police station and met several police officers, including the OIC. The OIC told the mother and Indika that the officers on duty the previous night had arrested Indika by mistake. He stated clearly that the officer recording the message did so incorrectly.

Indika was released after the officers recorded the signatures of the mother and the sister at around 1 pm.

Then Indika was taken to the office of DIG at Paliyagoda and his complaint was recorded. He was asked to go to the National Hospital as soon as possible. First Indika was admitted to the Emergency Service of the hospital and he was treated there from October 27 to 29. Then he was transferred to Ward Bumber 63 and discharged only on November 12. While he was in the ward the suspected Grama Niladari, Mr. Saman, came to the ward and showed Indika to a person who accompanied with him. Then Indika immediately made a complaint regarding that incident under the complaint number CIBI 56/344 to the DIG's office.

While Indika was treated in the hospital he was subjected to many examinations including CT scan, ECG and x-rays. He was also examined by a psychiatrist. While he was in the hospital an ASP and the OIC of the Kiribathgoda Police Station also visited him. The ASP waited to one side while the OIC talked to Indika. The OIC asked whether he had any money and offered him Rs.

500, which Indika refused to accept. The OIC asked him in surprise what he had done to himself and instructed him to meet him after being discharged.

Indika stated that all these things happened due to the undue influence of Mr. K K Darmadasa who is the neighbour and his son Mr. Saman the village officer. Indika had made a complaint to the police that Saman had assigned a criminal to murder Indika and his mother. The police did not investigate that complaint and Indika believes that they leaked the information to Saman.

After he came home from hospital on 14 November Indika continuously received death threats via his telephone.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=BKzsJDXzhqI>



4. Man illegally arrested, detained and tortured by the Beruwala police

Samarasinhage Sudath Pushpakumara was illegally arrested by police officers attached to the Beruwala Police Station in the district of Kaluthara, illegally detained and severely tortured on 1 November 2010. Then he was shown to a group of witnesses of the case at the police station and as the witnesses denied that he was involved in the crime the police officers threatened the man and released him. He was warned that he needed to remain silent about his arrest and torture.

According to the Mr. Samarasinhage Sudath Pushpakumara (34) of 148 Babanagodagama, Beruwala, a driver by profession, he was arrested by the SI Udayanga of Police Station Beruwala on 1 November 2010 around 10.30am.

First SI Udayanga of the CID of the Beruwella police came to the vehicle park at Beruwal Town around 10.30am of that day and asked Sudath go for a hire to Rathnapura. When SI Udayanga said that he want to hire the vehicle to go Ratnapura Sudath told that the hire would be Rs. 6,500. Then the officer replied that he wanted to go for an official purpose so then Sudath reduced the fare to Rs 5,500. On the way, the car stopped near the house of the OIC of the Beruwella Police Station. SI Udayanga asked Sudath if he knew the reason for bringing him to the residence of the OIC. Sudath replied that he came for a fare to Rathnapura. Then SI Sudath told him that they suspected Sudath of involvement with a robbery together with 'Lara' who is a well-known thief in the area. Immediately Sudath denied any involvement of any kind with Lara or with any such crime.

Then SI Udayanga dragged Sudath out of his van and assaulted him twice. He was told that he needed to go to the police station. Furthermore, SI Udayanga told that he could introduce a fabricated charge of having cannabis, kudu (drugs), or for possession of bombs. He told Sudath that he could kill him at any time. Then SI Udayanga covered the eyes of Sudath with a cloth. He was kept like that for half of the day.

January 25, 2011 -
Urgent Appeal Case:
AHRC-UAC-012-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

At night the cloth was removed and Sudath noticed that a group of people had been brought before him. SI Udayanga showed Sudath to them and questioned them as to whether he was the thief. But all the members of the group denied it, especially a young girl who was with them clearly stated that he was not the man. Then they left the place.

The next day Sudath was brought to a room and was tightly handcuffed to a bed. He suffered enormously due to the tightness of the cuffs. Then he was given some food to eat but due to the handcuffs he was unable to eat it. Only on limited occasions was he allowed to go to the toilet.

It was only on November 7 at around 5.30pm that Sudath was brought down from that room. During this period from 1 to 7 November he was detained in that manner. SI Udayanga threatened Sudath that he could kill him. Udayanga went so far as to say that if he so chose he could kill even 25 persons. Sudath continuously stated that he was innocent. Then SI Udayanga told Sudath that he could be produced before a High Court if necessary on a fabricated case. Sudath was in fear due to these statements. Then he was released without being produced before any court. When he was released he was warned that he could go but he had to remain silent.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=Vjz2JV5xpvY>

5. Nivithigala police illegally arrested and tortured a man while in detention

Lindamulage Suneth Rupersinghe Silva was illegally arrested by police officers attached to the Nivithigala Police Station in the district of Rathnapura, illegally detained and subjected to degrading treatment on 25 October 2010. Then he was forced to sign a document supposedly to legalise the arrest, which is a common practice in Sri Lankan police stations. The document was prepared by the police and while Suneth was allowed to read part of it none of the contents therein were truthfully recorded from him but rather fabricated by the officers. Furthermore, he was threatened that they would involve him in a fabricated charge in order to remand him. He was also threatened with death if he caused any problems.

According to the Lindamulage Suneth Rupersinghe Silva (26) of Kiribathgala, Rajaye Wevella East Section, Della, Nivithigala, he was illegally arrested, detained, tortured and threatened with death and the filing of fabricated charges.

On 24 October 2010 while he was in Horana his elder brother called him and asked his whereabouts and he answered, Horana. Some time later he had travelled to Ingiriya when his mother also called him and asked his whereabouts. When he asked the reasons for these queries she told him that one of his friends was waiting to meet him. Suneth returned home around 9.30pm

January 26, 2011 -
Urgent Appeal Case:
AHRC-UAC-014-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

and his mother revealed that a police officer of Nivithigala Police Station came and left instructions for him to go to the police station.

Next morning at around 10am he went to the Nivithigala Police Station along with his mother and his father by a three-wheeler. There he was directed to the crime branch of the station and he met the OIC. Suneth asked the reason for being summoned to the police. Instead of answering, an officer bearing the identity number 93029 took Suneth's mobile phone, wallet, ID card and his pen. Then without being told the reason he was told to enter the cell in a very degrading manner. When he asked this officer the reason for locking up him the policeman started to abuse him with obscene language.

His relatives brought meals for him but none of them were allowed to visit Suneth.

The next day on 26 October at around noon he was brought out and informed that the bail granted to him before in connection with a criminal case was going to be cancelled. When he asked the reason for that, the officer (93029) informed that he needed to sign a letter that he had prepared. Suneth was allowed to read part of the document. In the letter it was reported that Suneth was arrested at Nivithigala Town by the police officer in the night, as he was not able to produce an ID card. Suneth refused to sign the document and explained that he came to the police station along with his parents in the morning of 24 October. He was told by the officer who drafted the letter that he would be released after he signed it. If he failed to do so his release would be delayed. Then Suneth signed the letter, believing the promise of the officer.

After getting the signature, the officer told Suneth that he needed to accept a criminal case, which he would be assigned. When Suneth refused to comply, the officer told him to be ready for remand.

Then at around 1 pm, he was brought to the OIC of the crime branch of the police station. The OIC asked him if he knew anything about how young men got killed in the eighties. The OIC warned him that he would be killed in a similar manner if he continued to behave as a big man. Later he was informed that he could go home after his father come to the station. Until then he was asked to sit on the bench at the police station. His father arrived shortly after and Suneth was released.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=uhrsAPz5FuA>



6. Police officers at Katupotha humiliate a man before torturing him

January 27, 2011 -
Urgent Appeal Case:
AHRC-UAC-015-2011

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law**

Selema Lebbe Mohammed Amir Sultan was illegally arrested by police officers attached to the Katupotha Police Station in the district of Kurunegalle. He was illegally detained and subjected to degrading treatment and torture on 9 October 2010. Amir was forcefully stripped of his clothes and beaten in order to make him stand on the table where the assembled police officers, both men and women, taunted him in front of influential parties to take revenge for his complaining against the police. He was then forced to sign documents prepared by the police. Furthermore, the police filed fabricated charges against him and he was remanded. He was also threatened that if he proceeded with his complaint to the higher authorities he would bring more trouble down on himself.

According to Mr. Selema Lebbe Mohammed Amir Sultan (40) of Madalahisa, Kakunagolla in the Katupotha Police Division he was illegally arrested, detained and tortured by a Katupotha Police Station on 9 October 2010.

On that day Amir received a telephone message from telephone number 077 8751160 which belongs to Mr. Nijam, a well-known businessman in the area. He was told that one of his elder brothers, Rasik had been assaulted and at that moment he was being taken to a police jeep. Amir was asked to come to Kirimatiyawa to help his brother. When he received the message he was at the Narammala bus stand. He immediately went home and informed his relatives and started to travel to Kirimatiyawa on a motorbike belonging to one of his brothers. When he reached Kirimatiyawa he saw that his brother was inside the jeep with two others, Imran and Safeek. The time was around 1pm. Amir observed that there were four police officers attached to the Katupotha Police Station, namely Court Sergeant (CS) Jayawardana and officers Janaka, Herath and one other. All were in uniform.

When CS Jayawardana saw Amir he ordered him to get into the jeep. When Amir asked the reason, CS Jayawardana started to scold him in a derogatory manner. He then slapped Amir several times to force him into the jeep. During the journey to the Katupotha Police Station, Amir learned that there were had been a quarrel between his brother Rasik and others in the jeep.

At the police station Amir was made sit on the bench. CS Jayawardana told Amir to be ready to go the 'mother-in-law's house' for six months. This is a euphemism for sending someone to remand prison. CS Jayawardana repeatedly questioned Amir as to why he sought the intervention from the higher authorities for his rights violations. Amir replied that he wanted to get justice.

Another police officer, Janaka, got a big knife from Mr. Jesmin, the elder brother of Mr. Safeek who had quarreled with Amir's brother. Jesmin was an owner of the beef stall at Madalassa and is a person of influence in the area. Janaka handed the knife to Amir and asked him to hold it. However, Amir refused to do so as he realised that the officer wanted his fingerprints on the potential weapon.

It was at that time that CS Jayawardana ordered Janaka to remove Amir's clothes. Janaka dragged Amir into an adjoining room. There Amir observed that there were other police officers, namely Herath and two women officers, one of whom Amir identified as Manike. Immediately they brought in Farseek, Imran, Jasmin and Amir's brother Rasik into the same room. Then police officer Herath forcefully took Amir's wristwatch, and he searched Amir's pocket and took Rs. 105.

Amir's t-shirt was forcefully removed while CS Jayawardana continuously beat him about the face. After his sarong was torn off and Amir was completely naked, he was pushed onto the table. Then all the police officers included the two women started to clap, make rude noises and laugh. This was done in the presence of Jesmin, Imran, and Farseek. The only one that remained silent was Rasik, the brother of Amir.

This degrading and humiliating punishment continued for some time. The women police officer called Manike started to scold Amir with obscene language and told him that this punishment was not enough for someone who complained to higher authorities, like Amir. She said that that further punishment was required.

Manike told Amir that there were pens and paper and that he could write whatever he wanted but to remember that the courts would only accept the version provided by the police. She threatened him not to fight with the police.

Police officer Janaka gave Amir back his sarong and then started to write a statement. Amir was never asked to make a statement but was forced against his will to sign the one prepared by the police.

Then police officers brought Amir, his brother Rasik, Farseek and Imran to the Katupotha District Hospital. When Amir was produced before the doctor he revealed how he was tortured at the hands of the police officers. However, the doctor did not examine Amir, nor did he answer any of his questions.

Amir was brought to the residence of Acting Magistrate Mr. Abdulla and remanded. He was not told the reason for filing a case against him and vehemently states that it was a fabricated charge. He was first taken to Kuliapitiya Prison Lock Up and then on October 10 transferred to Wariyapola Prison.

On October 20 he was released on bail and learned that the case number of the fabricated charge the police filed against him was B/1995/2010. Amir is certain that the police officers filed this case to take revenge on him for seeking justice from the higher authorities for what had happened to him and to please the influential people.

WATCH A VIDEO ON THIS CASE: <http://www.youtube.com/user/janasansadaya#p/u/19/4gUJAZk55Rg>



7. Innocent man tortured and put into a leech-filled pool by the Matugama Police

January 28, 2011 -
Urgent Appeal Case:
AHRC-UAC-017-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law

Mr. Anthony Ayya Devaraj was illegally arrested by police officers attached to the Matugama Police Station in the district of Kaluthara. He was asked to help the police officers find three suspects while he was working in a paddy field. Though he was able to show the officers the place they were seeking, as he was not able to find the suspects or their belongings, the police officers tortured the man. After beating the victim while his wrists were cuffed behind his back they pushed him into a pond in which there were leeches and prickly plants. As Devaraj was handcuffed he was unable to protect himself against either the thorns or the leeches that attached themselves to him. Finally the police took him to the Matugama Police Station where they filed fabricated charges against him. As Devaraj complained to higher authorities about the unjust treatment they started to threaten him and he was forced to withdraw his complaints.

According to Mr. Anthony Ayya Devaraj (44) of No. 35, Sirikandura Estate, Badugama, Matugama, he is an estate labourer, married and a father of three, who on 7 June 2010 around 9am was spreading pesticide over a paddy field where he works as a labourer. Two persons came by a motorcycle in civilian clothes to him and asked the way to Sirikandura Estate where they were hoping to find three suspects. Devaraj had not seen either of them before. They told him they were from the police. Then without warning or cause they cuffed Devaraj's wrists behind his back and went in the direction of Sirikandura Estate, forcefully taking him along. On the way one of the officers broke off the branch of an *Alstonia* tree. Then they proceeded to the Estate and arrested a man called Mr. Manikkam Sandanam whom they accused of distributing illicit liquor.

Then the police officers told Devaraj that they wanted to arrest two more persons. They went to a place called Galkanda, taking Sandanam and Devaraj along with them.

The officers told the two prisoners that there was three persons engaged in producing illicit liquor and asked both of them to show the place where it was being manufactured and where the utensils were kept. Devaraj told them that he knew nothing about it.

The officer who had the tree branch started to beat Devaraj on his back, hands and buttocks. Devaraj repeatedly told him that he knew nothing about any of those things. At that point the other officer pushed him into the pond in which there were leeches and prickly plants, and held his head under the water. The plants in the pond were 'Kohila' (*Lasia spinosa*) which have a great many spiny thorns. He held Devaraj's head under the water for some time and when he was released he realised that there were leeches attached to his body. He could not remove the leeches as his wrists were cuffed behind his back. While keeping him in the water the officers repeatedly questioned him to reveal the places where the property belong to illicit liquor producers could be found. Devaraj repeatedly told them he did not know anything. When he begged the officers to remove the

leeches they refused to assist him. Then the police officers slapped Devaraj and warned him that they would file a fabricated charge for possession of five barrels used for the manufacture of illicit liquor.

Then police officers took Sandanam and Devaraj to the Matugama Police Station. At the police station police officers removed the handcuffs and it was only then that Devaraj was able to remove the leeches.

He was not given any food that day and in the afternoon his wife and the son came to visit him at around 3pm. Then he was able to reveal to them how he was assaulted.

At around 7pm police officer Balachandran came to the cell and informed Devaraj that as other police officers had revealed that Devaraj has not committed any crimes they were filing a charge of possession of two bottles of illicit liquor instead of the earlier threat of possession of five barrels.

The next day at around 8am the police officer who had tortured Devaraj came to him and informed him that they were releasing him, but when he appeared before the magistrate he should plead guilty otherwise they would file many fabricated charges against him. Furthermore, he said that they police had more than sufficient evidence in the way of barrels to use against him. Then he said that Devaraj should not retain a lawyer and spend money, that the officer could arrange community service for Devaraj instead of punishment if he pleaded guilty. Furthermore, he warned that if he did not follow this advice he would 'look after him', which is a very common practice of police officers in Sri Lanka to threaten the innocents.

Then another officer asked the name and address of Devaraj and forced him to sign a document, which was not read or explained to him. At the same time he took Devaraj's fingerprints on another small paper on which there were some notes as well. Finally his wife arrived, signed for the police bail and Devaraj was allowed to go home.

Devaraj made written complaints to the IGP, NPC, and SSP Kalutara and to the HRC. But none of these officers or institutions had made inquiries. On 28 July 2010 he received a telephone call to his mobile from 072 9476115 and was warned by the caller who identified himself as a police officer named Mahinda of the Matugama police that he would be rearrested and that further charges would be filed against him unless he withdrew the complaints that he made to the higher authorities.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=nteCQPcxjxg>



8. Anguruwathota police torture man with hot chilies on his genitalia

January 31, 2011 -
Urgent Appeal Case:
AHRC-UAC-018-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

A non-state agent abducted Mr. Sunil Shantha from the street and assaulted him in a private confinement. Later, they handed him over to the police whom the abductor entertained with liquor. The police officers tortured Sunil by massaging chopped hot chilies on his body, including his eyes and genitalia. The next morning Sunil was released. At no time was he informed of any complaint against him and no statement was recorded.

Mr. Sunil Shantha (38) of Werawatha; Delgahakanda; Anguruwathota is married and a labourer who was illegally arrested, detained and subjected to cruel and inhuman treatment on 18 October 2010 by police officers attached to the Anguruwathota Police.

While Sunil was working at one of his employer's houses on October 18, he went to a shop close by to buy some cigarettes. At the shop, Mr. Samarapala Edirimanna (who resides in the same village as Sunil) abducted him and took to his home. There he assaulted Sunil, accusing him of stealing cattle. After he assaulted Sunil, Samarapala telephoned an officer of the Anguruwathota Police Station. He then took Sunil in the direction of the police station in his car and on the way they met a police vehicle. Samarapala treated the officers in the vehicle with liquor and they then brought Sunil to the police station.

At the police station he was taken into a room. An officer, Thennakoon, stripped off Sunil's clothes and then cuffed his wrists. Thennakoon then hung Sunil from the roof and started to chop and crush hot chilies using a cup. When the chilies were ready he poured them into Sunil's eyes and rubbed them into his genitalia. Sunil was kept in this condition for some time before being brought down.

Then officer Thennakoon tied Sunil's wrists and ankles together and placed a pole through them, which he then suspended on two tables with the assistance of another officer. While Sunil was suspended in this manner officer Thennakoon beat the soles of his feet. After this Sunil was locked in a cell.

The following morning Sunil was released. He states that the officers at the station did not record anything from him. Furthermore, he states that the police did not produce him before court nor is there any case against him. At no time did the police show or inform him of any complaint made by any party to the police. Sunil states that by listening to the conversation inside the station he learned that the OIC of the crime branch, Chaminda, of the Anguruwathota Police Station commanded officer Thennakoon to torture Sunil at the station. Sunil denies that he was ever engaged in stealing cattle. He further states that the police officers at Anguruwathota Police Station tortured him to please Mr. Samarapala Edirimanna, an influential person in the area.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=4TMw8PJtPs>

9. Kolonna police tortured man and removed him from hospital against doctor's advice

Mr. Karasinghe Arachchilage Kumarasinghe Appuhami was illegally arrested and detained by the Kolonna police. While he was in police custody he was tortured and as a result he was injured about the head and started to vomit. He was brought to the Kolonna District Hospital for treatment where a doctor advised the police officers to admit him. However, due to the influence of the police the DMO permitted the officers to forcefully take the man back to the station. He was not provided with any medical treatment. Later he was forced to sign documents prepared by the police, which were not explained to him or recorded from him. After holding an inquiry the officers realised that he was innocent and released the following morning. When Kumarasinghe complained to the higher authorities against the unjust treatment he had been forced to endure, the police filed a fabricated charge against him.

According to Mr. Karasinghe Arachchilage Kumarasinghe Appuhami (55) of Temple Road, Wijegiriya, married, a father of five and a farmer by profession who lives in the Kollonna Police Division in Rathnapura District, on 30 April 2010, he received a message from the Kolonna Police Station to appear at the station for an inquiry at 9am. After waiting for several hours he was asked by officer Thilakarathna to answer some questions. Thilakarathna was in civilian clothes at the time. Kumarasinghe was accused of stealing electricity from the village electricity plant for his home, which he strongly denied. Each time he denied the charge, officer Thilakarathna slapped him heavily. Then Thilakarathna grabbed his shirt collar and dragged him forward and started to beat him about the head. During this assault Kumarasinghe struck his head against the wall. Thilakarathna locked Kumarasinghe in a cell, heedless of the pain that the man was suffering.

After 30 minutes Thilakarathna came to the cell along with another officer and shouted at Kumarasinghe in obscene language and warned him that two fabricated cases would be filed against him. Then Thilakarathna ordered the other officer to take Kumarasinghe to the hospital and bring him back. Two officers came to the cell and took Kumarasinghe to the Kolonna District Hospital.

At the hospital Kumarasinghe was produced before a doctor to whom he explained how he had received his injuries and that the police had tortured him. After examining Kumarasinghe the doctor informed the police officers that he should be admitted for further treatment. The officers told the doctor that they could not allow him to be admitted, as they had to take him back to the station. Furthermore, they denied that they had tortured him. The doctor informed the officers that they had to wait until the DMO came and made a decision in that regard, as he (the doctor) could not release the patient. For the next 15 minutes Kumarasinghe was asked to sit on a bench and it was then that he started to vomit.

February 1, 2011 -
Urgent Appeal Case:
AHRC-UAC-020-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; deny medical
treatment; impunity;
rule of law

When the DMO arrived he also examined Kumarasinghe, who was able to explain the history of the case. The DMO specifically asked him whether he had vomited and felt faint. Kumarasinghe said that this was the case and that he had already started vomiting. Then the DMO again asked one of the officers to take Kumarasinghe back to the bench while he spoke with the second officer. Following their conversation both of them came out from the examination room and the DMO said that he had to go the station. Kumarasinghe pleaded with the DMO that he needed treatment but the DMO left without considering his request. Kumarasinghe firmly believes that the DMO willfully allowed the police officers to take him from the hospital in the full knowledge of his medical condition and that he was suffering severe pain. Vomiting after suffering a head injury is a symptom of the seriousness of the patient's condition.

As the police officers tried to take Kumarasinghe back to the police station he pleaded them to admit him for treatment. However, heedless of his request the officers started to forcefully drag him away. Kumarasinghe held on to the bench with his right hand pleading with them not to take him back to the police station as he was in fear of being subjected to further torture. One officer called the police station and a short while later another five officers, including Thilakarathna, came to the hospital. They shouted at him with obscene language and Kumarasinghe begged them to at least give him some medicine for the pain. Then one officer told him, 'Thota Beheth Dennam' ("We will give you medicine", a euphemism for "we will give you torture"). Then the officers tried to carry Kumarasinghe out of the hospital but he held on to one leg of the bench. His fear was so great and his grip so strong that when the officers tried to drag him the heavy bench moved from the wall. Another officer took hold of Kumarasinghe's left hand and started to beat and twist it thereby causing enormous pain. All the while Kumarasinghe was screaming and pleading with the doctors and the bystanders to save him. However, no one came to his assistance. He saw a large number of health staff looking on but none intervened to save him. Meanwhile other officers tried to release Kumarasinghe's right hand from the bench.

Finally, the officers were able to drag Kumarasinghe out of the hospital and into a vehicle parked in the hospital premises. Kumarasinghe lost consciousness but not before he realised that his sarong had been torn off.

When he regained consciousness he found that he was back at the police station. With difficulty they brought Kumarasinghe to a cell.

After some time, Kumarasinghe was taken out from the cell and brought before the OIC of the station. Then he was able to explain what had happened to him. After listening to this the OIC told him, 'Mama Hitiyanam Thota Gahanne Redde Revenna' ("If I was here I would have beaten you until you shat yourself"). He was then returned to the cell and at around 7pm one of his

relatives came to visit him. After explaining his pain he was able to take some Panadol. Altogether Kumarasinghe took six pills, after getting some water from an officer.

Then at around 10am officer Thilakarathna came to Kumarasinghe and informed him that they needed to record a statement from him and took him to another room. Then Thilakarathna wrote a statement one-and-half-pages in length and asked Kumarasinghe to sign it. When Kumarasinghe asked the officer to read the statement before he signed it Thilakarathna ordered him to shut his mouth and sign. After Kumarasinghe again refused to sign the statement Thilakarathna brought him before the OIC and told him that he refused to sign the document. Kumarasinghe told the OIC that he needed to know the contents of the document before signing it. The OIC then requested Thilakarathna to read over the document. Thilakarathna brought Kumarasinghe back to the room and shouted at him, ordering him to sign the document but Kumarasinghe again refused and stated that even if he were to be killed he would not sign the document if it were not explained to him.

Then again officer Thilakarathna brought Kumarasinghe back to the OIC who told Kumarasinghe that there was no law that says a statement should be explained before being signed, which is completely contradictory to police regulations. He showed Kumarasinghe a book and explained that according to the information contained therein there was no need to explain a document before getting it signed.

At that time Kumarasinghe noted that members of the Electricity Plant Association of the village had also come to the station. Then the OIC warned Kumarasinghe that they would file two fabricated charges against him and that Kumarasinghe would be sent to remand prison for 14 days. The OIC called an officer and ordered him to inform the magistrate that he needed to send Kumarasinghe for to remand prison for 14 days.

Then OIC told him that, “Yako S B Dissanayaka Mahatthaya Awurudy 2 Hire Hitiya, Sripathi Suriarachchi Mahatthaya Kalayak Hire Hitiya, Sarath Fonseka Mahatthaya Thawama Athule. A Minissu Giye Katawal Hinda. Thotai Apitai Kohoma Karaida? A Nisa Umbata Viruddawa Nadu Danawa” (“Devil! Mr. S B Dissanayak imprisoned for two years, Sripathi Suriarachchi also for certain time, Sarath Fonseka is still in prison. All of them went prison because of their mouths. Then what would happen to you? So we will file two cases against you.”) Then Kumarasinghe pleaded with the OIC not to file cases, stating that his two children and the wife were hospitalized and the other his three children were in school when he came to the police. He told the OIC that he did not know what would happen to them. Finally he agreed to sign the document and was released.

The OIC then informed all the members of Electricity Plant Association and the others to come to the station the next day, May 2. On that day first Kumarasinghe went to the Kolonna Hospital for treatment but had to go to the police station for the

inquiry. As all the members of association were present, at the end it was found that there was nothing against Kumarasinghe. He was informed that the police would not file any case against him. This was stated in front of everyone present.

When he returned home although he used the medicine given to him by the hospital he understood that the pain was getting worse so he went to the Base Hospital of Ambilipitiya. Then the doctors admitted him for further treatment. The police officers at the police post of the hospital also recorded a statement from him on May 7. Then on the same day the JMO examined him and recorded his condition. He was discharged on that day.

Then Kumarasinghe went to the ASP, Ambilipitiya on May 11 and explained the incident to him. Another officer recorded his statement, which they got him to sign.

Kumarasinghe made complaints to the IGP, DIG (Sabaragamuwa), SSP (Rathnapura), NPC, and HRC regarding the unjust treatment he had received at the hands of the police. As a result of these complaints, he was informed by the police that they would file a fabricated charge against him, which they later did.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=UABuyMF3hKQ>

10. Constable pursuing a case against a senior police officer faces death threats

February 2, 2011 -
Urgent Appeal Case:
AHRC-UAC-021-2011

ISSUES: Torture;
denial of medical
treatment; witness
protection; impunity;
rule of law

PC P G W G Jayarathna was assaulted by IP Nishantha Alwis, the OIC of Zone-14 of Vavuniyawa District on 2 May 2009. Though the victim officer complained to all higher authorities of the police department, IP Nishantha was promoted to the position of Assistant to the Senior DIG of Sabaragamuwa and Uva. IP Nishantha has been attempting to influence the witnesses of the case and making death threats to the victim. The prosecution has been handled by the Vavuniyawa Headquarters Police Station and the officers concerned are reluctant to proceed with the case. The life of the victim has been in danger.

P.G.W.G. Jayarathna (37) of number 7/3, Panwatte, Ovilikanda, Matale is married and a PC attached to the Sri Lanka Police Department. On 2 May 2009 he served at Number 7 Bunker of Sub Zone 1 of Zone 14 of Vavuniyawa District. His bunker was at the Vavuniya Mannar main road.

On the particular day at around 6pm as usual he prepared to light the lantern to the Lord Buddha statue at the bunker. While completing his religious ritual he heard the horn of a police jeep. Immediately he went to the front of the bunker where he saw a police jeep with two senior officers and a few junior police officers. Immediately Jayarathna saluted the seniors and approached the jeep with his weapon. He knew the two senior officers, ASP Jayantha Athapaththu and IP Nishantha Alwis. IP Nishantha alighted from the jeep and asked Jayarathna the reason for not coming to him immediately. He answered that he was carrying

out his religious ritual by lighting the lantern to the Lord Buddha. Then IP Nishantha slapped him severely. Jayarathna understood that IP Nishantha was inebriated at the time, as were the officers accompanying him. When he was assaulted, it was witnessed by Sergeants Jayarathana and Kularathna who were the assistants of ASP Athapaththu. Furthermore, the incident was witnessed by another police officer, Thilakarathna, who also served in the bunker as well.

Just after Jayarathna was assaulted, Sergeant Jayarathana and Sergeant Kularathna went to IP Nishantha. They were staggering as they walked, as they were both drunk. They urged IP Nishantha to return to the vehicle. Jayarathna told the ASP that he worshipped Lord Buddha every day by lighting a lantern. Then the ASP told IP Nishantha that they had to go, and they left the place.

Jayarathna felt unbearable pain in his ear along with an unusual echo. Also he lost his sense of balance and was not able to stand properly.

Jayarathna called the State Information Centre on 1919 and asked for the telephone numbers of the DIG Vavuniya and SSP Vavuniya. Though he got those numbers he was not able to contact the officers. Then he called to 118, the Emergency Service number and asked them to inform a senior police officer at Vavuniya to come and take him for treatment, as he could not travel unaided. He waited for some time but no one came.

Then Jayarathna went to meet his immediate senior, the OIC of the Sub-Zone 1. He was able to make a record about the incident. Then the OIC (Administration) of Zone-14, Maddumabandara, came to him and told Jayarathna that he should not go for treatment as IP Nishantha was drunk and would face future problems if the complaint went any further. Then Jayarathna informed him that he was in great pain and could not stay. Then Maddumabandara went away saying that he would return with a vehicle but he never did so.

When he could no longer bear the pain Jayarathna went to the office of Zone-14 after making a record on the record book of the Sub-Zone officer. At that time he met IP Nishantha who told him that he could go anywhere he wished, as IP Nishantha was not afraid of any of those authorities.

Then Jayarathna handed over his official weapon to Bunker 6 of Sub-Zone 1 and kept a note of the record. He then went to the Government Hospital of Madawachchiya at 10.55pm, where he was admitted. Before he was admitted an officer from the Madawachchiya Police Station also recorded a statement from Jayarathna regarding the incident.

While he was treated at the ward he vomited around four times and suffered a severe headache as well. After the doctors examined his ear they decided to transfer Jayarathna to the Anuradhapura Teaching Hospital for further treatment. He was

transferred with an ambulance. After admitting him to the Anuradhapura hospital he was examined by the ENT consultant and informed that there was a perforation to his eardrum (tympanic membrane).

Jayantha then made a complaint to the SSP Vavuniyawa, DIG Vavuniyawa and to the police headquarters. He also made complaint with the HRC. Then the HQ Police Station Vavuniyawa filed a criminal case against IP Nishantha in the Magistrate's Court Vavuniya and the case number was 56816/2009. In this case IP Nishantha was accused of committing a crime of grievous hurt by perforation to the eardrum.

Meanwhile the case Jayarathna filed at HRC was taken up for inquiry and when it was concluded the Commission decided that IP Nishantha had violated the fundamental rights guaranteed to Jayarathana and ordered him to pay Rs. 10,000 as compensation.

A few weeks later Jayarathna found that IP Nishantha was promoted and appointed as the Personal Assistant to the Senior DIG (Sabaragamuwa and Uva Provinces). After his appointment Jayarathna observed that police officers attached to the HQ police station of Vavuniya showed no interest in proceeding with his case. Furthermore, he found that all of the witnesses were failing to appear in court, as they were reluctant to give evidence due to the influence of the IP.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=a-LQbFNHlcw>

11. Mirihana Police brutally torture a man and file fabricated charges

Mr. Waharagedara Ranjith Sumangala was arrested by officers attached to the Mirihana Police Station and detained for a period of five days, during which time he was tortured. He was assaulted on his leg with a pole in front of his wife and young children until the pole broke. Later a plastic shopping bag was filled with chili powder and placed over his head, covering his face. Furthermore, his hands were cuffed behind his back and he was suspended by his wrists for 30 minutes. Ranjith was forced to accept responsibility for 21 cases. The Magistrate of Avissawella released him on bail but now he fears further fabricated charges.

Mr. Waharagedara Ranjith Sumangala (36) of No. 18, Kuriyawela Colony, Ukuwela is a married father of two and a tinker (tinsmith) by profession. He had served in the Sri Lanka Army and in 1999 was honourably discharged.

On 15 December 2010 he stayed at No. 137/2, Beliaththavila, Kindelpitiya, Millewa with his family. On this particular day he went to his employer's home at Kahawala by a three-wheeler owned by one Mr. Chandana. While they were on their way, at Yatawathura Road near the place known locally as Mr. Fiscal's home, four motorbikes surrounded them so that the three-wheeler had to stop. Then two of the motorbike passengers sat on the rear of the three-wheeler on both sides of Ranjith. They

February 7, 2011 -
Urgent Appeal Case:
AHRC-UAC-023-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity;
rule of law

threatened him with death and told him not to move. Ranjith and the driver were asked to hand over their mobile phones, which they did.

Ranjith indentified one person out of the eight as Ajith Wanasundara, a retired army officer living in the same area. Then they directed Chandana to drive towards the cemetery of Dambara. Once there they instructed him to take the three-wheeler deep into the cemetery where no one would see them. One of the officers removed Ranjith's t-shirt and blindfolded him. Then he started to beat and kick his legs around twenty times. The men did not ask any questions or explain what they were doing. Then Ranjith heard one person calling another and stating that they had arrested the man. Then another asked the officer to take Ranjith to certain locations. By listening to the conversation between them Ranjith understood that they were police officers. At that point Ranjith's wrists were cuffed behind his back.

A van came and stopped near them and the officers took Ranjith into its rear and told him to sit on the floor of the vehicle. One of the officers asked Ranjith if he knew where he was and he answered that he was in the cemetery. Then the officer warned him that they would bury him there. Then he demanded the location of the automatic weapon that Ranjith had taken from the army, to which Ranjith denied that he had ever taken any such weapon. Then he brought a plastic shopping bag in which there was chili powder and covered Ranjith's head and face. Ranjith felt that he was in very real danger of suffocation. The officer removed it just before Ranjith passed out and repeated the torture five times. While the shopping bag was on his head the officer continuously punched his face. During this time the other officers repeatedly asked about the weapon and Ranjith, despite his pain and fear, continuously denied possession of any such weapon. Then the officer asked where the jewelry he had stolen from Ajith Jayasundara's house was located. Ranjith answered that he did not know anything about this and that he had never engaged in such a crime. The officer again started to beat him with kicks and punches. Other officers removed their belts and also beat him with those.

Then he felt the van start to move. While the vehicle was moving the officers near him continued to assault him. Eventually the vehicle stopped and he heard the officers discussing to have tea at Hasthigiri Hotel and Meepe.

Again they started to move but stopped at an unknown location. The officers untied the t-shirt and brought him to a place where there were seven toilets and three showers. Then Ranjith was told to have a bath. He was suffering severe pain due to the assault. Furthermore, he noticed that he had urinated and defecated in his sarong. Then he washed everything and had a shower as well. However, he had to wear the same clothes. He noticed five officers around him while he was taking a bath.

After the bath again they blindfolded him again with his t-shirt and got back into the van. After a considerable time the vehicle was stopped and he was asked to get down and climb some steps. He understood that he was asked to climb two sets of steps, which made him believe that he was in a two-storey building. Once again the shopping bag with the chili powder was placed over his head. Ranjith was told to accept responsibility for 15 cases, which he initially refused, as he knew nothing about them. He was told repeatedly but continued to deny any connection with the crimes. Ranjith was then forced to lie on the ground and two officers came and trampled his thighs, causing him unbearable pain. Ranjith was unable to bear any further ill treatment and told the officers he was ready to accept anything. In desperation he also told them that all the jewelry had been buried under the banana tree at his house and a TV, a VCD and cassettes were at home. He told all hoping that they would not assault him anymore.

For the remainder of the day he was not given food or water. However, he noticed that he had again soiled his sarong with urine and faeces.

On December 16 the officers took him in a vehicle to his residence. Then his wife was questioned about their TV, VCD and cassettes. His wife was able to show the purchasing receipts of all this equipment. Another officer started to dig the land near the banana tree but did not find any jewelry. The officers asked why Ranjith he said that he had the stolen property to which Ranjith replied that as he could not bear the pain anymore he told them what they wanted to hear. When he was brought to the house his wife and the two children were also present at home. One officer took a 2 x 1 inch wide, 3.5 feet long pole, which Ranjith and his family used to lock the door, and started to beat him with it until it broke. This was done in front of his wife and children who were screaming loudly in fear and begging the officers to stop. The same officer found another pole 1.5 inches wide and 4 feet long, and started to beat Ranjith about his shoulders. As the wife and the two children screamed continuously the officers put them into a room and warned them not to come out. They also told the wife that they would not be sending him home again.

The officers put Ranjith back into the vehicle and removed his t-shirt. Ranjith, despite his pain was able to note that there was one officer with two stars and eight other officers in the vehicle. It was only then that he realised that he was in the custody of the Mirihana police.

At the police station he understood that Chandana, the three-wheeler driver, had been released on the 16th. Furthermore, he understood that three other neighbours, Mr. Nimal, his younger brother Jayasena and Mr. Chaminda who had pending criminal cases against them had also been brought to the same police station. Ranjith noticed that one officer at the station recording

a statement from Jayasena that Ranjith was responsible for the crimes that they had done. Then Ranjith was cuffed with Nimal and Chiminda was cuffed with Jayasena.

On December 17, all four were brought to an old building within the Mirihana Police Station premises. Ranjith identified that place as the 'torture chamber' by listening to conversation that had taken place at the station. Then they brought the men to four separate rooms and Ranjith was beaten with a rubber hose. After two hours they were brought back to the station.

Again on December 18 officers brought Ranjith to the torture chamber and he heard Nimal screaming. Then he saw that Nimal was hanging from a beam. When he was brought down the officers cuffed Ranjith's wrists behind his back and suspended him from the same beam. Ranjith was left in that torment for about 30 minutes before an officer returned. He told Ranjith to tell the truth. Ranjith replied that he had not committed any crimes and the officer went away.

Later the same officers returned with a book. He told Ranjith that there were 21 unsolved cases and asked how many he was ready to accept responsibility for. When Ranjith answered that he was not involved with any of the cases the one in charge ordered the officers to take Ranjith down, make him bathe and provide him with food and water.

Though the officers brought Ranjith to the washroom he was not able to have a bath by himself. The officers brought Nimal and with his assistance they were able to make him bathe. Later he brought to the cell inside the station where the other three were detained and all four were asked to do exercises. But Ranjith was not able to comply. Ranjith was brought to a room upstairs and made him sit on the ground with his wrists cuffed behind his back.

Again at around 7.30pm the officer who had two stars assaulted Ranjith with a rubber belt around 30 times.

On the 19th Ranjith was brought to the ground floor of the station. Then at 5pm he was produced before the Magistrate of Avissavella and brought back to the same police station. Then he understood that police had a detention order from the magistrate to keep him inside the station.

When the detention order was issued it was ordered to produce Ranjith on December 21 around 9am before the magistrate. But he was not produced along with the order. On that day he was asked to paint the police station.

On 23 December around 3.30pm he was finally produced before the magistrate and enlarged on bail. But as there were no officers at court to take his signature he had to go the Kuruvita prison. At the prison Ranjith revealed to the prison officers how he was assaulted. Then the prison officers examined him and gave him two Panadol. On the 24th Ranjith was brought back to the Magistrate's Court and released.

He went to his parents' residence on the same day and was brought to the Basic Hospital, Matale, on the 25th where he was admitted for treatment. There the JMO examined him. The doctors at hospital informed him that there was damage to his nerve system and he needed to be admitted to the Teaching Hospital of Kandy and Teaching Hospital of Peradeniya for further treatment.

As a result of the injuries Ranjith cannot do his day-to-day work and is not in a position to engage in his profession any more.

He says that in the Magistrate's Court he learned that police filed four fabricated cases against him. While he was getting treatment he received a summons from the Magistrate's Court of Horana to appear for a case on 28 January 2011. When he appeared for the case the magistrate remanded him again.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=65OZclwrGvE>

February 9, 2011 -
Urgent Appeal Case:
AHRC-UAC-025-2011

ISSUES: Torture;
impunity; rule of law

12. Vision impaired child is tortured by teacher

A 13-year-old school child, Amuwaththe Mudiyanseelage Lahiru Ruwan Chamara of R/Galagama Vidyalaya in Belihul Oya in the Rathnapura District, suffers from a rare affliction known as keratoconus and underwent surgery for a lens transplant at the Eye Hospital attached to the National Hospital, Colombo. The child was tortured while he was undergoing treatment. Although Lahiru's parents complained to the Samanlawewa Police they are reluctant to proceed with the case. The educational authorities and the HRC have also not shown any interest to proceed with the case due to the influence of certain parties.

Amuwaththe Mudiyanseelage Lahiru Ruwan Chamara (13) a school child and the son of Mrs. Rathnayaka Mudiyanseelage Daya Manike of No. 21, Sandunthannagama, Karagasthalawa, Belihul Oya is a student of R/Galagama Vidyalaya in Belihul Oya in the Rathnapura District.

Manike and her husband are also teachers attached to the same school. Lahiru has been suffering with vision disability since 2006. His parents brought the child to the Badulla Teaching Hospital for treatment. The doctors at the hospital informed them that as the child had suffered for a long time without proper treatment, his condition was now chronic. But the doctors started medication and the parents had to take him to the hospital's clinic on several occasions. As the medication was not having any effect the doctors at Badulla Teaching Hospital made out the transfer documents and asked the parents to take the child to the Lady Ridgeway Children Teaching Hospital at Colombo.

At the end of February 2009 the doctors at Lady Ridgeway Hospital in turn directed the parents to take Lahiru to the Eye Hospital of the National Hospital of Colombo. There, Lahiru was diagnosed with keratoconus and admitted for further treatments. Then the Consultant Eye Surgeon, Dr. Manel Pasqual later

advised the parents that Lahiru had to undergo surgery as the situation had worsened. Subsequently Lahiru underwent lens transplant surgery. When the child was released into his parents' care they were advised to pay extraordinary care and attention to the child. They advised them to protect his eyes from dust and not to allow the child to lift the heavy loads.

Lahiru was unable to attend his studies for a long period. As his parents were also teachers they finally decided to take the child to school. When Lahiru went to the school all the teachers and the students at his class were well aware of his medical condition.

On 10 July 2009, Lahiru went to the school and in 5th period of the day it was Practical Technology and the teacher Ms. Kanthi Pathirana asked the students to go and clean the garden and plant the some trees. Lahiru also had to go but after sometime he complained of a severe headache. Then in the 7th period Ms. Kanthi Pathirana came to the classroom and beat with Lahiru with a stick. Other students were also beaten for not completing their work.

At the end of school Lahiri told his mother what happened to him. Then Lahiru's parents had gone to make a complaint to the principal of the school. As she was not present another teacher, Ms. Amara Aththanayaka, was standing in and they made a complaint to her. She promised to look after the matter.

Lahiru and his parents had to go to Colombo to attend the eye clinic the next day. But just after Lahiru returned home he fell asleep without removing his clothes and taking lunch. When his mother examined his back she saw two tramline contusions. (Tramline contusions are commonly found after the victim is beaten with a stick or cane). Meanwhile Lahiru complained that he was feeling faint.

They took Lahiru first to the Pambahinna Government Hospital. There the doctors advised them to first go and make a complaint at the Samanalawewa Police Station and admit the child to the Balangoda Hospital. The parents were able to make a written complaint at the police station and when they reached hospital the doctors advised them to admit the child for treatment. Lahiru was treated in Balangoda Hospital for one day and discharged on 11 July 2009.

As neither the principal nor any of her representatives took any action in the matter the parents went and complained to the director at the Zonal Education Office. The personnel at that zonal office recorded a statement from the parents on the incident.

Furthermore, the parents made a complaint to the Zonal Educational Office of Rathnapura, Provincial Educational Director Rathnapura, Minister of Education Central Government, Chief Minister of Sabaragamuwa Province and to the Women and Child Care Bureau of the Sri Lanka Police.

Since then Lahiru and his parents have had to face continuous harassment at the school by fellow teachers, principal and some relatives of the accused teacher, Ms. Kanthi Pathirana.

Finally, the parents decided to complain to the HRC on the violation of Lahiru's fundamental rights guaranteed under the constitution of the country. On two occasions the case was called and the parents noticed that the inquiry officer of the case was not impartially hearing the case. Then they went and complained to the legal officer at the HRC on the situation. Though the legal officer accepted the complaint still nothing happened.

Samanalawewa Police initially called the principal, acting principal and the all the teachers of the school for an inquiry. In front of all, the teacher in question accepted that she had punished Lahiru but she said she did not beat him but instead only patted his back. Then the OIC of the station insisted that the parents settle the matter, which they refused to do as it was a case of torture. Then the case was referred to the Mediation Board.

Later the parents learned that the police had filed a case in the Magistrate's Court of Balangoda based on the complaint. Lahiru's family waited but still it seems that nothing happened.

A few later there was a newspaper report in *Lankadeepa* on the incident. After that other teachers of the school turned against the parents, stating that the case defamed the school. Meanwhile the principal called a School Development Association meeting and discussed the matter and finally they also accepted that punishing the student in this manner was legal, which in fact it is not.



WATCH A VIDEO ON THIS CASE: <http://www.youtube.com/user/janasansadaya#p/a/u/0/BOzZj4HfYSE>

February 11, 2011 -
Urgent Appeal Case:
AHRC-UAC-026-2011

ISSUES: Witness
protection; impunity;
rule of law

13. Child victim of rape and her family live in fear

A 9-year-old girl was raped by an influential wealthy businessman. The child was admitted to the Kandy Teaching Hospital for treatment and the JMOs also examined the child. Powerful people behind the suspect have tried to suppress justice by making a fabricated charge against the child for theft. After making a complaint against the suspect, the parents and child were threatened with death. They fear that they will not be able to obtain justice due to the influence of the suspect.

Mr. Mohammad Mulafar and Ms. Siththi Farina are the parents of three children, two boys and a girl, residing in Mowbray Estate, Mahakanda, Hindagala. Their only girl is nine. She was a student at Peradeniya Tamil School in year 5. The father is a labourer and the mother works in a house as a helper.

On 5 October 2010 the daughter could not go to school due to the heavy rain and her elder brother also stayed at home; only the second brother went to school. On that day both parents left for work. The elder brother who stayed home went to play with some other children of the estate.

Around 11am a well-known neighbour Sinnamuttu Kirubakiran alias Raja came to the house and asked the girl to come to his sister's house, which was very close. The child complied and when she entered the house, she was raped by the suspect. After the assault she was given five twenty-rupee notes. Furthermore, she was threatened that she would be killed if she revealed to anyone what happened to her. Furthermore, she was forced to bathe and wash her clothes.

A few hours later, the girl went to a shop close to the house to buy biscuits with the money given to her by the suspect. Then she met the wife of the suspect, who beat her, accusing her of stealing the money. The girl fainted and the neighbours came to assist. With their intervention they were able to rescue the child. When she regained full consciousness she revealed what had happened to her. When her parents learned what had happened they took the child to the Peradeniya Police Station at around 8pm and made a complaint. Then immediately after completing the complaint they took her to the Teaching Hospital of Kandy. The doctors who examined the child admitted her for treatment with immediate effect. She was treated in the hospital until October 7. Before she was discharged the JMO also examined her and recorded the medical situation.

Officers attached to the Peradeniya Police Station visited Mowbray Estate during the evening and searched for the suspect. However, he was not arrested and after the police left the estate he went to the child's house and pleaded with the parents for a settlement without going for court proceedings. The family members learned that the suspect was subsequently arrested. He was produced before the court on October 7. He was represented by a lawyer and accused the child of stealing money and denied the charge of rape.

The suspect of the case is a very influential person locally, as he is wealthy and an entrepreneur owning two shops and a passenger bus.

Presently the parents fear that he will influence the police officers to withdraw the original case of rape and file a fabricated charge of stealing money against the victim. The victim's family stated that the police did not take any sufficient steps to properly complete the investigation into the case of rape.

Meanwhile the brother-in-law of the suspect threatened to kill the parents of the child if they pursued this case. The parents made a complaint to the Peradeniya Police Station regarding the incident on the October 8. Police recorded the complaint under reference No. CIB 390/210. However, the police did not investigate the complaint of threats.

According to the parents, the suspect was accused of raping another 14-year-old Tamil girl living in the same estate on October 14. Though the case was reported to the Police Station of Peradeniya still police had not taken appropriate steps either to arrest the suspect or take the necessary legal action against him.

14. A young man is beaten and his nose is fractured by a drunken police officer

February 11, 2011 -
Urgent Appeal Case:
AHRC-UAC-027-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law

Mr. Kapila Sampath Jasingha, a fruit seller at the Public Market in Chillaw was assaulted by two drunken police officers attached to the Chillaw Police Station. The officers dashed Sampath's head against a gate pole and broke his nose. Sampath was taken to the Chillaw Police Station where he was locked in a cell for several hours during which time the officers pleaded with him not to bring charges against those responsible for his assault. However, as he was bleeding copiously the officers took him to the Base Hospital of Chillaw for treatment. Then the police officers continuously harassed him not to proceed against the culprit officers. When the victim refused to give up the legal proceedings the police filed a fabricated case. The victim believes that the likely purpose of the assault was to force him out of the location so that the officers could 'sell' it to another vendor.

Mr. Kapila Sampath Jasingha (28) of No. 91/31, 3 Lane, Aluthwaththa, Chillaw in the district of Puttalam is a bachelor and a well-known fruit seller in the Chillaw Public Market.

On 23 January 2011 Sampath was running his fruit stall. As he wanted to go home for a personal matter he handed over the stall to his assistant Mr. Charith. In the afternoon at around 3.30pm two persons, who were both drunk, in civilian clothes came to the stall and ordered Charith to remove the stall. Then Charith informed the men that the stall belonged to Mr. Sampath and called him on his mobile phone. Soon after Sampath came to his fruit stall by his three-wheeler. He explained to the two people that the stall belonged to him.

As the two men rudely demanded him to remove the stall, Sampath, in turn, demanded to know their identity. They started shouting at Charith in a defamatory manner. Then when Sampath tried to approach his stall one of them asked Sampath for his identity. Then Sampath again explained that he was the owner of the stall. The man asked whether Sampath had permission to run a fruit stall, whereupon Sampath explained that he had been running his fruit stall for many years.

After hearing that the two men both threatened Sampath and ordered him to remove the fruit stall with immediate effect. Sampath explained that he had been selling fruit in the stall continuously for many years legally and he was paying tax to the local government authority.

Sampath tried to explain that as he was legally running the stall he was not ready to remove it on the instructions of two drunken men. At that time one of them announced that they were both police officers attached to the Chillaw Police Station. Furthermore, one of the officers appeared to be in a state of extreme inebriation and shouted that he was police officer Senarath of the Chillaw Police, later identified as PN Senarath (54808).

Sampath told the officer that as he was drunk, not in uniform and, in fact, had not produced his identification to prove that he was a police officer he had no reason to obey him. By that time

many businessmen and a large number of people witnessed the violent and shameful behaviour of the two inebriated officers. Officer Senarath ordered Sampath to go the police station with him. When Sampath explained that as he had not committed any crime there was no any necessity for him to go the station. Furthermore, he explained that as he doubted the identity of the two men he would not go the police station.

On hearing that, officer Senarath started to assault Sampath about the head and face. During this attack Sampath's nose was fractured and began to bleed. One of his teeth also was knocked out.

Senarath held Sampath's neck and dashed his head against the gatepost situated nearby. Then Sampath fell to the ground. Thereafter Senarath dragged Sampath by the neck of his t-shirt along the road to the police station. During this time Sampath was unable to resist or defend himself, as he was semi-conscious.

At the police station Senarath pushed Sampath into the cell. Despite the fact that he was bleeding profusely the other officers paid no attention to his situation.

Later between 4 to 5pm several police officers came to the cell and asked Sampath to settle the matter with Senarath and not to proceed against him. But none of these officers provided any medical treatment. Then Sampath told them that he intended to go the court as he was assaulted for nothing.

After sometime two of his friends, Indunil Madusanka and Anton came to the police station with Hillary Prasanna, Attorney-at-Law. Sampath noted that the lawyer spoke to the police officers at the station and went off without providing any relief to him.

Then around 7.30pm two police officers along with Senarath brought him to the Base Hospital of Chillaw. When the police officers referred Sampath to the doctor at the Outpatient Department the doctor specifically asked whether Sampath has taken liquor. Then Sampath clearly told the doctor that he had not taken liquor and he explained how he was assaulted by the police officers. Furthermore, he explained to the doctor that the police officer responsible, Senarath, was drunk at the time of the assault. But the doctor did not made any attempt to consider that.

Furthermore, Sampath showed the doctor that he was still bleeding and he showed the blood on his hands also. Then the doctor explained to the police officers that Sampath needed to be admitted for further treatment.

Sampath was x-rayed and transferred to ward 7. Later two police officers came to the bed and guarded him. Later the officers went away. Then Sampath learned that his friends and relatives had signed for a surety and the police had released Sampath.



However, Sampath was later asked to appear before the Magistrate's Court of Chillaw in case B/R/71/2011. Sampath was discharged from the hospital on 26 January 2011. While he was in the hospital the doctors informed him that his nose had been fractured due to the assault of the police officer.

On January 27 two police officers went to his home and informed Sampath that he needed to go to the police station, which he did. At the police station officers asked for his name, address, age and marital status and he noted that the officers were making some notes with the data. But Sampath was not aware about the content of those documents.

15. A man is severely tortured by Pamunugama Police

Mr. Herath Mudiyansele Suranji Sampath Kumara, the driver of a three-wheeler vehicle, was severely tortured by three police officers, including the SI, at the request of a private party. The officers tried to fracture his leg and beat him about the face. Mr. Kumara was then illegally arrested and detained at the Pamunugama Police Station. It was only after his detention had begun that the police recorded a false complaint against him. Moreover, they forced the victim to sign an amicable settlement agreement. He was not allowed to dispute his illegal arrest, detention and the abuse he suffered.

Mr. Herath Mudiyansele Suranji Sampath Kumara is 35 years of age, married and a three-wheeler driver by profession. He resides at No. 226/A Calvery Road, Bopitiya Pamunugama in the Pamunugama Police Division.

On the evening of 1 February 2011, Mr. Sampath was at home and at around 7:30pm, he heard some people speaking outside his house. At around 9pm, Mr. Sampath contacted Mr. Derrick, another villager and three-wheeler driver, asking him to go for a dinner. Mr. Sampath then waited on the road to meet his friend. While he was waiting, another villager, Mr. Chandana Sepala, approached him and they had a conversation.

Eventually, Mr. Derrick arrived in his three-wheeler and Mr. Sampath tried to get into the vehicle. However, three people – two in plainclothes and one in police uniform – pulled Mr. Sampath out of the three-wheeler and began assaulting him with clubs. Mr. Sampath was beaten all over his body, particularly on his right leg and right arm. Then one of the officers is said to have removed Mr. Sampath's glasses and thrown them on the ground, stating that they hoped he would be blinded. This officer is alleged to have punched him in his right eye and about his head. Mr. Sampath has identified these people as SI 20293 and other officers attached to the Pamunugama Police Station.

Whilst beating Mr. Sampath, the two men dragged him about 700 metres up the road to the Pamunugama Police station, where they proceeded to lock him up in a jail cell. Neither at the time of his arrest or in the early hours of his detention was he told the reason for what had happened.

February 15, 2011 -
Urgent Appeal Case:
AHRC-UAC-030-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

At around midnight of the same day, the officers telephoned the home of Mr. Kumara, another villager, and asked his wife to come to the station. Mr. Kumara's wife, Ms. Rasika came to the police station, and was asked to make a written complaint. She was then asked to report to the police station at noon of the next day.

When Ms. Rasika came to the police station at the stipulated time the next day, Mr. Sampath was brought out of his cell. He was then asked to amicably settle with wife of Mr. Kumara, even though he had not had any disagreement with the lady. Then, the officers asked Mr. Sampath to sign a statement that he was not permitted to read. The officers told him that the statement detailed a dispute that had taken place between Mr. Sampath and Kumara, which he says was untrue. Mr. Sampath signed the document out of fear that if he did not it would prolong his detention.

After he was released, he went to the office of the ASP in Negombo, and made a complaint. He clearly stated that he was severely tortured at the Pamunugama Police Station. The officials at this office advised him to go to the hospital for medical treatment. Mr. Sampath then went to the Colombo North Teaching Hospital. The doctors and a JMO who examined him requested that he admit himself to the hospital for further treatment.

Due to the fact that Mr. Sampath was beaten with clubs, he suffered internal bleeding in his right leg and right hand. He also sustained injury to his right eye.

16. Victim of rape continuously denied justice now lives in fear

A 10 year-old girl was the victim of attempted rape by an influential person. The child was admitted to the Nawalapitiya Hospital and later transferred to the Kandy Teaching Hospital for treatment because of the severity of her injuries. She was subsequently treated there for eight days. Though the case was referred to the Nawalapitiya Police by hospital authorities and the victim and the eyewitnesses provided sufficient information for an arrest, the police were reluctant to investigate the case and arrest the suspect.

Mr. Kandiah Mahendra and Mrs. Manori Chamini Perera of No. 188, Ambagamuwa Road, Nawalapitiya are married with two daughters, the youngest of which is just 10 years old. Anoma (not her real name) is studying at a reputed girls' school in the district.

On 31 December 2010 Mrs. Manori was out at a nearby house helping for an almsgiving while her younger daughter was alone at home, having her lunch at around 11.30am. Anoma answered a knock on the door and found a man who asked for a knife in order to do some repair work on his vehicle. However, when she handed over the knife the man forced his way into the house.

**February 16, 2011 -
Urgent Appeal Case:
AHRC-UAC-031-
2011**

**ISSUES: Rape;
violence against
women; witness
protection; impunity;
rule of law**

The man threatened the child and attempted to rape her but she started to struggle. In the course of this attempt he stabbed the child on her head and the neck. He slapped her, knocking out a tooth and breaking her nose. Finally the child was able to run out of the house and shout for help.

The suspect fled when a neighbour came to the scene. This neighbour then took the girl to the Nawalapitiya Hospital; however, due to the seriousness of the injuries she was transferred to the Kandy Teaching Hospital where she was treated for eight days.

The hospital authorities informed the Nawalapitiya Police Station and officers came to the hospital and visited the house at around 10pm. After the child was discharged from the hospital, she was called to the police station several times by the police to identify the perpetrator. The child and the eyewitnesses both gave enough information on the identity of the perpetrator but to date the police have failed to arrest him.

On 31 January 2011 Anoma went to the school for the first time after the incident and saw that the perpetrator was waiting at the school gate. As she was sure that it was the perpetrator she informed her mother who in turn informed the officers at the Nawalapitiya Police Station however, by the time the officers arrived he had already left the place.

Mrs. Manori was aware that the suspect belongs to an influential family in the area and is closely associated with the police. She believed that it is due to this relationship that the officers were reluctant to arrest the suspect and do not want to proceed legally against him.

17. Two young men beaten in public by drunken police officers

Mr. D G Suthisa Kumara Jayalath and Mr. W V Mahendra Uppalawanna of Pahalawela, Pareigama, Via Matugama were illegally arrested and severely assaulted in public by three drunken police officers attached to the Welipanna Police Station. Later they were brought to the station where they were hung from a beam. The police were reluctant to release them due to the marks of torture the two men bore. They were arrested on the morning of 20 May 2010 and released on the evening of the 21st. After their release the two victims were treated first in the Iththapana Government Hospital and as their condition was serious they were transferred to the Nagoda General Hospital for further treatment. The victims were threatened by police officers not to take action against the police. The local government representative also tried to suppress the victims attempt to seek justice.

Mr. D G Suthisa Kumara Jayalath (25) of Pahalawela, Pareigama, Via Matugama and Mr. W V Mahendra Uppalawanna (18) who resides in the same village were assaulted by police officers attached to the Welipanna Police Station.

On 20 May 2010 around 11.45am Mahendra was at the home of Suthisa. Suddenly three police officers in civilian clothes came into the house and arrested Mahendra. At that time he realised that they were inebriated. They then arrested Suthisa also. Prior

February 18, 2011 -
Urgent Appeal Case:
AHRC-UAC-035-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

to the two arrests the officers, contrary to the law, did not reveal any reason for their action. Mahendra identified them as police officers as he had seen one of them previously in the village. Then one officer seized Mahendra by the clothes around his waist and took him out of the house. While Mahendra was being forcefully handled his gold chain was broken. As Mahendra wanted to leave it at home the officers brought him to his house. There the police officer started to beat Mahendra by kicking and punching him. While he was being beaten Mahendra fell to the ground and the beating continued as he was trying to get up. Though Mahendra was able to stand up he was not able to keep his sarong properly fastened. Finally he was brought before his home where he was able to hand over his belongings to his mother. The beating was witnessed by the small children of the house.

When Mahendra asked the officers for the reason they were beating him one officer told him that this was not torture. "We will torture you to remember the mother who fed you milk when we take you to the police station." (This is a common euphemism used by the Sri Lankan police to describe serious torture).

Finally Mahendra was brought to a location on the way where he discovered that Suthisa also has been brought by the police officers, and he was bleeding from the mouth.

Again Mahendra asked the officers why they were being beaten. It was only then that the officers asked them to hand over the goods they had stolen from the shop of Mr. Wasantha. Mahendra totally denied the accusation and told the officers they had never done such a thing. The officers continued to beat Mahendra and then they were both ordered to kneel down so that the officers could kick them.

Later they were brought to the Welipanna Police Station by a motorcycle belong to the officers and locked up in a police cell. After five minutes Mahendra was brought out from the cell and taken to another location in the building. There he was asked to sit on the ground and threatened that if he did not reveal the truth he would have to face severe consequences. An officer tied his wrists with a sock and suspended him from a roof beam. Mahendra observed that a police officer was sleeping in that room and understood that the room might be the officers' rest room. Mahendra was suspended for ten minutes and then taken down. This treatment went on for the period of 45 minutes and Mahendra realised that the officers were inebriated.

Mahendra was brought back to the cell and Suthisa noticed that his thumbs were swollen and blue. Furthermore, he noticed that Mahendra could not walk properly. When Suthisa asked what happened, Mahendra tried to demonstrate but failed. Then Mahendra told Suthisa that he had been hung by the wrists.

The officers who brought Mahendra back to the cell informed Suthisa to be prepared for his turn.

Suthisa was also severely beaten just after he was arrested and while he was brought to the location where he met Mahendra and the other officer. Due to the beating he started to bleed from the mouth. Suthisa's torture was witnessed by many villagers.

In the evening one officer handed over a document to Suthisa, which contained his name, address and the time of arrest as 1500 hours. Furthermore, in that document it noted PS 28019 as the arresting officer.

On the next day all the detainees in the cell were brought out and released on bail. But Mahendra and Suthisa was brought out later by the officers as they were reluctant to release them, saying that they (the officers) would be in big trouble with the OIC if he found out what had happened. Both of them were locked up again. Several times on the next couple of days the relatives of the victims came to visit them at the station.

Finally the two detainees were released and on May 22 were admitted to the Iththepana Government Hospital. But as their conditions were serious both of them were transferred to the Nagoda General Hospital.

Suthisa went through an x-ray examination and the JMO examined him and officers at the police post also recorded a statement. He was directed to the clinic and discharged on May 24.

While they were treated in the hospital on May 23, Suthisa got a telephone called from mobile number 072-4365298, from a person who identified himself as an officer attached to the Criminal Investigation Unit who questioned whether they were proceeding with their complaint to the HRC, to which he replied in the positive. Then Suthisa was threatened.

Later on July 17 Suthisa complained to the ASP of the area regarding the incident. But no investigation followed. On September 13 a Member of a Local Government Body (Pradesheeya Saba), Mr. Janaka Kumara Gunasekara came to Suthisa and asked him to come to the police station on September 15 with him to talk about the matter with police officers. Suthisa refused. Then Suthisa and Mahendra complained to the NPC and to the HRC and to the ASP.



WATCH A VIDEO ON THIS CASE:

http://www.youtube.com/watch?v=LV60guJr_Do

18. A young man illegally arrested, detained and held in detention for over two years

Mr. Suranjiv Chrishantha Fernando was illegally arrested and severely tortured by the police officers attached to the TID of Kandy Headquarters Police Station on 16 August 2008. Later he was sent to Bogambara Remand Prison, where, two-and-a-half years later he is still incarcerated. Following the torture he endured he was accused for committing terrorist activities which he totally denied and was forced to sign documents prepared by the officers, the contents of which were never explained to him. He denied the charges of terrorism but was then charged in three different Magistrate's Courts with fabricated cases.

Mr. Suranjiv Chrishantha Fernando (21) of Elkaduwa Estate, Elkaduwa in Matale district was arrested on 16 August 2008 and later subjected to severe torture. Detained on fabricated charges he has been imprisoned in Bogambara Remand Prison for two-and-a-half years, which is a clear violation of his fundamental rights guaranteed by the constitution of Sri Lanka.

At the time of arrest of Chrishantha was running a communication shop in Ratwatte Laliambe close to Ukuwela. When was trying to find an agency to arrange an employment opportunity abroad, he learned that Mr. Muttusami Kannah, another villager, was also preparing to migrate to Malaysia for employment and he asked for his support. Kannah went abroad in late year 2007 and promised to make arrangements for Chrishantha as soon as possible.

In August 2008 Chrishantha received a working visa for Malaysia and a job opportunity to work in the hotel sector. He prepared to migrate to his new job with enormous hopes.

Then on the 16 August 2008 group of officers attached to the TID of Kandy Police came to his house at around 9.30am. At that time Chrishantha's parents were not at home.

First the officers asked for his elder brother, who is the teacher, then the officers asked for Chrishantha. The officers merely told him that they needed him for questioning, but did not elaborate.

Chrishantha's elder brother informed their father of the incident by telephone. He also identified the arresting officer as Sunil Yatawara of the Kandy TID division. Then Chrishantha's father immediately went to the main road where the police jeep was parked and he was able to see how his younger son was sitting on the rear seat. Mr. David was able to speak to his son and was able to give him some biscuits and water.

When Mr. David asked the reason for the arrest of his son the officers told him to come to the TID branch of the Kandy Headquarters Police Station. He went there by 2pm on the same day. The officers of the TID branch informed him that Chrishantha was arrested on suspicion but did not revealed any specific charge. The officers observed that Mr. David had arrived by motorbike and they asked the ownership of the bike. Then he explained the ownership and when he said that he and on some occasions

**February 21, 2011 -
Urgent Appeal Case:
AHRC-UAC-037-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law**

Chrishantha also used the bike the officers asked David to leave it at the police station. However, Mr. David kept the bike and went home.

After Mr. David left the station the police officers attached to the TID branch started to torture Chrishantha severely. While torturing him the officers interrogated him on many crimes of which he had no knowledge. Chrishantha continuously denied all the allegations. According to his parents, Chrishantha was subjected to torture and questioning in a similar manner for a week. The torture and interrogation started in the early morning and continued until the evening. Later Chrishantha was transferred to the Haguranketha Police Station and was detained there.

Chrishantha was accused of being friendly with Kannah and being involved with him in several terrorist activities, including setting a bomb at Nawayalantenne railway line, destroying a transformer at Wattegama, and various other fabricated charges. He explained clearly that Kannah only supported him for getting him a visa for his employment in Malaysia. He totally denied all the accusations. Eventually he was forced to accept and sign documents that were prepared by the officers of TID but he denied the contents.

On the 2 May 2009, he was produced in Magistrate's Court Teldeniya for the case of B/398/2008, Magistrate's Court of Matale for the case of B/954/2008 and Magistrate's Court of Kandy for the case of B/5292. Chrishantha states that all these cases are fabricated charges filed by the officers of TID.

Chrishantha was in early 2011 still detained in Bogambara remand prison. None of these cases had been taken up for trial by the courts.

19. OIC forced disabled rape victim to accept money in settlement

A 23-year-old physically and mentally disabled woman was raped by a neighbour, and when the victim's mother brought her to the Dodangoda Police Station the officers recorded the complaint and arrested the suspected rapist. However, later the OIC threatened and forced the mother to accept Rs. 10,000 and settle the case. The mother was also threatened not to reveal that the money was handed over in front of the OIC and that the suspected rapist was then released. Furthermore, the OIC forced the mother to sign an entry prepared by him in an official register, which was not read or explained to her. The OIC did not take any legal steps to investigate the incident and refused to carry out the legal procedure established by the Criminal Procedure Code. When the victim was admitted to the General Hospital of Nagoda she was treated for several days. Appeals were made to the IGP and the other senior police officers; however, no investigations were initiated.

Mrs. Yamange Hemalatha (50) of Akkara 33, Weligodella, Bombuwala is married and a mother of two children. Her husband is a shoemaker and self-employed.

February 22, 2011 -
Urgent Appeal Case:
AHRC-UAC-040-2011

ISSUES: Violence
against women;
corruption; denial of
justice; witness
protection; impunity;
rule of law

One of Hemalatha's children is a 23-year-old woman who is physically and mentally disabled. Chandani (not her real name) was born with her disability. She is crippled and wheelchair bound. Furthermore, she requires constant supervision, as she is unable to tend to her bodily functions. She is able to speak with difficulty but has little concentration.

On 31 January 2011 Hemalatha's husband and her other child left for work and Hemalatha went to assist with the almsgiving in a neighbouring house, leaving Chandani at home. When she returned home Chandani was able to tell her that she had been raped by a neighbour. Having little or no physical strength she had no defence against her attacker. She was able to identify her attacker as the son-in-law of one of their neighbours, Mr. Preme. He had come to the house a few days earlier to use the services of Hemalatha's husband for shoe making.

Hemalatha observed that the victim was suffering with pain. Then immediately she called her husband and with his help they took Chandani to the Dodangoda Police Station. When they reached the police station the time was around 2 to 2.30pm. The officers on duty recorded the complaint and immediately officers went by a three-wheeler and arrested the suspected rapist and brought him to the police station. Then the officers requested the victim and her parents to leave the station.

The father-in-law of the suspected rapist Mr. Preme arrived at their house at around 11.30am on February 2 and conveyed the message that Hemalatha and her family members had to appear before the OIC of the police station. Hemalatha was surprised as to how a family member of the suspect could inform them of an official police notice. Part of their suspicion arose from the fact that the notice was handed over at 11.30am, which was the same time that she had to appear before the OIC. Furthermore, Hemalatha noticed that the official seal of the OIC of Dodangoda Police Station was also there in that small paper. Hemalatha went to the police station immediately.

At the police station she noticed that the suspect was inside the police cell. The OIC ordered him to be brought out and he shouted at the suspect in front of the victims.

It was then that the OIC told Hemalatha that as the virtual complainant was disabled mentally and physically she could not proceed with a legal case. He ordered Hemalatha to receive the money from the suspect and settle the matter. Mr. Preme gave Hemalatha Rs. 10 000 in the presence of the OIC. Then Hemalatha understood that was a financial settlement that had been arranged by the OIC.

After the money had been handed over, the OIC told Hemalatha that she should not reveal that the money was given to her, not even to her husband. Then the OIC forced her to sign an entry in a register that he had already prepared. The OIC did not explain the contents of the entry.

The OIC pointed his finger at Hemalatha and roughly threatened her that she should not reveal to anyone that she was given money at the police station. As she was in fear of the OIC she followed his instructions, took the money and left.

When she returned home she informed her husband of what had happened at the police station. Chandani and her father were seriously upset with the illegal way in which the OIC had suppressed justice. The father took the money from Hemalatha and went to the police station where he handed it back to some police officers. The police officers accepted the money but offered no receipt for it. The husband demanded that the police proceed against the suspect, saying that he wanted justice for his child.

At no time did the police officers direct Hemalatha or her husband to take the victim to a hospital. Furthermore, the police officers did not take any of legal steps stipulated in the Criminal Procedure Code against the suspect.

Hemalatha and her family members brought Chandani to the Nagoda General Hospital for treatment. Even this was done with great difficulty, as their house is located far away from the main road and they required the assistance of many people to carry her. The heavy rains that were battering the country at that time also added to the enormous difficulties. This was exacerbated by Hemalatha's own prolonged chronic illness.

Chandani was admitted and treated for many days. The doctors who examined her also confirmed that she had been raped.

Meanwhile Hemalatha learned that the suspect rapist has been released.

Hemalatha made complaints to the IGP, the SSP Kaluthara, the OIC of the Women and Child Care Bureau and the HRC for the investigation of her complaint and to provide her with justice. However, none of these officers or authorities had taken any steps to uphold justice.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=Npc6Y3YRSnc>

20. Principal who ill-treated student promoted to Ministry of Education

Lahiru Madushan Suriarachchi was ill treated by the principal of his school. The child had his hair cut, and was beaten severely by the principal. When his parents went to make a complaint to the Zonal Educational Office the principal expelled the student. Lahiru was treated in Horana Government Hospital, Panadura Base Hospital and the ENT Clinic at Rathmalana. The doctors diagnosed that both of the student's ears were damaged by the beating. Though Lahiru was admitted to another school, due to the influence of perpetrator he was assaulted two occasions. The police and the Educational authorities have not implemented the law against the perpetrator who instead has been promoted to the Ministry of Education.

Lahiru Madushan Suriarachchi (16) of 'Lahiru', Keselnawa Kaluthara Road, Dombagoda, Horana in the district of Kaluthara was a student of Horana Royal College. He was preparing for the Ordinary Level examination, which was scheduled to be held at the end of the year. Lahiru performed well in his education. Lahiru's mother was one of the most active parents in the school. She trained the primary students in sports for several years voluntarily.

February 23, 2011 -
Urgent Appeal Case:
AHRC-UAC-043-2011

**ISSUES: Torture;
right to education;
impunity; rule of law**

In the year 2009 he studied at Horana Royal College in year 11. As usual on March 11 he went to the school. In the morning suddenly he received a message to appear before the principal and immediately went before him. The principal showed him a mobile phone and asked if he knew the owner of the phone. Lahiru told the principal that he knew nothing about the phone. Then without warning the principal took a pair of scissors and started to chop his hair in places.

Lahiru was afraid and the principal continuously questioned him. Then without warning he started to cane him, demanding that he tell the truth. After that the principal grabbed the boy's tummy and twisted the flesh and pulled upwards. (This is a common punishment in Sri Lankan schools).

Lahiru understood that the phone belonged to another student, Nuwan, who was a neighbour. But he did not want to reveal that truth as he thought that Nuwan would face severe consequences.

Due to the enormous fear and pain Lahiru told the principal the phone belonged to him. Then the principal beat him about the face, head and eyes. The principal beat him several times. Then the principal ordered him to kneel down on the ground in front of the office. Many students and teachers who passed the office all saw him kneeling there. Lahiru experienced severe mental and physical anguish for many hours. Despite asking to be allowed to eat something this was refused.

Around 1.30pm Lahiru saw that the students and the teachers started to leave the school and he was told by the principal to come to his office. Then he gave a paper and pen and forced Lahiru to write a letter stating that he had given the mobile phone to a girl student in the school. Following his dictation Lahiru wrote that letter. Then the principal forced Lahiru to sign it, which he did. The principal then informed Lahiru that he was suspended for two weeks. After that period he should come with a parent to the school.

At the home he informed the incident to his mother. The next day his mother and father along with Lahiru went to the Zonal Education Office at Horana and saw the Director of Education. The parents showed the marks of contusions and how Lahiru's hair had been cut. They noticed that the director was shocked. The director telephoned to the principal of Horana Royal College and inquired about the incident. After completing the call the director informed Lahiru and his parents that the principal had

tortured him in the best interests of the child. So she advised the parent just to accept what had happened. The parents of Lahiru were frustrated and came home after handing over a written complaint to the director.

As the parents desperately wanted their son to continue with his education one week later on March 18 the parents went to the school. Then the principal asked only the parents to come inside his office. When they went with him he informed the parents that he did not have a problem with Lahiru but that presently the problem was with the mother. The principal scolded her for making a complaint to the Director of Zonal Educational Office. Finally he told the parents that he was expelling Lahiru from his school and to accept the School Leaving Certificate from the clerk of his office.

The parents state that there was no valid reason to expel Lahiru from the school.

After Lahiru was subjected to the torture he experienced continuous pain. Furthermore, on some occasions he experienced unbearable pain in his ears followed by tinnitus. He also suffered sweating and faintness. His mother took him to the Women and Child Care Bureau and made a complaint. The officers accepted the complaint and issued an MLEF and asked them immediately to go to a hospital for treatment.

Lahiru was brought to the Horana Government Hospital on April 1 where he was admitted for further treatment. The Assistant JMO also examined him. The doctors transferred Lahiru to the Base Hospital Panadura for further treatment and he was warded there. Then he was referred to the ENT Consultant for treatment. Finally the ENT Consultant referred Lahiru to the Audiology Clinic at Rathmalana. The doctors discovered that both ears were damaged, the left more severely.

The parents wanted to find a new school for Lahiru to continue his education. They wrote to President Rajapakse and also the Prime Minister, who issued a letter of introduction to the Horana Shreepali College where Lahiru was accepted.

The second day at the new school, Lahiru was beaten by a group of students. Later the parents learned that the wife of the principal of Horana Royal College is also working there and they believe that the assault was arranged. Lahiru had to stop going to school and finally his parents made private arrangements to continue his education. Then he applied for the Ordinary Level Examination as a private candidate. He went to sit for the exam on December 2009. Even there, Lahiru was assaulted by a group of students. The parents then made a complaint to the Horana Police Station. The examination authorities allowed his mother to sit in close proximity to Lahiru while he was answering the papers. Despite all of the tribulations Lahiru had undergone he passed all of the papers (ten), with the exception of mathematics.

Meanwhile the police station of Horana informed parents to appear before the Mediation Board. They went for several occasions but the principal did not appear. Finally board members informed them that they referred the matter to the police to file a case in a Magistrate's Court. But, the police did not proceed to do this.

The parents complained to the IGP, NPC and to the HRC on this matter but none of these institutions initiated investigations.

WATCH A VIDEO ON THIS CASE:

http://www.youtube.com/watch?v=MSQcS6_aRYg



21. Young man beaten brutally and laid with fabricated charges

Mr. Egodawattege Ruwan Niroshana was illegally arrested and severely tortured continuously for three days during which he was hung from a beam in the police barracks and beaten. When he was brought before the Government Hospital of Iththapana with a large number of injuries the doctor issued a report in which there was no mention of any wounds. When he was admitted to the General Hospital of Nagoda in the same district, doctors, working in collaboration with the police, reported only two non-grievous injuries. However, when he was admitted to the National Hospital Colombo the JMO reported 10 separate injuries and referred him for psychiatric treatment. When the victim filed a fundamental rights violation application at the Supreme Court the AG department vehemently opposed the granting of leave to proceed while forgetting the department's stated policy of not appearing for torture perpetrators. However, the Supreme Court granted leave to proceed with the application.

Mr. Egodawattege Ruwan Niroshana (18) of Urugoda Road, Ellekanda, Welipenna works in his parent's paddy fields as well as those of his relatives and other villagers. He is well trained in handling an agrarian tractor but does not have a valid driving license. Niroshana has been charged on four occasions, which included offences of driving an agrarian tractor without driving license while two of the occasions were fabricated cases filed by the OIC of the Welipenna Police Station. A lawyer pleaded guilty on his behalf, informing Niroshana to finalise the cases by paying a fine and thereby avoiding unnecessary delays and expense. But all those cases were filed against him a year ago. Niroshana belongs to a poor family and due to economic difficulties he did not get the opportunity to continue with his education even at school.

On 25 May 2010 after completing his regular work at the paddy fields Niroshana returned home in the evening and stayed there. He remained at home in the company of his family members all night until the following morning. His mother came home at around 9pm and stayed with him.

February 24, 2011 -
Urgent Appeal Case:
AHRC-UAC-045-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

The next morning he came to the road junction in the village to go for his work in the paddy field. There he met some of his friends and he talked with them while at the three-wheeler park. While Niroshana was sitting on one three-wheeler he observed another three-wheeler, which came and stopped close to him. The driver of the three-wheeler asked Niroshana for his name. Niroshana complied but asked as to why the man wanted to know. Then the driver told him that he would find out the reason soon.

After a while another three-wheeler came and also stopped close to him. Two persons from the newly arrived three-wheeler approached Niroshana and started to assault him. Niroshana was able to identify them as police officers as one of them was officer Jayasinghe attached to the Welipenna Police Station. He therefore believed that the other one was also a police officer. After severely assaulting him the officers dragged Niroshana into the three-wheeler by the collar of his t-shirt. By the time they arrived at the Welipenna Police Station the t-shirt was torn.

At the police station the officers brought Niroshana to the barracks of the male officers where he was handcuffed to a bed. He was detained like that for many hours during which time he suffered pain from his injuries and was in extreme fear, as he had no idea of why he was being treated in such a fashion. Then some officers came to him, tied his thumbs together and hung him from a beam. Then the same officers started to assault his feet and legs with a pole and a hosepipe. While he was being tortured Niroshana was questioned about the theft of a gold chain from a villager on the night of 25 May 2010. This was the night on which Niroshana returned home and remained in the company of his family and mother.

Niroshana was surprised and denied the accusation. He pleaded with the officers not to assault him anymore and told them that for the entire night he was at his home with his mother and the other members of his family. Furthermore, Niroshana pleaded with the officers to go and question his mother and the other family members on his whereabouts.

Ignoring his pleas the officers then brought him down and retied his thumbs behind his back. Then using a rope he was again hung from the beam. In this position he was again assaulted.

Niroshana understood that he was being brutally punished by the officers for no reason. Later he learned that the police officers had gone to his home and questioned his family members on his whereabouts on the night of May 25. His mother and the others affirmed that Niroshana was, in fact, with them for whole night.

Niroshana was detained in the police station from May 26 to 29. On each day he was tortured by the police officers in similar manner. On May 27 officers brought back him to the back of the police station where they aimed a high-pressure hosepipe at him. This was extremely painful and even then Niroshana was surprised at the barbaric cruelty of the police officers, who were still trying to force a confession out of him.

While in the police station Niroshana learned the police officers who tortured him were Police Assistant Gamini, PC Bandara and PC 82100. Furthermore, Niroshana states that the OIC of the station was fully aware about the way he was subjected to cruel torture and that he did not take any action to stop it. Furthermore, he states that the OIC personally encouraged the officers to continue torturing him.

Later Niroshana learned that his mother and few other relatives had visited the police station on May 27 at around 7.30am but the officers on duty refused to let them meet him. They did, however, accept the food that they had brought for him, which he never received. Furthermore, he learned that a lawyer also visited the police station and met the OIC but he was not given any indication as to when they would either release Niroshana or produce him in court. Then again on May 28 Niroshana's mother and his aunt visited the OIC and questioned him on Niroshana's situation. The OIC promised that he would be produced in court on May 29.

On that day the police officers forced Niroshana to sign a document that was prepared by them and which was not recorded from him. Furthermore, he states that the contents of the document were not explained to him. Due to fear he signed as ordered. Then the officers informed him that he would be taken to the hospital and that he should not tell the doctor anything regarding torture.

The officers brought Niroshana to the Iththapana Government Hospital and produced him before a doctor. When he was brought before the doctor, though there were police officers present Niroshana showed all the marks of injuries on his body. However, Niroshana learned later that the doctor who examined him had not made any note of the injuries on his body caused by the torture. Niroshana strongly believes that the doctor was working in collaboration with the police officers in this case.

He was produced at the official residence of the Magistrate's Court of Mathugama on 29 May where he was accused of stealing a gold chain. He strongly denied the charge. Considering the personal facts of Niroshana, the magistrate released him on personal bail.

On the same day Niroshana learned that his mother had complained to the HRC on the violation of his rights. On the same date his relatives immediately brought him to the Nagoda General Hospital. The doctors who examined him on admission admitted him for further treatment. He was subsequently treated there for two days until he was discharged due to the lack of beds in the hospital. Before he was discharged he was examined by the JMO to whom he explained all the facts of how he was subjected to torture. He was able to show the marks of injuries also to the doctor.

But Niroshana learned later that the JMO who examined him only mentioned two non-grievous injuries and did not complete a proper report on the state of his injuries caused due to torture. Niroshana strongly suspects that the even this JMO was working in collaboration with the police officers.

Later on June 2 Niroshana made a complaint to the Police Headquarters on the torture he had endured. The officers there instructed him to go to the National Hospital at Colombo but warned him not to inform the doctors about the torture he had endured at the Welipanna Police Station. The doctors admitted him for treatment and Niroshana revealed to them that he was tortured by the police officers. He was discharged on June 4.

He immediately went to the HRC and made a complaint. There the officers at the HRC referred him to the JMO Colombo for examination. This JMO, Dr. Ajith Thennakon, noted 10 marks of injuries due to the police torture. Furthermore, the doctor explained that the marks of injuries tallied with the history of the torture that had been inflicted at the Welipanna Police Station.

The Colombo JMO referred Niroshana to the Consultant Psychiatrist, Dr. Neil Fernando for further treatment. This consultant noted that Niroshana was showing all the symptoms of severe trauma. He recommended several sessions of Trauma Counseling Treatment.

Niroshana filed a fundamental rights violation application before the Supreme Court of Sri Lanka with number SCFR/ 378/ 2010. The case was supported in the court and leave to proceed was granted by the Supreme Court on 8 February 2011. Leave to proceed was granted in respect of the violation of his fundamental rights including the right not to be tortured guaranteed by the constitution.

While the case was supported in the Supreme Court the counsel who appeared on behalf of the AG vehemently opposed Niroshana's application. He states that he learned that in many recent cases the AG has adopted a new policy of opposing the individual applications of torture victims in courts. Furthermore, Niroshana states on this occasion the AG wanted to protect the torture perpetrators and support their impunity rather than indict and prosecute the perpetrators under the CAT Act.



WATCH A VIDEO ON THIS CASE: <http://www.youtube.com/user/janasansadaya#p/u/61/bd0vDEQqMQM>

22. Disappearance of FORUM-ASIA Executive Committee Member Pattani Razeek: prime suspect has not been arrested

Mr. Pattani Razeek, a well-known human rights defender both locally and internationally, has been missing since 11 February 2010. The relatives have made complaints to all the relevant authorities including the United Nations. They have provided enough credible evidence to identify the perpetrators of the disappearance but the police have failed to arrest the suspect. The case in the Magistrate's Court of Puttalam is pending without any development due to the defects in the police investigations.

Mr. Pattani Razeek of No. 70, Sameeragama, Kottantivu, Puttalam, Sri Lanka was a well-known human rights defender in Sri Lanka and Asia. At the time of his disappearance, Mr. Razeek was the Managing Trustee of the Community Trust Fund (CTF) and was an Executive Committee Member of the Asian Forum for Human Rights and Development (FORUM-ASIA).

Mr. Razeek has been missing since he was apparently abducted on 11 February 2010 in the town of Polonnaruwa, North Central Province in Sri Lanka. He may have been the victim of an enforced disappearance. The state authorities have not shown any interest in either investigating or arresting the main suspect in the case despite credible evidence being provided by the relatives. It is believed that this failure is due to the influence of powerful politician in the area.

Mr. Razeek was last seen near the Jumma Mosque in Kaduruwela, Polonnaruwa (a town in the North Central Province of Sri Lanka) at around 3.30pm on 11 February 2010. Mr. Razeek was in a van together with other staff of CTF, when their van was intercepted by a white van. Mr. Razeek alighted from their vehicle, approached the men in the white van and exchanged greetings in Arabic with them, indicating that the men are Muslim. After talking to them for some minutes, Mr. Razeek went back to his colleagues and told them that he will be joining the group in the white van, which according to him was heading to the Eastern provincial town of Valaichchenai. He has not been seen or heard from since.

Mr. Razeek's family lodged complaints with the Police in Polonnaruwa (place of incident), and Mundalama (place of residence). The CTF lodged complaints with the police in Puttalam (place of employer, CTF) and Polonnaruwa. A complaint has also been lodged with the HRC. Appeals have been made to the President of Sri Lanka, Secretary to Ministry of Defense, the AG and IGP, none of which have been acted upon. The relatives and general public in the district of Puttalam arranged protests, and poster campaigns.

Complaints have been sent to UN Special Rapporteur on Human Rights Defenders and UN Working Group on Enforced and Involuntary Disappearances. Furthermore, appeals have been issued by many international human rights organizations seeking prompt and impartial investigations into the case.

February 25, 2011 –
Urgent Appeal Update:
AHRC-UAU-011-2011

ISSUES: Disappearance;
human rights defenders;
impunity; rule of law

Following the complaint and continuous requests by the relatives of Razeek, the police have filed a case in the Magistrate's Court in Puttalam. Though the case has been called on several occasions the police have failed to arrest any suspect and produce him before the court.

Relatives stated that the coordinator of the Minister Hon. Rishad Bathirudeen, Mr. S. R. M. Irashad made a public statement, following Mr. Razeek's disappearance, claiming that Mr. Razeek was an intermediary to the transfer of funds from CIA to the LTTE at sometime in the past and that Mr. Razeek was being detained in the custody of the Defense Secretary.

The Police B report indicates that Mr. Shabdeen Nowshadh, a former employee of CTF and a close associate of a powerful minister of the area, is a key suspect in the disappearance. Police have evidence that Nowshadh made a call from Mr. Razeek's mobile phone number to his residence shortly after the disappearance of Mr. Razeek.

Nowshadh had made an application for 'Anticipatory Bail', which was rejected on 23rd June 2010 and he applied for a revision in the High Court Puttalam. Another hearing date of the revision held on February 10. Furthermore, in police interrogations Mr. Nowshadh confirmed that he had met Mr. Razeek on the day and in the area in which Mr. Razeek was last seen.

The relatives state that though there is enough credible evidence regarding the case of disappearance of Mr. Razeek the authorities are not taking action to question or arrest Mr. Nowshadh due to his political connections. Even before the judge of the High Court Mr. Nowshadh boasted that he is a close acquaintance of "a powerful minister" who needed him for election and other work. Nowshadh had been seen in public places several times since this was disclosed in mid 2010.

23. Police brutally torture a man in revenge for complaining to the human rights commission

Mr. Alahendra Acharige Dinesh Priyankara was illegally arrested and severely tortured by police officers attached to the Panadura North Police Station on 23 January 2011. Later he was brought to the station and questioned about a theft that happened in a newly constructed luxury house belonging to a former DIG of police. He revealed all the facts he knew and pleaded innocent following which he was brutally tortured by the OIC and the officers of the police station. A fabricated charge was filed against him and he was produced before the Magistrate of Panadura who immediately enlarged him on bail. The DMO was ordered to send the medical report on his condition. The victim's mother complained to the HRC on the violation of her son's fundamental rights.

Mr. Alahendra Acharige Dinesh Priyankara of Panadura North Police Division was a three-wheeler diver. He was illegally arrested, detained and severely tortured by the OIC and officers of the Panadura North Police Station to force him to confess to a burglary at the newly constructed luxury house of a retired Deputy

March 8, 2011 -
Urgent Appeal Case:
AHRC-UAC-054-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law

IGP. He was tortured a second time in revenge for complaining against the police violation of his fundamental rights.

On 23 January 2011 around 6.30am while he was sleeping three police officers came to his home and knocked on his door. When he opened the door he saw two officers in front of his home and asked the reason for their visit. Without any explanation they told him to follow them to the Panadura North Police Station. He followed their instructions knowing that they were police officers as he had seen them before while he was traveling as a three-wheeler driver.

Then they took him into the jeep and brought him to the police station. At the station they took him directly to a table. An officer came to him with papers and a pen while the two officers who arrested him sat on the both sides. Then the officer who brought the paper and the pen asked him where is the tiles belonging to the DIG were. Without warning they started to assault him with punches and kicks demanding that he tell the truth. He told them that he did not know anything about the DIG's tiles and explained that he is only a three-wheeler driver and he knew nothing about such a case. Furthermore, he explained he that he parked his three-wheeler at Gorakana Junction where he took on hires and that he had not stolen any tiles. He did, however, recall that he had gone for a hire to transport tiles from Gorakana Junction to First Lane in the same area. Furthermore, he told the officers that he could easily show the person who hired his three-wheeler for transporting the tiles and where they were delivered to.

Then the officers locked him up in the cell. After a while the officers took him to the place where he unloaded the tiles and the officers took some of them as evidence. Then they took him back to the police station along with tiles and locked him up in a cell.

After a while the officers took him again out from the cell and brought him to the back of the police station where again he was assaulted. Dinesh told the officers that usually he is called for hires by the officers and the workers of that said DIG's site. Furthermore, Dinesh explained that a man called Danushka told him that he was transporting these tiles from one site to another as they belong to him. That was the reason to go for that hire.

Then again he was brought to the OIC, whom he later learned was Mr. Ramya De Silva. He noted that there were two persons in that place. These two people were in conversation with the OIC. Following the conversation he understood that both of them are assistants of the DIG, from the same village as Dinesh.

When Dinesh was brought before these two persons they told the OIC that he was from the same village and he never engaged in crime. They said that they know Dinesh very well but the OIC then started to beat him in front of them. Then the two assistants of the DIG checked the tiles that were brought in and told the OIC that they were not the tiles that were stolen.

Without considering their explanations, the OIC ordered police to take Dinesh into the jeep. Then the officers drove the jeep to Nugegoda. Dinesh was brought to a site where he noted that a few people were working in construction work. He was asked to check the identity of the workers and Dinesh immediately identified the person who called him for transportation of tiles, Mr. Danushka. After Dinesh pointed to Danushka, the police officers asked him to go to the rear of the jeep. Then the officers went and arrested Danushka as well. Then they drove back to the police station again.

At the police station Dinesh was again locked up in a cell and Danushka was brought to the back of the police station where Dinesh was beaten earlier. Then he noted that Danushka was brought back to the OIC's office. Dinesh was also then brought back to the OIC's office. Then the OIC and other officers started to beat him again.

Meanwhile Dinesh saw that his mother also had come to the police station. Furthermore, he noted that officers chased her away when she tried to come and rescue Dinesh by explaining his innocence to the officers. But Dinesh noted that through the window his mother watched the way he was tortured.

Dinesh noted that one officer had a paper and that a few officials of the DIG's company were sitting with OIC. One official of the company was seated on the chair of the OIC. The OIC was seated next to him. Dinesh noted that the station officers were drunk and that the company men were treating them with alcohol.

Then the OIC asked Dinesh to tell the truth again. Dinesh told the OIC the same story and repeated that he had never engaged in stealing and he only went for a fare at the request of Mr. Danushka. He clearly indicated Danushka who was in front of all of them. Then the OIC told Danushka that if Dinesh was lying to assault him. But Danushka did not do so. The OIC told Danushka that if he did not assault Dinesh they would severely beat Danushka. Upon hearing this Danushka made a light assault on Dinesh's shoulder. When he saw this, the OIC again shouted and gave him a pole and ordered him to beat Dinesh about the head until he died. However, Danushka refused to assault Dinesh.

Then the OIC blamed Dinesh with obscene language saying that his mother had gone to the HRC to make complaint against police officers. He told Dinesh that his mother had gone to the officers of the HRC to allow them to have intercourse with her. Dinesh realised that the OIC was extremely angry that his mother has gone to complain against them. Then one of the officers told Dinesh that Danushka had provided a paper stating that it was Dinesh who stole the tiles. Dinesh vehemently denied it. But he understood the officers wanted to take revenge on him for his mother's complaint to the HRC.

Then again the OIC started to kick him and as a result Dinesh fell to the ground. Immediately he noted that his nose was bleeding. Then the OIC trampled on his arms while two other officers trampled on his legs. When the OIC noticed that Dinesh's nose was bleeding he told him to get up. The OIC again tried to force Dinesh to accept the crime, which Dinesh again refused.

Then one officer told him to sign a document prepared by the officers. It was not recorded from him or the contents explained to him. Out of fear and pain he signed the document. The officers forced Dinesh to put a fingerprint to the document.

Then Dinesh was told that now the officers could file any amount of fabricated charges.

Next day he was brought back to the OIC's office. The OIC started to complain about the magistrate with obscene language and shouted that if they produced Dinesh in the daytime then the magistrate would grant bail to him therefore he intended to produce Dinesh after the sessions of the court were completed.

In the evening he was brought to the Magistrate's Court of Panadura. Even before he was produce before the magistrate he was told to sign another document in the same manner. Dinesh was produced before the magistrate who granted him bail. While releasing him on bail the magistrate ordered the DMO to produce a Medical Report on his condition.

After he was released, immediately his mother brought Dinesh to the hospital and the doctor admitted him for further treatment.

WATCH A VIDEO ON THIS CASE:

http://www.youtube.com/watch?v=Bh8z4L7YM_c



24. A man was brutally tortured by Anamaduwa Police on mistaken identity

Mr. Koronchige Nihal De Silva was illegally arrested and severely tortured by police officers attached to the Anamaduwa Police Station on 2 January 2011. He was hung from a beam and beaten with poles by four police officers for 40 minutes. While he was being tortured the police demanded that he confess to stealing Rs. 85,000. The victim refused the allegation and pleaded innocent. The next day he was brought before a doctor at the Base Hospital Anamaduwa. Prior to his medical examination the police officers spoke with the doctor in private and as a result of this the doctor did not pay attention to the claims of the victim. The police then produced the victim before the Magistrate of Anamaduwa and at the same hearing produced another suspect who returned the whole amount of the stolen money to the owner in front of the magistrate. The police later told the victim in private that he was arrested on mistaken identity and insisted that he not instigate any action against them.

Mr. Koronchige Nihal De Silva (28) of 'Ashoka Niwasa', Parawakandagama, Anamaduwa, is married and a farmer by profession.

**March 10, 2011 -
Urgent Appeal Case:
AHRC-UAC-055-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law**



On 2 January 2011, Nihal received a call while he was working in his paddy field by a caller who identified himself as PS Ranjith of Anamaduwa Police Station. Nihal was instructed to go to the Anamaduwa Police Station immediately. Nihal informed the officer that he was spraying insecticide in the paddy field and that he would come as soon as he completed his work.

After completing his job Nihal went home at around 5.30pm before going to the police station. When he entered the station he asked for Sergeant Ranjith. The officer at duty asked him to wait as Ranjith was supposed to come shortly. Later police officer Ekanayake informed Sergeant Ranjith by phone that Nihal had come to the station and after 15 minutes Sergeant Ranjith arrived. He in turn asked Nihal to wait until SI Sarath came.

The SI arrived at 7.30pm and took Nihal to a dark room behind the police station and told him to sit down on a chair. Then SI Sarath called another officer on his phone, and officer Ekanayake also came to the room.

Then SI Sarath ordered Nihal to remove his shirt, which he did. Thereafter SI Sarath ordered him to stand up and then he removed the chair from that place. Then he tied Nihal's wrists behind his back with a piece of cloth. Nihal was then told to stand on the chair, which he did out of fear not knowing what was going to happen to him. The officers tied a rope to the cloth binding Nihal's wrists and passed it over the roof beam. At that time Nihal noted that Sergeant Ranjith also came to the scene. Then while both officers Ranjith and Ekanayake hauled on the rope, SI Sarath kicked away the chair so that Nihal was hanging from the beam. Then SI Sarath started to assault Nihal on the soles of his feet continuously for about 20 minutes. While he was beating SI Sarath shouted that Nihal had stolen Rs. 85,000 and that Nihal should confess to that.

Nihal told the officers that he had never engaged in any such crime. Furthermore, he continuously pleaded with the officers not to beat him. Meanwhile the other officers, Ekanayake and Ranjith also started to assault him one after the other, beating the soles of his feet with their batons. After a little while another officer came and told the officers not to continue assaulting his legs, as it would leave visible marks. Then they stopped assaulting Nihal and lowered him to the ground.

After about 10 minutes SI Sarath went into the room inside the station and came out with a notebook. He told Nihal to accept the crime of stealing Rs. 85,000 but Nihal told the officer that he did not steal the money. The officer told Nihal that if he could return the money he could go home. Once again Nihal swore that he did not take the money.

Then officer Ekanayake, SI Sarath and Sergeant Ranjith carried him to a jeep, as Nihal was not able to move himself. They started to drive towards Parawakanda where Nihal was

living and went into the house of Mr. Lal, another villager, while Nihal remained in the jeep. After a while the officers brought Lal to the jeep.

In front of Nihal officer Ekenayake told Lal to look and see what had happened to Nihal and to confess to taking the money before the same thing happened to him. But Lal did not accept anything and told the officers that he had not committed any crime as well.

Then the officers started to drive back towards the police station and on the way SI Sarath stopped the jeep and Nihal noted that he bought two bottles of arrack from a liquor shop in Anamaduwa town. When they arrived at the police station Nihal was asked to sit on a bench near the cell.

Thereafter Nihal saw the officers take Lal behind the police station. Shortly after he heard Lal crying out, not to be assaulted. Nihal heard the words “please don’t assault me, I did not steal the money”. Lal screamed for a long time pleading with the officers and Nihal heard it clearly. After about half an hour later Lal was brought back to where Nihal was sitting and he told Nihal that he had been hung and assaulted. Then the officers locked both Nihal and Lal in the cell.

Several hours later SI Sarath came to the cell and informed both of them that they could be given bail only the next day. From that moment until the following morning both were not given any food or drink. At about 7.30am Ms. Geetha Samanmali, wife of Nihal, brought some bread and milk for him. Then at 2pm the same day Nihal and Lal were taken into the Anamaduwa Base Hospital by a private vehicle. Before they were referred to the medical officer, the police officers met with the doctor and had a private discussion. When Nihal was brought before the doctor he told him that he had been assaulted by the police, but the doctor did not pay any attention and sent him out without examining him.

Later on the same day Nihal and Lal were brought to the Magistrate’s Court of Anamaduwa and produced before the magistrate. When he was asked to go into the dock, Nihal noted that one other person was also there. He then heard this person tell the magistrate that he had committed the crime and was ready to pay back the whole amount of Rs.85, 000 to the owner. The money was handed to the owner in front of the magistrate.

Then Nihal realized that police had found the true criminal who was responsible for the crime.

The police then requested the magistrate to remand Nihal and Lal without considering their severe condition due to the torture they suffered at the station. The magistrate remanded all until 6 January 2011 and Nihal and Lal were then brought to the Negombo prison. On the 6 January 2011, Nihal and Lal were taken to Anamaduwa Magistrate’s court by a prison bus from Negombo.

When the case was called that day at 5pm the police informed the magistrate that they had not brought the case book and pleaded to postpone the case for another occasion. The judge blamed the police officers for not bringing the case book but postponed the case to the following day and Nihal and Lal were sent back to the Chilaw Prison.

Nihal states that police officers intentionally prevented the magistrate from releasing them on bail on that day by not producing official books to keep Nihal in the remand prison to prevent his release while he still bore signs of torture.

On 7 January 2011, Nihal and Lal were taken to the Magistrate's Court of Chilaw by another vehicle and released under the condition of bonds of Rs. 3000. The case filed by the Anamaduwa Police was postponed to 5 May 2011.

When Nihal came home he and his close relatives wanted to proceed with legal action against the police but following the brutal torture he had experienced he was in severe fear for his life.

Meanwhile several police officers who identified them as being attached to the Anamaduwa Police Station came to his home on several occasions and told Nihal that the police had made a mistake and they were ready to pay Rs.10,000. Furthermore, they told Nihal that they would release him from the case on the next court hearing day.

25. Mentally disabled person tortured by Thalawakele Police

Mr. Alagumail Mohan, a mentally disabled man, was illegally arrested and severely tortured by police officers attached to the Thalawakele Police Station on 15 February 2011. When Mohan was brought to the police station he was beaten and kicked, humiliated with obscene language and knocked about his head. Then his left arm was twisted and wrenched by the officers. When he was released he was admitted first to the Nuwara Eliya Base Hospital and later to the Peradeniya Teaching Hospital where it was found that his left arm was fractured.

Mr. Alagumail Mohan (25) of Line-10, Thalawakele Estate, Thalawakele in the Nuwara Eliya District has been diagnosed for several years now by the doctors at the Peradeniya Teaching Hospital, where he receives treatment. Furthermore, a consultant issued a special letter of concern asking people to pay attention to his condition.

On 15 February 2011 Mohan went to a shop situated in close proximity to the Thalawakele Tea Factory belonging to Mr. Ranaweera and asked for a bottle of Fanta (a soft drink). The shop owner gave him a bottle, which Mohan drank before returning it to the shop owner. He remained at the shop talking with the owner and other customers. He then left the shop forgetting to pay the price for the drink.

Mohan went to his house. After a short while two persons in civilian clothes came by a three-wheeler and asked him to come out of his home. The two persons arrested Mohan and explained

March 10, 2011 -
Urgent Appeal Case:
AHRC-UAC-057-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; rights of
persons with disability;
impunity; rule of law

that they are from the Thalawakele Police Station. They had received a telephone call from Mr. Ranaweera that Mohan had not paid the price for the Fanta drink he bought. Then the officers brought Mohan to the police station by the same three-wheeler.

After Mohan was brought inside the police station he was produced before SI Gunarathna, who started to shout at Mohan and blame him with obscene language. Mohan was not able to understand any of these things. Then SI Gunarathna started beat him with punches and kicks and struck him about the head. Then he grabbed Mohan's left wrist, which he twisted and wrenched. Mohan was not able to bare the pain and started screaming loudly. SI Gunarathna released Mohan and he was able leave the station and return home.

When he went to the home he felt severe pain in his left arm. Then his relatives informed the Estate management and they arranged for an Estate Ambulance to take Mohan, who was in severe pain, to Nuwara Eliya Base Hospital. Due to the seriousness of his condition the doctors at that hospital transferred Mohan to the Teaching Hospital of Peradeniya.

Mohan was admitted to the Peradeniya Teaching Hospital and underwent an x-ray examination and the doctors informed the relatives that there was an oblique fracture due to the torture he suffered. Mohan had to undergo surgery to treat the fracture and a plate and pins were inserted. Mohan was instructed to attend the orthopedic clinic of the Peradeniya Teaching Hospital for further treatment.

There is no doubt in the minds of Mohan's relatives that he simply forgot to pay for the drink and that if reminded, he would have paid for it before leaving the shop. They also believe that there was no malice or mischief intended. They state that the police tortured and broke Mohan's wrist at the whim and fancy of a private party.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=4Ax1q-AuSz8>



26. Police torture an innocent man with chili in his eyes and nostrils after illegal arrest

Mr. Chaminda Sampath Wickrama Pathirana was illegally arrested and severely tortured by police officers attached to the Badaragama Police Station on 20 May 2009. He was not given any reason for arrest. While in the police custody his legs and hands were tied and hot chili juice was poured into his nose and eyes two times. He was severely beaten with broomsticks as well, by six police officers. Later he was treated at Panadura Base Hospital for two days. Then police filed two fabricated charges against him in Magistrate's Court of Horana. Then he pleaded not guilty and contested the police version and the magistrate acquitted him from one case.

Mr. Chaminda Sampath Wickrama Pathirana of Walgama, Bandaragama in the district of Kaluthara was illegally arrested

March 11, 2011 -
Urgent Appeal Case:
AHRC-UAC-059-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law

on 20 May 2009 and detained for seven days in Bandaragama Police Station. There he was brutally tortured by six police officers including SI Salwathura, PS Manoj, PC Kithsiri, PC Ashoka and two other officers whom can be indentified if seen again.

On 20 May 2009 in the morning Chaminda went to the shop near his house. When he returned he observed three persons waiting on the road along with a jeep belonging to the police. After he passed the jeep suddenly one person followed Chaminda and held him. Chaminda asked the person who stopped him for his identity. The man identified himself as PC Kithsiri of the Bandaragama Police Station. Chaminda then realised that the others were also police officers. Then PC Kithsiri brought Chaminda to the two persons near the jeep and handed him over to them. Then one person, who later identified himself as SI Salwathura, asked for his name and his residential address. He narrated the way to his house and the officer drove the vehicle to his home and started to search the house without giving any reason to Chaminda or the other residents. The officer neither showed any officially issued search warrant nor gave any reason for the conduct. After the search the officers asked Chaminda to go the police station with them. When his family members demanded the reason for their search and taking Chaminda to the station the officers explained that Chaminda had not committed any crime but they want to take a statement from him.

Chaminda was brought to the police station and taken to the officers' barracks at the station compound. There they tied Chaminda's wrists and ankles. Later several other officers also came to the scene and Chaminda identified them as SI Salwathura, Sergeant Manoj, PC Kithsiri, PC Ashoka and two other officers. One officer brought some hot chili and started to chop them. Then without warning he poured the juice of the hot chili into Chaminda's nose and eyes. Immediately Chaminda was in serious pain. The other officers started to beat him with a broomstick. He was beaten all over his body. While being beaten he was questioned as to whether he had committed any crimes to which he replied that he had not. Then the officers released him and locked him up in the cell.

On May 24 also he was brought to the same place by the same officers, who tied his wrists and ankles together. Then they positioned his elbows on either side of the knees and inserted a pole between the knees. In this manner the officers lifted the pole and placed the ends on two tables thereby suspending Chaminda face upwards. Then again an officer started to chop up hot chili and poured the juice into his nose and eyes. Once again he was questioned as to any crimes he had committed for which he gave the same denial. Finally he was released and the officers gave him a bucket of water to wash his face. After this he was sent to the cell again.

The police brought Chaminda to all the jeweler shops in the town of Bandaragama and questioned the owners as to whether he had come to sell or pawn jewellery. All the shop owners interviewed denied ever having seen Chaminda and the officers then released him.

Upon returning home he was in great pain due to the injuries suffered during the torture. He went to the Panadura Base Hospital where he was admitted and remained there for two days.

Several days later he was informed that the police had filed two fabricated charges against him in the Magistrate's Court of Horana. He attended the hearing and pleaded not guilty. He was subsequently acquitted in one case.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=HsQWiKWWnsE>



27. Innocent man tortured to reveal identity of cattle thieves

Mr. Marasingha Arachchige Maithree Narada was illegally arrested and severely tortured by police officers attached to the Negombo Police Station on 27 February 2011. Narada was first tortured while he was being taken to the police station and again at the station itself. When his wife went to visit him he informed her of the incident and she made a complaint to the HRC. Later the police officers threatened Narada and his wife both that they were going to file as many fabricated cases as they could against him. He was charged with a fabricated case and later enlarged on bail.

Mr. Marasingha Arachchige Maithree Narada (27) of 30/49, Wijaya Samarugama, Demanhandiya is married and a mason by profession, who in February 2011 was residing temporarily in a house at the Kadirna area in Negombo. On 27 February 2011 between 10.45 & 11pm while he and his wife were sleeping someone knocked at the door of the house. As it was late in the evening he asked who it was prior to opening the door. A person answered and said that they were from the police station. Then, as Narada was opening the door, two persons in civilian clothes entered the house. One of the officers was known to Narada as Sergeant Silva of the Negombo Police. As they were entering the house Sergeant Silva asked whether Maithree Narada was there and Narada said that he was that person. Sergeant Silva told him that he had to give a statement and to put on a shirt.

When Narada asked the reason for the statement Sergeant Silva simply repeated himself, "A statement to be taken, come". Narada dressed and left the house with them. While they were taking him towards the cab of the Negombo Police Station, which was parked about 40 to 50 metres away from the house, he noticed a police officer who was in civilian clothes standing near the bathroom of the house, and that he had a "nunchaku" in his hand. There was another police officer close to the front door of the house. He was in uniform and was holding a blue coloured hosepipe.

March 16, 2011 -
Urgent Appeal Case:
AHRC-UAC-061-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law



Narada was told to get into the jeep. After the jeep had travelled about 150 or 200 metres towards Kadirana it suddenly stopped. Sergeant Silva, who was sitting in the front seat, got down and ordered Narada to also get out of the vehicle. At that time he realised that the police officers had consumed liquor, due to their behaviour and the smell of liquor when they talked. When Narada asked why they had stopped Sergeant Silva replied, "You know why you were brought here." Narada told Sergeant Silva he had no idea of why he had been brought to the place. Mr. Silva then said, "Get down Kariya (bastard)."

Narada still had no idea of why he had been brought to this particular place. Sergeant Silva told him, "It is from here that the cattle were loaded. You know about that don't you?" Again Narada told them that he did not know anything about it. Then Sergeant Silva said, "You don't know anything. You are a baby. I will do some good work on you. Look". Then again he was made to get into the jeep and ordered to lie down while putting his legs outside. The officer who was sitting at the rear side of the jeep got down with a club in his hand. Again Narada asked why he was being treated in this manner and Sergeant Silva told him, "You know the persons who robbed the cattle and the place where they were taken to, and now tell them to us." So saying he gave three blows to the soles of Narada's feet with the club. Later as he could not bear the pain Narada tried to retract his legs but another officer who was sitting at the back of the jeep grabbed them. Then again Sergeant Silva gave him six blows telling him, "Tell me now you devil (Yakko) speak, who got the cattle." Sergeant Silva sat in the front seat and told him, "You know who got the cattle; we have received information that you are the accomplice."

They took Narada to the Negombo police station and arrived at about 11.30pm. Narada was made to sit on a bench while the officers went for the dinner at the rear of the station. After 15 minutes Sergeant Silva returned with a club in his hand and said to Narada, "We are not saying that you robbed the cattle, but that you know the persons who did it. You tell us the truth and tomorrow morning I will put you out without filing a case". Narada replied that he too went with the cattle owners to search for the lost cattle. He also said that if he knew anything he would tell the police in order to avoid being beaten.

He told Sergeant Silva that on the day when the cattle were lost his father stayed at his house. His father would be able to verify his whereabouts and movements. Sergeant Silva, however, became angry and shouted, "Yakko tell me who got cattle." Then he assaulted Narada with the club.

Narada tried to avoid the blows, but Sergeant Silva grabbed his neck and pulled him to a table, which was close to the crime section. He ordered Narada to lie on that table. Narada pleaded with the police officer not to assault him but Mr. Silva told him, "We know that you did not rob the cattle but you know who did, tell us their names." As he shouted this he gave Narada eight

blows to the soles of his feet. Narada continued to deny that he knew the identities of the thieves and Mr. Silva told him, "You are not telling who the robbers are, Kariya get ready, I will hang you then you will tell the truth". At that time he received a call on his mobile phone. Sergeant Silva told another officer to put Narada in a cell and left the station.

On 28th Feb. 2011, at about 9.10am Narada's wife S. Priyangani, and his sister Nilakshi Anuradha went to the police station to see him. At that time Narada was thoroughly scared and told them that Sergeant Silva had said that he would be hanged and assaulted. Upon hearing this, his wife told him not to be afraid as they were going to lodge a complaint at the HRC. After a short time they left the police station.

The same day at 1pm Sergeant Silva asked, "Which one from you went to the HRC? Let's see how this case could be solved through human rights"; saying that he went towards the crime section.

On that day at 1.30pm a police officer went to the cell and asked Narada to identify himself. He took Narada out of the cell and to the back of the police station. Then this officer took him to the crime section and Sergeant Silva who was sitting there on a chair, made him kneel down. He got up from the chair and said "Kariya, your ones have gone to the Human Rights against me, I will not let you go easily. I will somehow send you to prison for five or six years by planting a bomb or drugs or ganja". So saying he assaulted Narada on his face and body. When Narada fell down he called an officer and mentioning the name of a book told him to bring it. Then that officer brought the book and while Mr. Silva was writing Narada's name in that book said, "You better know I will put every cattle robbery on you. If you can, get released by human rights." So saying he wrote something in the book and without showing what had been written forced Narada to sign it. Then he said, "I will take you to the Negombo hospital, and the doctor will ask when you were taken in to the custody. Tell that it was this morning at 6 o'clock. If the doctor asks you whether you were assaulted, reply to him 'No.' Then I will send you home in the evening today. If you tell the doctor that you were assaulted, you know that you are going to the police again". Later at about 2.30pm Narada was directed to a doctor of the Negombo Hospital. When questioned as to whether he was assaulted he replied saying "No".

Narada was then returned to the cell again. On the afternoon of the same day between 3 to 4pm Narada's wife went to see him and he told her to meet the OIC. Then when she was going toward the OIC's room Mr. Silva who was close by her, shouted at her saying, "Did you go to the human rights? Bloody harlots? (Patta panduru wesiyo) You devil (yakko) I have a service of 24 years here. Do you come to work on me? I will put all cattle robberies in the Negombo police into your husband's name, and get them solved by the court". Narada's wife who was very ashamed from the insults went out of the police station. On 1 March 2011, at

about 8.30am a police officer called Narada's name and told him to get ready to go to the court. On that day between 2.30 to 3pm the case E/660/2011 was called at the Negombo Magistrate's court and Narada pleaded not guilty and was released by the magistrate on a cash bail of Rs. 7500 and physical bond of Rs. 200,000.

The victim has made a complaint to the HRC and to the IGP and other relevant authorities.

28. Innocent man illegally arrested, tortured and forced to sign fraudulent documents

Mr. Vettuwel Wijayakumar was illegally arrested and severely tortured by police officers attached to the Bulathsinhala Police Station on 11 December 2010. Wijekumar was brought to the police station while he was waiting to have a haircut. The officers arrested him and brought him to the police station and forced him to sign fraudulent documents, which he refused to do. He was severely tortured but continued to refuse, as he cannot read Sinhalese. However, due to severe torture he finally signed the documents and was later released. He made a complaint to the ASP and other authorities. He was treated first at Pimbure Government Hospital and then at Nagoda General Hospital.

Mr. Vettuwel Wijayakumar (28) of Kallamale Estate, Bulathsinhala is married, a father of two and a labourer by profession.

On 11 December 2010 around 11am he went to the Bulathsinhala town to have a haircut. While he was waiting for his turn at the salon he observed that two policemen arrived by motorcycle. One of the officers asked Wijayakumar whether his name is Sinna and he told them that his name is V. Wijayakumar. The police officers arrested him and brought him to the Bulathsinhala Police Station. At the police station he was presented with two documents that had already been prepared and was told to sign them. Wijayakumar refused, explaining that he did not know the contents of the documents and that he could not read Sinhala. At that time he was assaulted and again told to sign the documents. He continued to refuse and the officers, one of whom was later identified as PS Chithrananda, beat him with a hosepipe.

Sergeant Chithrananda dragged Wijayakumar to a room in the police station where they continued to beat him and pressured him to sign the book. Finally Wijayakumar complied out of fear of further assault. After they got his signature they kicked him out of the station.

When Wijayakumar left the police station Sergeant Chithrananda shouted at him not to go the home of Ms. Siriyawathi (whom he knew). As he had no idea of what the sergeant was talking about Wijayakumar went directly to her house. As she was not at home, Wijayakumar went to the next home belonging to Mr. Renuka. Sometime later Ms. Siriyawathi arrived and Wijayakumar showed all the injuries he suffered

March 17, 2011-
Urgent Appeal Case:
AHRC-UAC-062-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

due to the torture. All the people present were surprised and shocked and informed him that they did not have anything against him.

Then Siriyawathi went with Wijayakumar to the office of the ASP in Matugama to make a complaint against the assault faced by Wijayakumar. But the ASP told them to go to hospital for treatment and to come back another day, as there were no officers to record his statement. So Wijayakumar went to Pimbura Government Hospital for treatment. At the hospital he revealed to the doctor that he was assaulted by policemen at Bulathsinhala Police Station. He was admitted to the hospital and then transferred to Nagoda General Hospital in Kalutara for further treatment. At the Nagoda Hospital his statement was recorded. He was discharged on 13 December 2010.

After he was discharged from the hospital, he made written complaints to IGP, HRC and NPC and he is eagerly awaiting justice.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=gpzSpuBNrI>



29. Police produced a man before court with fabricated charges, after torture

Allen Jo (29) was illegally arrested and severely tortured by the police officers attached to the Nawalapitiya Police Station on 28 March 2011. He was arrested accused for possession of drugs without any reason and later when the victim denied the accusation he was severely assaulted. Then he was produced to the court with fabricated charges. The victim vehemently denied the charges.

Mr. Allen Jo (29) of No. 195/1 Welgampola Road, Nawawlapitiya was illegally arrested, detained and tortured by the police officers attached to the Nawalapitiya Police Station on 28 February 2011.

Allen opened up a small business, selling snacks and fast food at Nawalapitiya town. On 28 February 20 around 12.15pm five police officers, including the OIC of Nawalapitiya, Mr. Udayakumar visited the business premises. Out of the five police officers two were in police uniform and three police officers were in civilian dress.

At this particular moment there was only Allen inside the shop. The police officers told him that they wanted to search the business premises and searched the shop without providing any warrant. They pointed to a paper that is used to wrap cigarettes and questioned Allen about it. Furthermore, they accused him of selling drugs. However Allen protested the alleged accusation. The police did not take any material relating to drugs.

**March 18, 2011 -
Urgent Appeal Case:
AHRC-UAC-064-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law**

Then the police officers started to assault Allen and dragged him through the streets to the police station. At the police station, he was stripped naked and OIC Udayakumar beat him with a Z-lon pipe until it broke into pieces. Then he slapped him and beat with his fists and fired a shot into the air.

On March 1 Allen along with one visitor who came to visit him to the police cell was also arrested. Later on that day both were produced before the Magistrate of Nawalapitiya in his chambers and were brought back to the police station and detained until March 7 when he was produced in court and remanded at the Raja Veediya Remand Prison in Kandy. Then the case was postponed to 21 March 2011.

When Allen's mother visited him she observed that he had lost his hearing, as there was damage to his ears after the severe assault by the police officers.

30. A man is severely tortured for questioning the torture of friend

Mr. Sundaralingam Shashidaran was illegally arrested and severely tortured by the police officers attached to the Nawalapitiya Police Station when he went and demanded the reason behind the torture of his friend. Later the police produced Shashidaran before the Magistrate of Nawalapitiya and obtained a detention order to keep him in custody. He was remanded until 21 March 2011. When he was produced before the magistrate the police filed a fabricated charge of the possession of drugs, which the victim vehemently denied.

March 22, 2011 -
Urgent Appeal Case:
AHRC-UAC-065-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law

Mr. Sundaralingam Shashidaran (29) of 168, Dekinda Road, Bawwagama, Nawalapitiya in the district of Kandy was illegally arrested, detained and severely tortured by the police officers attached to the Nawalapitiya Police Station on 28 February 2011.

Mr. Allen Jo (29) of No. 195/1 Welgampola Road, Nawalapitiya is a good friend of Mr. Shashidaran from his school days. Both lived in the same area. Allen's case precedes this one.

On 28 February 2011 Shashidaran got a message that police officers attached to the Nawalapitiya Police Station came and arrested Allen from his business place around 12.15pm. Furthermore, he learned that Allen was beaten at the police station and later he was brought to the Nawalapitiya Public Bus Stand and exhibited to the public as a criminal.

Shashidaran went to Allen's place of business and then to the Nawalapitiya Police Station to see what had happened to his friend. At the station he met the OIC Mr. Udayakumara and inquired about Allen, seeking permission to see his friend. Furthermore, he questioned the reason for torturing Allen who he said was an innocent civilian.

The OIC started to shout at Shashidaran and questioned his relationship with Allen. Shashidaran revealed that he is one of his long-standing friends. Then without giving any reason the OIC started to beat him with punches and kicks. Then the OIC locked him up in the cell. Shashidaran was able to see that Allen was also inside the police cell.

On the March 1 Shashidaran along with Allen was brought to the Nawalapitiya Magistrate's official chambers and then again brought back to the Nawalapitiya Police Station and detained at the police cell until March 7. Then again he was produced before the Nawalapitiya Magistrate's Court and remanded at the Raja Veediya remand in Kandy. It was only then that he learned that police had filed a fabricated charge against him on possession of drugs. As he pleaded not guilty the case was postponed to 21 March 2011.

Shashdaran denied the fabricated charges and protested against the arrest and torture and inhuman degrading treatment and punishment. He believed that the drugs were introduced by the police officers as he protested to the officers and questioned them for the reason for torturing an innocent person.

31. A man under imminent threat of illegal arrest and torture

Mr. Welgamgoda Aacharyage Upul Sanjeewa was in imminent threat of being illegally arrested and severely tortured by police officers attached to the Deniyaya Police Station. The police officers went to his residence three times to search for him. The victim refused to attend the police station when asked, stating that he had not committed any crime and that the police had confused his identity. It was due to this that the officers started searching for him to take revenge. On 3 and 4 February 2011 officers went to his residence and shouted at the people in the house using obscene language. They confiscated several valuable personal items belonging to the victim. When Upul complained to the senior police officers and asked for an inquiry, none of the higher-ranking officers responded to his request.

Mr. Welgamgoda Aacharyage Upul Sanjeewa (27) of Kammalgedara, Pansala Road, Deniyaya is a married retired army soldier. After his army service he worked as a construction assistant in Colombo.

Upul went to his home on 3 February 2011, to participate in an almsgiving held for the anniversary of his father's death. Then his mother told him that a police officer was asking about a person called 'Japana'. He went out from the house and asked the police officer who he was looking for. Upul noted that the police officer appeared to be quite drunk. When the officer asked about a person called Japana, Upul told him that he did not know anyone of that name. The officer became irritated and asked for Upul's name and identity card, which he provided. The officer twisted Upul's ID card and asked him to go to the police station with him. At that point Upul clearly stated that as he has not committed any crime and furthermore, was not the person the officer was looking for he was not willing to go to the police station. The officer started shouting but then left the place.

Upul then inquired about the identity of the police officer from the neighbours and they told him that the officer was PS Jayaveera of the Deniyaya Police Station.

March 22, 2011 -
Urgent Appeal Case:
AHRC-UAC-066-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; threat;
impunity; rule of law

During the night Upul noted that a three-wheeler arrived and parked in front of his home. At the same time he noted that there were two police officers, one in uniform and one in civilian clothes. Upul was afraid and believed that they meant him harm so he hid outside and watched what happened. He noted that police officers left the house after asking for his name.

Again on February 4 around 9.30am PS Jayaveera and three other police officers went to his home. Without producing a warrant they searched the premises for Upul. As they carried out their search they verbally abused the family members with obscene language. They then insisted that his brother and sister call Upul and ask him to come to the house but they refused to do so. Then Sergeant Jayaveera pulled open the blouse of the young lady and pushed his hand inside her bra searching for a mobile phone. In contravention of the police orders he did so in the absence of a female police officer. Upul's sister stated that she felt sexually harassed by the actions of these police officers.

They then searched anything belonging to Upul and illegally confiscated his wallet and a gold chain worth of Rs. 27 900, his identity card, documents relevant to Upul's retirement from the army and two SIM cards. As they left they warned the family members that Upul should attend the police station by 4pm.

When Upul learned of this he was afraid and made a complaint to the IGP, DIG, SP Matara and the OIC of the Deniyaya Police Station on the violation of his rights by these police officers and the imminent threat to his life. He requested an immediate inquiry and that these officers be ordered not to harass him or make any threats to his life. No positive steps were taken to inquire into the incident. Upul made a further written complaint to the IGP on 14 March 2011.

32. Innocent man illegally arrested and tortured by Panadura Police

March 23, 2011 -
Urgent Appeal Case:
AHRC-UAC-067-
2011

ISSUES: Illegal
arrest; arbitrary
detention; torture;
impunity; rule of law

Mr. Sugath Chandima was illegally arrested and severely tortured by the police officers attached to the Panadura Police Station on 17 February 2011. Sugath was brought to the police station by his employer and handed over to the officers. He was forced to confess to stealing a mobile phone, which Sugath vehemently denied. Then the employer told the officers that Sugath is innocent and that he had never engaged in stealing after which he was discharged. He was then treated in Panadura Base Hospital for two days. He complained to the HRC but nothing happened.

Mr. Sugath Chandima (29) of Hirana, Panadura is a labourer and unmarried. He is living with his mother and is the only breadwinner of the family.

On 17 February 2011 he was asked by a businessman namely Mr. Priyananda living in the area to come and assist him in his house for some work. He went and completed the work. Then he waited to take the money due to him for a considerable time. After Mr. Priyananda came he took the money and went to his home.

Later Sugath noticed that Mr. Priyananda came to his home in his vehicle. The man told that he had lost his mobile phone and he needed his help to find it. Then he asked him to come to his home along with him. They both went home and searched for the phone. At the end after they did not find that the phone and the Mr. Priyananda informed Sugath that he needed to go to the police station with him. Sugath asked for the reason and was told that he was suspected of stealing the phone. Sugath told the man that he never committed a crime. But as insisted he went to the Panaduara Police Station.

Mr. Priyananda talked to the police officers in private and then the officers took down some details from Sugath. Then officers took Sugath to the room at the third floor of the police station. At that room police officers started to beat Sugath. Repeatedly he was questioned on the theft. He refused continuously to confess. Then officers told that they want to have their dinner and went away. When they came back the officers came along with Mr. Priyananda. In front of officers then he told that Sugath is innocent and he never engaged in crimes.

Then Sugath was released. He suffered severe pain with his injuries from the torture. He directly went to the Panadura Base Hospital for treatment. The doctors advised him to be admitted for further treatment and he was treated for two days. The officers attached to the hospital police post also recorded a statement.

Sugath made a complaint to the HRC on the violation of his fundamental rights but no action was taken.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=DV58JJfas3k>



33. Innocent man illegally detained for two-and-a-half months on mistaken identity

Mr. Rajakaruna Herath Mudiyansele Keerthirathna was illegally arrested and detained by police officers attached to the Anamaduwa Police Station on 18 January 2011. Keerathirathna was produced before the Magistrate's Court of Puttalam and remanded until 7 July 2011. Later the relatives learned that police officers had arrested Keerthirathna on mistaken identity with an outdated warrant issued by the same court. Furthermore, they learned that the particular suspect of the warrant had already appeared before the court and had been enlarged on bail. Keerthirathna and his relatives complained to the relevant authorities seeking justice but did not receive any response.

Mr. Rajakaruna Herath Mudiyansele Keerthirathna (48) of Surakkulama, Mundalama in the Puttalam district is a farmer by profession. Keerathirathna met with a serious traffic accident several years earlier in which he suffered head injuries. He was subsequently treated for several months. Following his recovery from the injuries he started having periods where, without warning he would lose consciousness.

April 27, 2011 -
Urgent Appeal Case:
AHRC-UAC-084-2011

ISSUES: Illegal arrest;
arbitrary detention;
impunity; rule of law



On 18 January 2011 at around 2pm a police officer by the name of Premarathna of the Anamaduwa Police (who was in civilian clothes at the time) came to his home and informed him that the OIC of the police station wanted Keerathirathna to appear before him. He then tried to take him to the police station by the motorcycle on which he came. However, the villagers surrounded him and protested, informing the officer that Keerathirathna is chronic patient and had never committed any crime. Upon hearing this Officer Premarathna informed Keerthirathna to go to the police station the next morning.

Keerthirathna reported to the same officer at the police station with one of his uncles at around 8am the next day and without explanation he was immediately detained in a cell. Neither Keerthirathna nor his uncle was given reason for his arrest or detention. Later in the evening Keerthirathna was produced before the magistrate at his official residence and remanded until 7 July 2011. He was first brought to the Puttalam Prison and then to the Negombo Prison. In the prison Keerthirathna's situation became serious, and prison officers first admitted him to the Base Hospital, Negombo and he was then transferred to the National Hospital of Colombo for further treatment. Keerthirathna was treated there for a period of more than one month.

Meanwhile his brother Rajakaruna Herath Mudiyansele Senarathna who lives with him tried to find the reason for Keerathirathna's arrest. He inquired of the register of the Puttalam Magistrate's Court where he learned that Keerathirathna has been arrested by the police officers attached to the Anamaduwa Police while they are searching a person named in the warrant issued in case number MC/53886/A/10 by the Magistrate's Court of Puttalam. He learned that in that case the sixth suspect was Rajakaruna Herath Mudiyansele Keerthi Jayarathna and he had already appeared before the magistrate and been released on bail. Senarathna then met a lawyer and sought his representation in court to have Keerthirathna released. However, the lawyer explained that he was erroneously arrested and detained and therefore there was no need to appear for him.

Then Senarathna complained to the ASP Puttalam, the SP Puttalam, the NPC and the HRC on the violation of the fundamental rights of Keerathirathna but none of these authorities investigated.

34. Victim of assault denied justice due to powerful politician

Ms. Thushanthi Pujani Perera, a schoolgirl, was assaulted by an influential family as she refused to marry a man they had introduced to her. She suffered several injuries due to assault and was admitted to the Thalathuoya Government Hospital. However, they discharged her without proper treatment. Then she was admitted to the Kandy Teaching Hospital where she was treated till 4 March 2011. While she was admitted at that hospital the perpetrators tried to abduct her. Several complaints were made to the Thalathuoya Police and to the Hospital Police Post but police were reluctant to initiate investigations due to the influence of a politician. After making a complaint against the suspects who were clearly identified by the virtual complainant, the parents and the victim were threatened with death. They fear that they will not be able to obtain justice due to the influence on the police by the suspect and the politician.

Ms. Thushanthi Pujani Perera (19) of “Haksala”, Dulmura, Talathuoya in the district of Kandy was a student at Hewaheta Central School studying in Art A/L class. Pujani has three younger brothers. Her father (H.S.L. Perera) is a heavy machine operator working in Jaffna and her mother (Ramya Perera) is a housewife. Danushka Roshan Wijesuriya, who was two years senior to Pujani, an old boy of her school showed an interest and expressed his love of her, which she rejected.

On 27 February 2011 between 3pm and 4pm in the afternoon, the father of Danushka Roshan Wijesuriya of Koshinna, Talathuoya came to Pujani’s house with his wife and Danushka’s sister. They said that Danushka wanted to marry Pujani and that they had come to ask for her consent. When Pujani refused the proposal, Danushka’s sister slapped Pujani and dragged her into the bedroom. Pujani fell near the bed and Danushka’s father went into the room and put his foot on Pujani’s chest and threatened to kill her if she did not agree to marry Danushka. The mother of Danushka then assaulted Pujani and tore her clothes. Pujani had several injuries on her face and her hands were bleeding. Danushka’s father said he is a close friend of a well-known politician of the area and therefore he could do anything: even kill Pujani and her whole family.

Danushka’s mother and sister assaulted Pujani until the neighbors intervened. When Pujani’s mother, Ramya, tried to stop Danushka’s father assaulting Pujani, he beat Ramya with a stick, injuring her head.

Later in the evening Ramya and Pujani were brought to the Talathuoya police where they made a complaint; they then were admitted to the Talathuoya Government Hospital. However, Pujani was discharged from the Talathuoya hospital the following day without treatment. Hence the family members of Pujani brought her to the Kandy Teaching Hospital on 28 February 2011 and the doctors advised them to admit her considering her situation. She was admitted in ward nine and later transferred to ward twelve. Pujani was discharged on March 4. Before she was discharged the officers attached to the hospital police post

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Urgent Appeal Case:
AHRC-UAC-086-2011**

**ISSUES: Violence
against women;
witness protection;
impunity; rule of law**

April 29, 2011 -
Urgent Appeal Case:
AHRC-UAC-087-2011

ISSUES: Right to
education; torture;
impunity; rule of law

questioned Pujani regarding the incident. However, neither the police officers attached to Talathuoya Police nor the Kandy Hospital Police Post recorded a statement from Pujani whilst she was in the hospital or after she was discharged. This is in spite of Ramya's request to the hospital police post in Kandy hospital.

Furthermore, whilst Pujani was in Kandy Hospital, Danushka came to the hospital on March 1 and attempted to forcefully discharge her and remove her in a three-wheeler. Pujani called her mother who informed the hospital police post, but the police officers did not take action and said they could not do anything. They advised Ramya to complain to the Talathioya Police. Pujani somehow managed to escape but Danushka threatened that he will do everything possible to abduct her. Ramya went to the Kandy Police to make a complaint but the officers refused to accept it.

Pujani and her family are in fear that not only will they be unable to get justice but they will also be denied protection from the police. Pujani's family was very concerned that she could be abducted at anytime on her journey to or from school.

35. Justice denied to a student assaulted at Gandara Central College

Maddegama Acharige Ishan Maleesha was a grade 7 student of Gandara Central College. He was assaulted with a pole by a teacher of the same school while he was studying and suffered several injuries. The residents of the victim's village continuously urged the police and the educational authorities to give justice. Relatives of the victims complained to the relevant authorities but no one took action against the perpetrators.

Maddegama Acharige Ishan Maleesha (13) of Devrampura, Kapugama, Devinuwara in the Matara district was a student of grade 7 of the Gandara Central College. On 4 March 2011 while he was studying in the school he was assaulted by a teacher. First he was questioned about a pigeon which had flown in to the class room, the teacher has forced the student to accept his involvement in chasing out the pigeon and when the student stated that he was not involved, the teacher assaulted the head of the student, the shoulder and thigh area, with an *albesia* stick, until it broke.

Ishan's father Mr. Maddegama Acharige Iresh Kumara, who is a fisherman, learned about what happened to son that evening. Then he saw the marks of injuries suffered due to the assaults and went to the temple with the victim child where the reverend monk, who is the acting principal of the Gandara Maha Vidyalaya, is residing, and informed about the incident to the monk, showing all marks of the assault and requested him to take the necessary action.

Later in the evening of the same day they went to the house of the suspected teacher Mr. Cyiril Abeydeera who assaulted the child and after showing the marks caused due to his assault, questioned the teacher for the reason for such an inhuman

assault. Then he stated that according to an incident in the school he gave several blows and even that was done with the intention of correcting the student properly.

Thereafter in the evening of the same date Ishan was admitted to the Thalalla Rural Hospital and was warded for five days. At the same time the father of the child made a complaint to the Gandara Police Station on the incident on the same day.

Meanwhile the people of the village organized a discussion on Sunday, 20 March 2011, in the village area, to educate the villagers on this assault and the reaction of the educational authorities on bringing the justice to the incident. About 83 villagers participated. At the meeting, participants expressed their anger and learned that there had been four previous assaults by the same teachers Mr. Cyril Abeydeera and Sarath Amarasooriya of Gandara Maha Vidyalaya. They explained about the brutality of these teachers towards the students who had faced similar assaults. In those cases although some parents had forwarded their complaints to the Zonal Director of Education and the Rev. Monk, the acting principal, no investigation had started yet.

Officers of the Gandara Police Station also did not initiate any investigation.

36. Innocent man illegally arrested, detained and tortured by Anamaduwa Police

Mr. Samayakkarage Ravi Nishantha was illegally arrested, detained and severely tortured by police officers attached to the Anamaduwa Police Station on 17 March 2011. While Nishantha was visiting a patient at Anamaduwa Government Hospital a former police officer brought him to the Anamaduwa Police Station. Then this officer privately talked to the officers on duty. Later Nishantha was detained and severely tortured at the station. His face was covered with a plastic shopping bag filled with chili powder. He was then hung from a beam and assaulted with a pole. The next day Nishantha was released by the same officers and two days later the complaint made against Nishantha was withdrawn by the same person who 'arrested' in front of Nishantha.

Mr. Samayakkarage Ravi Nishantha (29) of No. 07, Mundakkuliya, Anamaduwa in the Puttalam district is married, a father of two and a barber by profession.

On 17 March 2011 he went to meet one of his friends, Mr. Jayantha, who lives in same village. Jayantha asked Nishantha to accompany him to Kawushalya Rice Mills to get some money in the sum of Rs. 30 000 which belonged to Mr. Pradeep Udayakantha, a former police officer and the owner of the Jayani Service Center of Anamaduwa Town. Nishantha went with Jayantha by his motorbike. When they arrived at the Rice Mills Jayantha went inside alone. On his return they started to drive back. On their way at Thonigala, Jayantha told Nishantha that he had lost the money that was due to be handed over to Mr. Pradeep Udayakantha. Then both of them started to search for the money along the route they had just traveled. When they were unable to find the money they returned home.

May 5, 2011 -
Urgent Appeal Case:
AHRC-UAC-088-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

While Nishantha was at home that evening he got a message that Jayantha has been admitted to the hospital after attempting to commit suicide by taking poison. Then immediately Nishantha went to the Anamaduwa Government Hospital to visit Jayantha. While Jayantha and Nishantha were talking Pradeep came to the hospital and requested Nishantha to accompany him to the police station. Nishantha then went with him.

Nishantha and Pradeep entered the Anamaduwa Police Station at around 7.30pm that day and Nishantha noted that Pradeep was talking privately with several police officers on duty.

Then suddenly one officer came to Nishantha and shouted that if he took the money to give it back to Pradeep. Nishantha told them he had never taken anyone's money. Then the officer shouted and slapped his face with several blows and told him that they "knew how to get the money back". He then locked Nishantha in the cell. During that whole night he was not given anything to eat.

On the morning of March 18 around 6.30am SI Sarath came to the cell and brought Nishantha out. Then he started to shout, asking him to give back the money that belonged to Pradeep. Nishantha repeatedly told the officer that he had not taken it. Then SI Sarath started to beat Nishantha all over his body. Then he brought Nishantha to the kitchen of the police station where he covered Nishantha's face with a plastic bag containing dried chili powder. Nishantha was not able to breathe and felt severe burning and irritation to his respiratory system and nose. Nishantha started to scream and pleaded with the SI Sarath to remove the bag. As he was unable to breathe properly he fell, semiconscious to the ground and remained on the floor for a period of about 20 minutes. At no time during the arrest and torture was he shown any complaint against him or informed of any formal complaint against him.

Then SI Sarath called another two officers to come and assist him. They tied Nishantha's hands behind his back. Then using another rope they hung Nishantha from a beam on roof. The shopping bag still covered Nishantha's face. He pleaded with that he had recently had surgery on his hand but the officers paid no attention and left him there for another 20 minutes. While he was hanging from the beam SI Sarath started to beat him with a pole and questioned him about the stolen the money. Nishantha repeatedly refuse the charge.

When Nishantha continuously refused to confess the officers took him down and ordered him to wash his face. Then he was again locked in the cell. At around 12pm SI Sarath came to the cell and took Nishantha out again. The officers instructed him to call Pradeep and ask him to come to the police station and withdraw the complaint. Nishantha was then released and he went for treatment from the Anamaduwa Government Hospital.

Two days later Nishantha was summoned to the same police station in his presence Pradeep withdrew the complaint.

37. Complainant and two women assaulted in public by the Poddala Police

Mr. D Weeragunaratna Sahabandu, Ms. K A Sarani and Ms. M L Tharanga were severely tortured by the Poddala Police on 28 February 2011. Sahabandu complained to the police regarding the theft of diesel fuel by several workers of the Colombo Matara Highway Project and using his land for hiding the stolen fuel on several occasions. Then the officers working on the project started to construct an illegal canal obstructing the roadway to the house of the complainant. After Mr. Sahabandu made his complaint police officers including the OIC of the station came to his residence and tortured Sahabandu, his wife, Ms. Sarani and Ms. Tharangi who tried to protect Ms. Sarani. Police later filed fabricated charges against the two women. All three victims were treated in Karapitiya Teaching Hospital, however, Ms. Sarani transferred herself to the Matara General Hospital for treatment of her fractured right arm. Though the victims made complaints to several authorities all of them remain have been ignored.

Mr. D Weeragunaratna Sahabandu, Ms. K A Sarani and Ms. M L Tharanga are residents of Andurathwila, Wawulugala Kanda, Poddala in the district of Galle. D Weeragunaratna Sahabandu and K A Sarani are married and the parent of a one child and Ms. Tharanga is their neighbour.

The project for the construction of the Colombo-Matara Highway is lying close to their houses. Sahabandu observed that several workers attached to the project were stealing diesel from the heavy vehicles used in the project and then hiding the cans on his land to be taken away secretly. Observing the potential danger to him and his family members he made a complaint to the higher authorities of the project and later to the Poddala Police Station.

Then a few days later the officials of the project suddenly arrived in front of his house and began excavating the land to make a canal that obstructed the access to his property. The construction of such a canal was not in the original plans of the project and neither Sahabandu nor any other resident of the area were previously informed about such a canal. Sahabandu realised that the construction of the canal and the subsequent disruption to his access was in revenge for his complaint to the police.

Then he went and made a complaint to the Poddala Police Station on the illegal construction. The OIC of the police station warned him not to get involved with the work of the project. Then Sahabandu understood that the police officers were working in connivance with the illegal activities of the officers of the project. However, after his complaint the construction of the canal was stopped.

Several days later he observed that the stealing of the fuel and the use his land again started and Sahabandu went to the officials of the project and protested the use of his land for these illegal activities.

On 28 February 2011 at around 10-11am a police jeep approach Sahabandu's residence. Then he observed that the OIC Ashoka Karunaratna, SI Samarajeewa, Traffic Sergeant and a few other

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AHRC-UAC-089-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; violence
against women;
impunity; rule of law





officers of the Poddala Police Station were in the jeep. The OIC called the Sahabandu to them and questioned as to why he was disturbing the officers of the project. Then Sahabandu explained that he had never obstructed any work of the project but that the use of his land for illegal activities exposed him to danger. Then the OIC started to beat Sahabandu with kicks and punches. Meanwhile the OIC blamed Sahabandu saying that he was far too involved in wasting everyone's time. ("Wadiya Dangalanna Epa Kariya"). Sahabandu fell on the ground and then the officers moved back to the jeep.

Suddenly the jeep stopped a little distance away and SI Samarajeewa came out from the jeep and started firing his weapon at Sahabandu to frighten him. Then Sahabandu fell back to the ground. Meanwhile his wife K A Sarani who observed the shooting ran to the jeep and pleaded with SI Samarajeewa not to shoot her husband. Then SI Samarajeewa started to beat Sarani. The OIC also came out of the jeep and started to beat Sarani with a wooden pole. She started to scream and pleaded with the officers not to her.

Sarani noted that several residents of the village witnessed the beating. Then one of her neighbours, Ms. Tharanga also observed how Sarani was being beaten by the police and she came to assist. Sarani was now pleading for help from the observers as by then she realised that that her arm was broken. Then SI Samarajeewa started to beat Ms. Tharanga as well and once again he was assisted by the OIC. Then Ms. Tharanga and Ms. Sarani were both taken to the rear of the jeep and brought to the police station. They were detained in the police station and then in the evening brought to the Magistrate's Court of Galle and produced in case number B/68477 (accused of obstructing the project works).

Then two women were able to explain the manner in which they were arrested and tortured to the magistrate who enlarged them on bail. They were advised to be admitted to the Karapitiya Teaching Hospital for treatment and for the examination by the JMOs. Both of them were admitted for treatment and treated there till 1 March 2011. Sahabandu also was admitted to the same hospital and treated as an indoor patient till the same day. While she was being treated the doctors informed Sarani that she had received a fracture of her right arm due to the assault and she underwent surgery.

Then they made a complaint to the NPC, IGP (IGP). SSP Galle and the HRC against their illegal arrest, illegal detention, torture and the filing of fabricated charges against them.

Since their release they believe that they are in danger as they have complained to the higher authorities against the police. They left the village and are taking refuge at one of their relative's houses. Sarani was admitted to the Matara General Hospital for further treatment on 18 March 2011.

Though the victims made complaints to several authorities none have initiated investigations.

38. Fifteen-year-old child arrested by Rambadagalle Police on baseless suspicion

Janith Chandeera a 15-year-old student of Kavisigamuwa Sri Gamini Maha Vidyalaya was illegally arrested and subjected to degrading treatment by police officers attached to the Rambadagalle Police Station on 24 April 2011. Janith is a bright student and on this particular day had participated in several competitions in the New Year's Celebration held in the village. Police officers arrested and questioned him while subjecting the child to degrading treatment on the theft of jewelry which happened at the same time. The next day the child was released without being charged. No inquiry has been made into the illegal arrest and degrading treatment.

The mother of the complainant, Ms. Chandani Munasinghe (38) of Hunugalkadulla, Morathiha, Kurunegalle is married and mother of three children. Her elder son Janith Chandeera is 15 years' old and a year 10 student of Kavisigamuwa Sri Gamini Maha Vidyalaya.

On 24 April 2011 Janith went to participate in the New Year's Ceremony held in the village. He left home at around 8.30am and returned at 2pm.

Later her younger daughter came to her and informed that two police officers were at home and trying to arrest her brother. Then Chandani went home and inquired from the officers the reason for the arrest. The officers replied that they were searching for gold jewelry that had been lost from a neighbouring house earlier that day. Chandani learned that they were from the Rambadagalle Police Station in Kurunegall, which is the police station of the area. The officers searched the house without a warrant and when questioned replied that one girl in the house where the theft had taken place reported that she had seen her son walking along the road. Then Chandani pleaded with the officers not to do any harm to her child as he was innocent and at the time of the alleged theft had been participating in several competitions at the New Year's Ceremony. To prove this she showed them the awards he had won. She told the officers that after completing his events at the ceremony that he had come home. Rather than accept her explanation the officers warned Chandani several times that she was talking too much.

After searching the house for several hours unsuccessfully the officers decided to leave but soon returned and arrested Janith. They brought him to the station by their motorbike. Chandani felt helpless but courageously went to the Rambadagalle Police Station where she found her child inside.

At the police station, the officers brought Janith to a room where they threatened and verbally abused him with obscene language. Janith was mortally afraid and pleaded with the officers to release him repeatedly saying that he was innocent. The officers while questioning Janith subjected him to degrading treatment and continuously asked the whereabouts of the stolen jewelry. Janith repeatedly refused the charge and explained that

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ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

he was in the New Year Celebration at the time of the theft. Following this Janith was put into a dark room where a female murder suspect was detained.

Several hours later Janith was handed over to Chandani who was instructed to return with him the next morning at 9am. She duly went to the police station with her husband and Janith and reported to the OIC. However, before Chandani met the OIC one of the officers from the day before came to her and told that she was talking too much and warned her that she would face future consequences. Then the OIC talked to the family and informed them that the case was finished.

After arresting and subjecting the child to degrading treatment and detention, the boy was severely traumatised. Janith cannot properly concentrate on his education and as the news of the arrest spread amongst the teachers and the fellow students Janith is embarrassed when facing them.

39. An innocent man was illegally arrested, detained and severely tortured by the CID

Mr. W.A. Lasantha Pradeep Wijeratna was illegally arrested and severely tortured by the police officers attached to the CID on 15 August 2010. Lasantha was initially arrested by group of officers of the Sri Lanka Navy and then handed over to the Marawila Police who in turn handed him over to the CID where he was severely tortured. He was produced before the Negombo Magistrate's Court and remanded with a fabricated charge. Lasantha made complaints to several authorities including the HRC seeking redress for his fundamental rights violations. However, his complaints have not been investigated.

Mr. W.A. Lasantha Pradeep Wijeratna (36) of No. 98, Galahitiyawa, Ganemulla in the district of Gampaha is married and the father of one child.

Lasantha and five of his friends were staying in a small hotel in Marawila on 15 August 2010. At around 7.30-8pm, a group of officers of the Sri Lanka Navy arrested them and handed them over to the Marawila Police Station where they were initially detained in the cells.

A short while later, several police officers attached to the CID of the Sri Lanka Police Department came to the Marawila Police Station and the detainees was handed over to them. Later on the same day they were brought to the fourth floor of the CID headquarters and detained there.

The next day at 8.30am SI Sanjeewa of the CID brought them to a separate room at the same compound where the SI started to question Lasantha concerning an attempt or any knowledge about arrangements to migrate to Australia. Furthermore, he asked about a Canadian ship in the Northern Sea of Sri Lanka and any connections with the LTTE organization to that ship.

Lasantha clearly stated his ignorance of these things but admitted that he was making preparations to go to Australia for employment. SI Sanjeewa was not satisfied with this statement

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Urgent Appeal Case:
AHRC-UAC-092-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

and assaulted Lasantha. He placed a plank on Lasantha's head, which he struck with an iron hammer. Due to this assault Lasantha suffered severe shock and great pain. He was subjected to such questioning many times by several officers including SI Sanjeewa. On each occasion Lasantha was assaulted by these police officers.

On the 17 August 2010, at 4pm, SI Parनावittana of the CID brought Lasantha and a few other detainees to the National Hospital at Colombo and produced them before the JMO. Before meeting the JMO they were threatened with further assault if they revealed any details of the torture they had received at the hands of the CID. They were also threatened with further detention. Eventually however, the officers did not produce Lasantha before the JMO.

Later Lasantha along with some other detainees was produced before a Magistrate of Negombo and remanded under the provision of Immigration & Emigration Amended Act.

Lasantha states that he had not committed any crime and was illegally arrested, detained and tortured by the police officers. Furthermore, he states that police filed a fabricated charge against him. Lasantha also made complaints to the HRC, the NPC and the IGP regarding the violation of his fundamental rights but none of these authorities have responded to his appeals.

40. Public servant fights against corruption, inhuman assault and suspension

Property Bailiff officer Mr. Nelson Hettiarachchi attached to the Negombo Municipal Council has been suspended illegally by the Municipal authorities after he made complaints revealing several cases of corruption for which there was credible evidence. Following this he was threatened by the Municipal Councilor, Mr. Anton Jayaweera, not to proceed with the cases. Then on 24 April 2011 he was called to the municipality office by the same councilor and treated in a degrading manner and assaulted inhumanly in front of the public. One day later his service was suspended without reason or inquiry and without a written order. He complained to the Commissioner of Local Government and the Negombo Police Station on the violation of his rights and the assault. Several days later he was issued a letter accusing him for inappropriately blaming the councilor and interrupting the work of his office.

Mr. Nelson Hettiarachchi (31) of No. 24/B, Thalahena, Negombo in the Gampaha district was a Property Bailiff attached to the Municipal Council of Negombo. Nelson was attached to the Thalahena Sub Office. He worked with a high degree of discipline. His work and conduct was at all times admired by his seniors and peers.

While he was serving in the Sub Office of Thalahena he learned that there had been cases of corruption. He carried out some investigations with the assistance of some other officers and collected much documentary evidence. Furthermore, he learned that the corruption was ongoing and involved several officers. The corruption had led to severe losses in revenue to the

May 13, 2011 -
Urgent Appeal Case:
AHRC-UAC-093-2011

ISSUES: Corruption;
human rights
defender; torture;
impunity; rule of law

government. He decided that something needed to be done and he made a formal complaint to the Municipal Commissioner at the head office of the Negombo Municipal Council.

Several months later some officers of the Municipal Council came to the Sub Office and inquired about the complaint. They questioned a few of the officers at the Sub Office directly who were suspected of being involved in the above mentioned cases.

Meanwhile one day the Municipal Councilor, Mr. Anton Jawaweera, phoned him and threatened Nelson that if he continued to disturb the work of the Sub Office then he would face future consequences. But Nelson decided not to step back in his efforts to expose the corruption and fight against it.

On 26 April 2011 while Nelson was in his office a messenger came to him and informed him that Municipal Councilor Anton Jayaweera was waiting to meet him and asked him to go with him to his office. As Nelson was at one time threatened by Jayaweera, he was reluctant to go. But the messenger forced him.

Then Councilor Anton asked Nelson the reason for interrupting the work of the Sub Office of Thaladena. Nelson explained that he had never interrupted the officers but had complained to the relevant authorities regarding several cases of corruption for which there was credible evidence. He told Jayaweera that it was the Municipal Council that started the inquiries not him. Then the Councilor began to shout at Nelson in a degrading manner. Without warning or cause he then slapped Nelson. At the time there were a large number of officers and people from the general public gathered there to meet officers of the Municipal Council. Nelson felt shamed and humiliated and eventually returned to his office.

Nelson immediately went to the Mayor of Negombo and made a complaint regarding the assault and the violation of his rights by the Councilor Anton Jayaweera.

On the next day morning at 10am the accountant of the Municipal Council (Revenue) Ms. Anuradha, phoned Nelson and instructed him to hand over all the official books to the Chief Clerk, Ms. Malini of her office. Nelson went to Ms. Anuradha and explained what really happened and explained that it was him who was assaulted and blamed in degrading manner for executing his official duty. He explained that he was punished for making complaints against certain cases of corruption that had happened at the Sub Office Thaladena. Then he explained to Mr. Anuradha that he had not been given any written notice on the suspension of his work. He asked for written instructions to hand over the official books, which were in his custody. This was refused but a letter informing him of his suspension was issued.

Later on April 29 Nelson went to the Local Government Commissioner to make a complaint regarding the violation of his rights by Jayaweera. Then he was able to make a complaint

to the Assistant Local Government Commissioner Mr. Pramaratna. Furthermore, the Assistant Commissioner of Local Government instructed Nelson to make a complaint to the Negombo Police Station regarding the assault. This was duly done the evening of the same day.

On May 2 Accountant (Revenue), Ms. Anuradha called Nelson and informed him that there was a letter for him and to come and accept it. When he went her office he was given a letter issued by the Municipal Commissioner accusing him that he had interrupted the work of Councilor Anton Jayaweera and also the work of the Sub Office Thaladena. The letter instructed Nelson to meet the Urban Commissioner and have a discussion.

On May 4 Nelson went to meet the Municipal Commissioner. There he observed that Councilor Anton Jayaweera was also present. The Councilor started to accuse Nelson that he has blamed him and interrupted the duties of the staff at the Sub Office. Then Nelson tried his best to explain that he totally denied all allegations and stated that it was Councilor Anton who assaulted and blamed him in a degrading manner in front of a huge crowd. Furthermore, he explained that he has never interrupted any officers at the particular office and only officially complained on certain cases of corruption after finding credible evidence. Furthermore, he informed him that due to Councilor Anton's influence Nelson's work had been suspended without any legitimate inquiry. Furthermore, he informed that his service was suspended also without inquiry and proper written order. He also stated that his service was suspended arbitrarily and only afterwards was a letter issued to justify the suspension. He stated that he believes his suspension was a punishment for fighting against corruption.

41. Men severely assaulted by the Inginiyagala Police

Mr. Disanayaka Mudiyanse Nandasena and Mr. P W Cyril Sarath Kumara were illegally arrested and severely tortured by the police officers attached to the Inginiyagala Police Station on 4 April 2011. A team of policemen went to their village and brutally assaulted them and then arrested them. They were brought to the Ampara General Hospital but the police officers prevented the doctor from examining and treating them despite the fact that they had several injuries. Instead they obtained a document signed by another doctor and brought Nandasena back to the police station. The next day he was released on police bail. Nandasena was then admitted to the Ampara General Hospital and treated for two days. He complained to the HRC but still no investigation has been initiated. The police forced him to settle the matter and told him that they had paid the medical expenses. However, Nandasena is seeking justice against perpetrators.

Mr. Disanayaka Mudiyanse Nandasena (29) of No. 1 B/107, Namal Oya, Ampara, is a farmer by profession who on 4 April 2011 was at Ambagahawela, Paragahakelle in the village along with a few other villagers. The others included farmer Mr. P W Cyril Sarath Kumara (26) of No. 6 B/59 A, Ambagahawella, Paragahakelle, Ampara, and Mr. D M Upali Dissanayaka (43) of

May 16, 17, 23, 2011 -
Urgent Appeal Cases:
AHRC-UAC-096-2011
AHRC-UAC-098-2011
AHRC-UAC-103-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

No. 7/B, Ambagahawella, Paragahakelle, Ampara, married, a father of three children and also a farmer by profession.



As it was the New Year celebration period several villagers were playing cards. At around 11pm several police officers including PC Roshan, PS Lal, Weerakoon, Chaminda, Karu of the Civil Defense Force all attached to the Inginiyagala Police Station arrived and started to brutally assault the persons in that place with batons. The victims of this assault suffered multiple injuries. Nandasena was among the injured. Then the police officers arrested Nandasena and six others and brought them to the police stations at about 2am. They were detained in cells and later officers forced the detainees to sign documents that were not recorded from them. The content of the documents were not explained, nor were they allowed to read them.

Then police officers brought all the detainees to Ampara General Hospital at 3am. The officers first went to a lady doctor who was on duty and talked privately. Then the detainees were produced but the doctors did not examine or talk to any of them. The detainees were made to wait two yards away from the doctor. Then the men observed that the doctor was signing several documents. Later police officers brought all the detainees back to the police station. Before they were taken back they pleaded with the doctor to give some medicine, but the doctor shown no interest and kept silent. The men learned that doctor worked in connivance with the police officers.

Then at 10.30am the men's relatives arrived to the police station and they were released after signing for a police bail.

The men made a complaint to the Sub Office of the HRC at Ampara on the violation of their fundamental rights in which they clearly mentioned the names of the perpetrators.

They were admitted to the Ampara General Hospital and the doctor advised them to be admitted for further treatment. They were treated there for two days and discharged on 6 April 2011.

While they were treated in the hospital two police officers of Inginiyagala Police Station came and suggested that they come to a settlement so that he would not to proceed against them. The officers told him that they were ready to pay for medical expenditures. But the men refused.

42. Journalist arrested and severely tortured by Panadura Police

Mr. Niroshan Premaratne, a professional journalist, was illegally arrested and severely tortured by police officers attached to the Panadura Police Station on 8 May 2011. While Niroshan was driving with his wife and brother-in-law they were stopped by police officers and brought to Pandura Police Station. When Niroshan tried to inform his senior management regarding the illegal arrest two police officers started beating him. Shortly afterwards he was released and admitted to the Panadura Base Hospital who in turn transferred him to the Colombo South Teaching Hospital. He suffered several contusions to his face and one tooth was broken as a result of the beating.

Mr. Niroshan Premaratne, a professional journalist attached to the Independent Television Networks (ITN) of Wickremasinghe Pura, Battaramulla was subject to arbitrary assault by two police officers at the Panadura Police Station on 8 May 2011.

In the morning Niroshan had gone to participate at a family event at Wadduwa with his wife and his brother-in-law following which they travelled back to Colombo in his vehicle. Some officers of the Motor Traffic Unit of the Panadura Division pulled him over on charges of driving his vehicle while disobeying police orders. But Niroshan states that he did not see the signal that the police officers said they had given him. Instead of carrying out the necessary investigations after taking him to the Panadura Police Station the officers tried to lock up him in the cell. When Niroshan tried to inform his senior management of the situation using his wife's mobile phone two officer of the Motor Traffic Unit brutally assaulted him. This assault was witnessed by his wife and brother-in-law.

Niroshan was not charged and after the assault he, his wife and brother-in-law were released. He was admitted to the Panadura Hospital and thereafter transferred to the Colombo South Teaching Hospital. As a result of the beating he sustained injuries to his head and face and one tooth was broken. He also said that his gold chain and mobile phone had gone missing following the incident.

Following the assault the IGP ordered a special investigation and the two police constables were suspended over their alleged involvement in the assault.

43. Kandy and Kahathuduwa Police refuse to investigate abduction of a girl

The 17-year-old daughter of Mr. Mohamed Niyasdeen of No. 439 Peradeniya Road Kandy went missing. Mr. Niyasdeen is a businessman. When his daughter went missing he made a complaint to the Kandy Headquarters Police Station and to the Women and Child Care Bureau of the same station. However, the police did not investigate the case. When he received further information that she was being held captive in Kahathuduwa area in Colombo he went to the Kahathuduwa Police Station and made a further complaint. But again this complaint also was not properly investigated. He learned that the abductor was a supporter of a powerful politician and due to the influence of the politician his complaint was not being acted upon. Mr. Niyasdeen states that later the underage child had been married illegally and that the abductors provided false information to the marriage registrar.

Mr. Mohamed Niyasdeen of No. 439 Peradeniya Road Kandy is a businessman by profession and engaged with businesses in Kandy. He is married with one daughter aged 17 years.

On the 24 December 2010, Aaesha (not her real name) went for her tuition classes as usual but never returned home. Later in the evening she called Mr. Niyasdeen and informed him that she was in a train and could not understand anything and then the line got cut. Following the telephone message Mr. Niyasdeen made a complaint at the Kandy Headquarters Police Station and

May 20, 2011 -
Urgent Appeal Case:
AHRC-UAC-101-2011

ISSUES: Illegal arrest;
torture; impunity; rule
of law

May 26, 2011 -
Urgent Appeal Case:
AHRC-UAC-107-2011

ISSUES: Police
inaction; denial of
justice; women's rights;
impunity; rule of law

it was registered with the number CIB (i) 381/509 the same day. Though Niyasdeen explained his grievances the police did not pay proper attention and take any necessary measures to search for his daughter. Then he made another complaint to the Child & Women Care Bureau in the same station on 28 December 2010.

In March 2011 Mr. Niyasdeen received a message that his daughter was abducted by a person named Yasitha Yohan who is working at George Goonaratne Optometrists in Piliyandala and that she was being kept in his house at No. 9 Heraliyawa, Temple Road, Polgasowita, Kahathuduwa.

Mr. Niyasdeen went to the Kahathuduwa Police Station on 29 March 2011 and made a complaint about the abduction of his child. It was recorded and the number was CIB 283/482. Then he went to the house at No. 9 Heraliyawa, Temple Road with two police officers. When they visited the place Yasitha, his mother, brother and brother's wife were there. The police officers went inside the house and found that Aaesha also was present but Mr. Niyasdeen was not allowed to talk to her or see her. After having a confidential talk with the residence of the home, the police officers informed Mr. Niyasdeen that if he wanted to take his daughter back, he should come with the Kandy Police officers and that they cannot do anything. The officers at Kahathuduwa Police Station did not investigate the complaint that Niyasdeen made properly.

Mr. Niyasdeen returned to the Kandy Headquarters Police Station and informed the situation to the officers and sought their assistance to take the necessary steps to inquire into the matter and retrieve the child. But the officers on duty said that they could only inform Kahathuduwa Police Station but they too could not do anything. Mr. Niyasdeen believes that the police officers were under the influence of a powerful politician and that Yasitha has his support.

Four months later, Mr. Niyasdeen received a message that Yasitha has married Aaesha in April 2011 by providing false details to the registrar.

44. Innocent man brutally assaulted and prevented from making a complaint

Mr. Suppaiah Sivakumar was illegally arrested and severely tortured by police officers attached to the Teldeniya Police Station on 15 May 2011. Sivakumar with his family members went to see the Theru Pageant of the Nithulemada Hindu Temple on the night before. As a result of a dispute among the onlookers the family started to leave. However, police officers arrived and started to beat Sivakumar mercilessly, paying no attention to the victims that repeatedly told them that Sivakumar had not been involved. He was brought out onto the road and exhibited as a criminal before being taken to the police station. He was later released by the police and admitted first to the Manikhinna Government Hospital and in turn to the Kandy Teaching Hospital. When Sivakumar's wife tried to make a complaint to the Teldeniya Police Station and to the DIG of the Central Province they refused to accept her complaint.

Mr. Suppaiah Sivakumar (33) of No. 51/2, Pinnakutiya Watte, Allepola, Senarathwela, Teldeniya in the Kandy district is married, a father of two daughters and a mason by profession.

In the evening of 14 May, 2011 Sivakumar, his wife and two daughters went to see the Hindu religious festival held in the Nithulemada Hindu Temple. Just after the 'Theru pageant' (religious event to pay respect to the Hindu Gods) started, Sivakumar and his family decided to watch the pageant by sitting close to the Bambaragala Junction close to the golf ground of Victoria. After some time, at around 1.30am (15 May), they observed that a dispute broke out between two groups of viewers and soon the altercation turned violent. The other bystanders started to leave the scene and Sivakumar and his family members also decided to go.

After a few moments a group of police officers attached to the Teldeniya Police Station, which included PS Jayarathna and two officers of the Civil Defense Force, came to the place and started to indiscriminately beat Sivakumar with poles they collected from the fence near the road. Sivakumara continuously told the officers that he had nothing to do with the dispute. But the officers paid no attention and continued with the beating. Sivakumar's wife, Nirosha Sanjeevani and the two daughters tried to intervene with the officers and explain his innocence.

Then one of the victims of the dispute who had been assaulted by the other group of people intervened and told the officers that Sivakumar had not been involved. However, as in the case of Sivakumar's wife and family this person was also ignored and the police continued to beat him. Another witness and victim of the dispute actually gave the officers the names of the culprits and pleaded with the police not to assault Sivakumar. This person also was ignored.

Sivakumar told the officers he was innocent and that if they continued to beat him he would make a complaint to the higher authorities in Kandy. Upon hearing this PS Jayarathna and the two other officers got angry and beat him more severely. When Sivakumar fell to the ground PS Jayarathna and the others kicked and trampled him.

They asked Sivakumar to reveal the houses of the persons who ran away after beating the victims but Sivakumar could not identify any of them. PS Jayarathna and two others brought Sivakumar to the Nithulemada Hindu Temple, which was 8km away from the place by foot. He was ordered to stand upright in front of the temple in order to humiliate him as a large number of people who came to participate in the religious ceremony saw how he was treated in a very degrading manner.

Meanwhile, his wife, Sanjeevani went to make a complaint to the Teldeniya Police Station regarding her husband but the officers on duty refused to record it.

May 30, 2011 -
Urgent Appeal Case:
AHRC-UAC-111-2011

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law**

Sivakumar was kept in front of the temple until 6.30am. Then he was brought to the Teldeniya Police Station. After that PS Jayarathna prepared a document and ordered Sivakumar to sign it but he refused to sign the document as he could not read Sinhala.

Then Sanjeewani came to the police station and saw Sivakumar. She saw that Sivakumar was not able to raise his head and his arms and legs were swollen. When Sanjeewani spoke to Sivakumar he told her how the police officers tried to force him to admit that he had been assaulted by an unknown group of people and not by police officers. However, he told he had refused. At that point PS Jayarathna went to Sanjeewani and told her that not only could they beat him with impunity, but also if necessary they could kill him.

Later they tried again to force him to sign the document that was prepared by the PS Jayarathna but again he refused. Then the police officers prepared another document and asked him to sign that. They told him that in the new document it was explained that he was tortured by the police officers. Due to his enormous suffering and fear he signed that document. Then he was locked up in a cell until around 4.45pm when the OIC of the police station came and released Sivakumar without any case proceeding after recording a note.

Sivakumar's family came to the station and brought him to the Government Hospital of Manikhinna for treatment. The doctors advised them to admit Sivakumar to the hospital for treatment considering his condition. He was treated in that hospital for three days until 18 May but when he started vomiting the doctors transferred him to the Kandy Teaching Hospital for further treatment. He was treated there until March 19. During his stay at the Manikhinna hospital several police officers came and recorded a statement regarding the assault.

While he was treated in the Kandy Teaching Hospital the JMO examined him. When the JMO questioned him on the history of the assault Sivakumar precisely told to the JMO that he had been tortured by the police officers of the Teldeniya Police Station and specifically identified PS Jayarathna and the two other Civil Defence Force officers attached to the same police station. But Sivakumar observed that the JMO wanted to record the history that Sivakumar was assaulted by a group of unknown persons. Sivakumar strongly states that JMO did not execute his professional duty but acted maliciously in protecting the police officers.

Meanwhile on May 16 Sanjeewani and her brother went to the office of the DIG (Central Province) to make a complaint. Though he listened to the complaint he did not allow recording of the complaint at his office.

45. Innocent man and family assaulted by police officers at the behest of a third party

Mr. George Jayakody in 2008 wanted to sell his land. The second party who happened to be the relative of a police officer reneged on the contract and instead of abiding by the law used the power of police. He assaulted the Jayakody's family and caused damage to his house. Jayakody complained to the Manikhinna Police, the ASP, SP and the DIG of the region but none of these authorities have initiated an efficient inquiry.

June 22, 2011 -
Urgent Appeal Case:
AHRC-UAC-116-2011

ISSUES: denial of
justice; torture;
impunity; rule of law

Mr. George Jayakody (55) of No. 24, Kundalagama, Kundasale, Kandy is married and the father of two sons. Mr. Jayakody decided to sell his house and move to Kandy and accordingly advertised that his house was for sale.

On 23 September 2008 Ms. Chandra Kumari Madawala from Galaha came to meet Mr. Jayakody and expressed her interest to buy the house. Then both parties came to an agreement on the purchase of the property. In accordance with the agreement Ms. Chandra paid an advance of Rs. 50,000 to reserve the house, which was valued to be worth Rs. 1.5 Million, and promised to pay the balance by the end of the year. However, she failed to fulfill her obligation in accordance with the agreement and requested for a further six months to settle the agreement.

However in June 2009 she informed Mr. Jayakody of her inability to pay the balance and requested that the deposit she had paid earlier be returned. This was in variance with the terms and conditions of the contract. Mr. Jayakody replied that he wanted her to come to the lawyer's office (who wrote the agreement) to have a conversation on the legal issues and settled the matter. Meanwhile Ms. Chandra contacted the officers of the Manikhinna Police Station where her brother-in-law was stationed and tried to obtain their assistance to get her deposit back from Mr. Jayakody.

As a result, the OIC of the Manikhinna Police Station called Mr. Jayakody and threatened him to return the money immediately. In response Mr. Jayakody explained the terms and conditions of the legal agreement to the OIC.

However, ignoring the legal ramifications of the contract the OIC called Mr. Jayakody to the police station in September 2009 along with Ms. Chandra and once again threatened him to hand over the money before the 31 December 2009.

Despite being fully correct under the terms of the contract Mr. Jayakody consulted his lawyer and asked him to inform Ms. Chandra that he would repay the deposit in three installments. This was informed to Ms. Chandra in a letter dated 14 December 2009.

In the meantime the OIC continued to threaten Mr. Jayakody. On the 31 December 2009 at around 4pm Chandra came in a van with her brother-in-law, police officers from the Manikhinna Police Station, his brother, who is an Air Force officer, some family members and about eight unidentified persons believed to be notorious criminals. This gang assaulted Mr. Jayakody,

his wife and their two sons severely with boots & poles and damaged the furniture of the house. They broke the windows and severely damaged the property. The police from the same station arrived at the scene in answer to a call from Mr. Jayakody but, not surprisingly, they did not take any action to initiate an investigation or arrest any suspect.

Mr. Jayakoday's wife was severely injured and three of her fingers were fractured and her spine was injured during the assault. The son Madushan was also severely beaten and was warded at the Kandy Teaching Hospital for 2 days from 31 December 2009 to 2 January 2010. As Mr. Jayakoday's wife, Pearly, was not able to get urgent surgery at the Kandy Teaching Hospital she was transferred to the Peradeniya Teaching Hospital. She eventually underwent an operation for her injuries.

Although Mr. Jayakody made complaints to the Police Station of Manikhinna no action was taken by the police until February 2010. At that time Mr. Jayakody complained to the ASP and the SP of the Kandy Police Station. Several weeks later he learned that when the senior police officers inquired of the Manikhinna Police on their inaction and disrespect of the law and the Departmental Orders their reply was that the matter was settled.

Then Mr. Jayakody complained to the DIG on 3 February 2010 regarding the incident during a 'Dayata Kirula Exhibition' (where a mobile reporting police service was offered). As a result the police officers filed a case in the Magistrate's Court of Panvila. But Mr. Jayakody learned that even in the court the OIC of the Manikhinna Police had not properly reported the incident and details of the crimes committed by the perpetrators including his own officers. Mr. Jayakody states that the report of the OIC was intended to mislead the court and bring his complaints to an end by the use of judicial process.

46. Widow of three children denied justice to protect an SP

Ms. Q. Mahendra Devi works as a cleaning labour working for a private company. After the death of her husband she built a house. Several years later a senior police officer of the region built a massive boundary wall along one side to her property. On 23 December 2010 the wall collapsed and damaged Ms. Devi's house and the entrance to her land. She and her family had to take refuge at a house nearby for several months. Despite having made a complaint to the Headquarters Police Station, Kandy, the matter has not been investigated. The senior police officer who constructed the wall has ignored Ms. Devi's claims and the other police officers have taken no action on her complaint.

Ms. Q. Mahendra Devi (42) of No. 100/36, Dharmaraja Road, Kandy is a widow and mother of three children, two daughters and a son. Her husband was attached to the Municipal Council of Kandy as a cleaning labourer and died in April 2000 under tragic circumstances.

June 24, 2011 -
Urgent Appeal Case:
AHRC-UAC-119-2011

ISSUES: denial of
justice; impunity; rule
of law

Later she built a small house at the aforementioned address in which to live with her children. She was employed as a cleaner in a private company and trying to look after the children. The small house was built on a land given by Ms. Devi's grandmother.

Around five years ago a massive wall was constructed by the neighbouring landowner along the boundary of Ms. Devi's land. Later she learned that the owner of that land was an SP of the range. She observed that many officials of the police department were assisting in work of the boundary wall.

She observed that the construction of the boundary wall was not done following the standard regulations and that it was not supervised by the professionals. But at the time of construction due to ignorance of the details of the owner and later, due to the fear of the acting against the senior police officers, she was reluctant to oppose the construction.

On the 23 December 2010 due to the windy weather and heavy rain in Kandy, the newly built wall collapsed on to the house of Ms Devi, destroying it completely. All the furniture inside the house was destroyed and the entrance to property was completely blocked.

On the 24 December 2010 the SP visited the scene and promised to clear the wall and pay damages but did not.

Ms. Devi made a complaint to the Headquarters Police Station Kandy on the damage caused by the unlawful construction and claiming the legal redress for the damage caused by her neighbour. But no action has been taken.

Later a few police officers visited her house compound and took notes of all the details from Ms. Devi. But Ms. Devi learned that when the officers questioned her, their intention was to find out the ownership of the property not to assess the damage. She observed that the officers were tactically trying to deny her claims of damage by challenging the ownership of the property.

47. An innocent man illegally arrested and charged with a fabricated case of murder

Mr. Sathiyaseelan Jegadishan was illegally arrested by officers of the Pussellawa Police Station on 2 June 2010. Jegadishan, an employee of the Pussellawa Post Office received a message that there was a commotion in his village. Accordingly he went to the police station and brought the officers to the scene to investigate. Later the police officers arrested Jagadishan, detained him and charged him with murder instead of arresting the real culprits. He has vehemently denied the charge and states that his fundamental rights were violated by the police officers when they arbitrarily ill-treated him.

Mr. Sathiyaseelan Jegadishan (24) of Sogana Upper Division, Pussellawa in the Nuwara Eliya District was a staff member at the Pussellawa Post Office. He lived with his parents and two sisters who are still schooling at Pussellawa. His father works at the Sogama Estate while his mother remains at home after undergoing an operation.

July 28, 2011 -
Urgent Appeal Case:
AHRC-UAC-124-2011

ISSUES: Illegal arrest;
arbitrary detention;
degrading treatment;
fabricated charge;
impunity; torture;
rule of law

On 26 May 2010 Jegadishan received a telephone call at around 9pm from a friend by the name of Jayasundaram who lives in the same estate, requesting him to come immediately with the police, as there was a problem in the neighborhood. Jegadishan went to the Pussellawa Police Station with Mr. Duleep, another neighbour and informed the officers of the situation. As the police had no vehicle the officers requested Jegadishan and his friend Duleep to accompany six of them to the house of Jayasundaram.

After they arrived at the scene in a three-wheeler, the police officers learned that those involved in the fracas were no longer in the area and they went back to the police station. However, Jegadishan saw a person lying on the road behind Jayasundaram's house close to the Hindu temple. He inquired of Jayasundaram what had happened and in reply Jayasundaram told him that the man was dead and that he knew nothing else. He explained that the dead person fought with Jayasundaram and other neighbors before Jegadishan arrived at the scene with the police officers.

Having informed the police about the incident Jegadishan returned home. On 2 June 2010 Jegadishan was asked to go to the police station where he waited from 9am to 5pm along with Duleep. At around 5pm Jegadishan was taken to a room for questioning where he was slapped about and threatened. The officers demanded to know if he knew who had killed Mohan (the deceased).

Later that night Jegadishan was put in the police cell along with Duleep where he was detailed until June 5. During the three days he was subjected to ill and degrading treatment. He was forced to sign some documents, which he did due to fear of further torture. Then he was produced before the magistrate at his residence and was remanded at Raja Veediya Remand Prison.

Jegadishan and Duleep were granted bail by the High Court judge on the 9 February 2011 after almost nine months. Two more suspects were also arrested and remanded at the Raja Veediya Prison, however Jayasundaram who was arrested on June 1 and was released on June 5 when Jegadishan and his friend Duleep were produced before the magistrate. Jegadishan learned later that Jayasundaram had allegedly given a bribe in the sum of Rs. 75,000 to the OIC of the police station to get himself released.

When Jagadishan reported to work at the Pussellawa Post Office on 18 February 2011, he was asked to provide a letter giving the reason for his absence. However, he informed the Post Master about his arrest through the police and this man informed the Post Master General, because he was arrested while on duty. He then received a letter from the Deputy Post Master General on 1 June 2011 to say that his services were discontinued on the account that he was involved in a murder. This decision was arrived at without any inquiry whatsoever.

48. School principal illegally arrested, tortured and indicted with fabricated charges

Mr. Madasamy Vishwanadan was the principal at Rosella Tamil Maha Vidiyalaya. When his mother died in 2008 he informed his brother who lived in Kilinochchi but the man failed to attend the funeral. However, his nephew was able to come instead and he stayed a few days in Vishwanadan's home. On his way back to home the nephew was arrested by the police. Then officers of the TID arrested Vishwanadan on 19 April 2008 and detained him at the TID office, Colombo. Later he was severely tortured and forced to sign a document prepared by the officers the contents of which were not explained to him. Then he was transferred to Boossa Detention Camp and then remanded at Walikada Remand Prison and Bogambara Prison. Presently Vishwanadan has been indicted before the High Court of Kandy. He states that he was illegally arrested, severely tortured and charged with fabricated case which has allowed for his illegal detention for more than three years.

Mr. Madasamy Vishwanadan (42), of No. 52/2, Hyneford, Weligampola, Nawalapitiya in the district of Kandy was the principal at Rosella Tamil Maha Vidiyalaya. His wife was unemployed. Vishwanadan has one son aged 22 and two daughters aged 19 and 16 both of whom are schooling.

Vishwanadan's mother passed away in 2008 and this news was sent to his brother who resides in Kilinochchi. However due to the fact that there was severe fighting in Kilinochchi at that time Vishwanadan's brother could not attend the funeral. After a week his son, Vishwanadan's nephew by the name of 'Siva Kumar' visited Vishwanadan's in Nawalapitiya and stayed with them for few days.

On his way back home Siva Kumar was arrested by the police who accused him of being a terrorist suspect. When he was arrested he told the officers that he was returning from Vishwanadan's house at Nawalapitiya. On the 19 April 2008, three officers attached to the TID from Colombo came to Vishwanadan's house at around 10pm and identified themselves as being from the TID. They arrested Vishwanadan on the suspicion that he had connections with the LTTE.

He was then detained for 3 months at the TID office in Colombo for questioning during which period he was severely tortured. He was questioned routinely at night and in the early morning. Furthermore, he was forced to sign documents which the officers of the TID prepared and which were not explained to him or recorded from him. Vishwanadana believes that the TID officers may use these documents against him as a confession to indict him. He vehemently denies the documents and states that he is not aware of the content of those documents. Furthermore, he states that he was severely tortured and later forced to place his signature on the documents by the officers. Due to the fear of further torture he signed.

July 29, 2011 -
Urgent Appeal Case:
AHRC-UAC-126-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law

Then he was transferred to Boossa Detention Camp by the authorities along with the other detainees. Later he was produced before the Magistrate's Court of Colombo in 2009 then remanded in Welikada Remand Prison in February 2011. Then Vishwanadan was brought to Kandy Bogambara Remand Prison.

Vishwanadana was indicted before the High Court of Kandy under the case of HC /122/10, accusing him of involvement in terrorist activities.

Furthermore, according to the information the nephew of Vishwanadan, Siva Kumar, who was arrested by the police in 2008, has gone missing.

49. Abused child forced to leave school

Mr. Saliya Chandrasena and Padma Jayanthi are the parents of an 11-year-old child, Aruna Dinujaya Chandrasena. They wanted to admit their child to a better school for his education so in May 2011 they admitted their child to Lakpahana Adventist College Mailapitiya, year 6. After one week the child went home complaining about abuse by senior students and the warden of the hostel, a Mr. Stanley. However at the insistence of the parents the child was again sent to the hostel. But the next day the child escaped from the school with another child, as he was no longer able to bear the harassment and abuse. The parents then made a complaint regarding the abuse to the Thalathuoya Police Station. However, the officers did not inquire into the complaint of abuse but instead claimed that the child had stolen a wristwatch and Rs. 350 from the school; this allegation was after a verbal complaint made by the principal. As a result the child was expelled from the school at the request of the principal.

Mr. Saliya Chandrasena and Padma Jayanthi of 'Ajantha' Kiriporuwa, Ampagala, Bulathkohupitiya are the parents of an 11-year-old child, Aruna Dinujaya Chandrasena. Saliya is a driver employed at the Central Finance Company. It was the greatest wish of Saliya and Padma to give Aruna a good education. In May 2011 Aruna was admitted to Lakpahana Adventist College Mailapitiya to year 6 and was also admitted to the boarding hostel of the same school.

For admission into the school Aruna's parents were asked to pay Rs. 116,600, which they paid with the assistance of Aruna's aunt in Australia. However, within a week Aruna returned home saying that he was subjected to inhuman treatment and abuse by the senior students of the boarding house and the warden Mr. Stanley. At the request of the parents Aruna returned to school on the 30 May 2011 but next day Aruna left the school with another friend, due to the severe harassment by the senior students.

Shockingly, neither the principal nor the school authorities instigated a search for the missing children. Nor did they make a report to the police. Aruna's parents found him as he was making his way home. On June 6 the parents made a complaint to the Thalathuoya Police Station regarding the abuse, harassment and inhuman treatment. The police held an inquiry on 8 June 2011.

August 1, 2011 -
Urgent Appeal Case:
AHRC-UAC-128-2011

ISSUES: right to
education; impartial
inquiry; justice; torture;
child abuse; impunity;
rule of law

At the inquiry the Lakpahana School's principal accused Aruna and his friend of stealing a wristwatch and Rs. 350. Rather than make any realistic inquiries into the allegations of abuse the police officers scolded Aruna and his friend in abusive language and forced them to accept the allegation. Due to the threats of the police Aruna and his friend confessed that they stole the items and Aruna's father was forced to pay Rs. 3500 in compensation to the principal at the police station. He did this in the hopes that Aruna would be able to continue his schooling.

However, after receiving the money the principal then told the parents that Aruna was expelled from the school and would not be readmitted. None of this was recorded by the police. When Aruna's father requested the principal to refund the money paid to the school only a week before he told the parents that the school would not return the full amount.

On June 19 Aruna's father went to the Thalathuoya Police Station once again to request the money he deposited with the school, in order that he would be able to admit him to another school. However the principal refused to refund the money but agreed to only provide a leaving certificate.

50. Manikhinna Police fail to investigate abduction and rape of a 15-year-old girl

Mr. Basil Champika and Sunethra Kumari are the parents of a 15-year-old girl, Malathi. Malathi was abducted on 2 June 2011 by her schoolvan driver and the parents made a complaint to the Manikhinna Police Station in Kandy. Basil and Sunethra were finally able to locate the child at a remote location in Badulla and the police arrested the culprit together with the victim, who was admitted to the Badulla General Hospital. Malathi was examined by a JMO who recorded that the child had been abused, which constituted statutory rape under the laws of the country. The parents later learned that the same suspect had abducted a schoolgirl before and restrained her in a hidden location. This victim was forced to undergo an abortion after becoming pregnant. Though the complaint was recorded at Panwila Police Station the police did not take action.

Mr. Basil Champika & Sunethra Kumari of No. 100, Kandy Road, Manikhinna in Kandy district are the parents of a fifteen-year-old child. Malathi (not her real name) was a student at a highly prestigious school in Kandy and was preparing to sit for the GCE O/L exam in December 2011. Malathi is a very intelligent student and respected by her teachers.

Malathi travelled by a school van from Manikhinna to Katugastota with some other school children. The driver was a young married man but known for eyeing the girls that travelled with him. On 2 June 2011, the van driver, Mr. Shashik, left all the other children at home and drove Malathi to Badulla, to a house owned by a soldier.

When Malathi did not return home, her worried parents made a complaint to the Manikhinna Police Station but instead of taking immediate action the police officers told the parents to

August 2, 2011 -
Urgent Appeal Case:
AHRC-UAC-131-2011

ISSUES: Police
inaction; rape; denial
of justice; violence
against women;
impunity; rule of law

search for her themselves. Having launched an intense search, they came to know on June 11 through a friend of Shashik that he was keeping Malathi in the house in Badulla.

Having made a complaint at the Badulla Headquarters Police Station on the same day, Basil and Sunethra went to the house in Badulla where Malathi was being held, accompanied by officers attached to the Badulla Station. Shashik was arrested, produced before the Magistrate of Badulla and transferred to Kandy Remand Prison.

Malathi was also taken into police custody and immediately admitted to the Badulla General Hospital where she was admitted for five days before being transferred to the Bahirawakanda Children's Home under the care of the officers of the Probation Department. She was handed over to her parents on July 4 by the Magistrate of Kandy.

According to the medical report issued by the JMO, the victim was sexually abused which constitutes statutory rape as the victim child is under the age of 16 while she was kept in the house at Badulla.

Meanwhile the suspect who was arrested by the Badulla Police was produced in Magistrate's Court of Kandy on 13 June 2011 where the magistrate granted him bail while Malathi was still being treated in hospital.

These proceedings were observed by Malathi's father, Basil. When Basil rose and respectfully told the Magistrate that his child was still under treatment in the hospital, the Magistrate remanded him for contempt of court.

Basil and Sunethra learned from the present OIC of Panwila Police Station that the suspect, Shashik, was legally married but separated from his wife. Two years earlier he abducted another schoolgirl and took her Madulkelle, Maha Patana village where he raped the child. She became pregnant and later was forced by her abductor to undergo an abortion. This incident was reported to the Panwila Police Station but Shashik was never produced in court.

51. Child illegally arrested, tortured and produced before court with fabricated charges

Ms. N. Agnes Malini is a widow and the mother of a 17-year-old boy named T. Yoganathan. Yoganathan was illegally arrested and severely tortured by police officers attached to the Manikhinna Police Station on 8 December 2010. Yoganathan was employed at a hotel in Polonnaruwa but left the place due to the cruelty he was subjected to by the owner. Shortly afterwards, he was arrested by the Manikhinna Police and detained in the station for period of one week where he was severely tortured. Then the police filed three fabricated charges against him in the magistrate's Court of Kandy while knowing that they had already arrested the real suspect who agreed to plead guilty for all three cases in court.

Ms. N. Agnes Malini of No.18, Gala Landa, Manikhinna in the district of Kandy is the widowed mother of one son, T. Yoganathan (17) who studied only up to year 9 at Manikhinna Udagama Maha Vidyalaya. Malini's husband T. Ravikumara, Yoganathan's father, died when he was very small.

At the time Malini was employed as a house cleaner. Due to poverty Yoganathan too was employed at the 'Camo Hotel' at Polonnaruwa. Within two weeks Yoganathan was severely punished by his employer for breaking a plate. Then Yoganathan decided to leave the hotel and return to his mother in Kandy. For that he took Rs. 800 as he was not paid his salary from the hotel and walked out.

Later Malini learned that the proprietor of the hotel made a complaint to the police to say that Yoganathan had robbed him of Rs. 45,000, Rs. 100,000 worth of jewelry and a mobile phone. No charges were ever laid regarding this allegation.

Yoganathan, who had returned home to Manikhinna, was arrested on 8 October 2010 by officers attached to the Manikhinna Police Station while he was getting out of a bus. He was then taken to the police station and illegally detained for a period of one week. While he was in custody he was severely tortured by the police officers each night. The torture included being suspended from the ceiling and beaten with poles by police officers, Mr. Munasinghe and Mr. Hapugaskumbura and another police officer.

While he was being tortured he was forced to accept that he engaged in housebreaking and robbery. Due to the severe torture Yoganathan told the officers that he was ready to accept all the allegations. Then he was brought to three different houses respectively and forced to admit that he broke into all those houses at night and robbed them.

Due to the fear of further torture Yoganathan accepted these allegations but he vehemently states that at the time those cases of house breaking and robbery occurred he was not in the district of Kandy and was employed at Polonnaruwa, far away from the said location.

Yoganathan was produced before the Magistrate's Court of Kandy and detained at Raja Veediya Remand Prison. He was later transferred to Watadeniya Verallawatte Children's Home. Yoganathan was granted bail on 27 June 2011. The conditions of the bail were Rs. 7500 in cash and two sureties valued at of Rs. 100,000 each and another at Rs. 50,000.

Later Malini learned that the police officers attached to the Manikhinna Police Station filed three cases against Yoganathan under case numbers B/168, B/136 and B/80 in the Magistrate's Court of Kandy.

**August 3, 2011 -
Urgent Appeal Case:
AHRC-UAC-132-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charges; impunity; rule
of law**

August 4, 2011 -
Urgent Appeal Case:
AHRC-UAC-133-2011

ISSUES: Torture;
impunity; rule of law

While Yoganathan was detained in Manikhinna Police Station he observed that one other elder suspect was arrested and brought to the station. This person later told the police officers in Yoganathan's presence that he accepted all the cases of house breaking and the robberies of which Yoganatha was also accused.

Then the police officers who tortured Yoganathan told him that, "In vain you accepted the allegation as now we have found the man. He is also being arrested and remanded and he is ready to plead guilty in the court for the same cases".

When Yoganathan was remanded in Rajaveediya Rimand Prison he met that suspect who asked Yoganathan why he accepted those allegations because he had already accepted all of them.

52. Detainees hospitalised after severe attacks by prison officials

Tamil detainees in Bogambara Prison were severely attacked by the prison officials on 14 June 2011. They were threatened that they would face the same difficulties as Kuttamanni and Thangathurai, two former detainees who were killed. The prison officials later admitted the seven detainees to the Prison Hospital at Bogambara Prison. Neither the police nor prison officials initiated an independent investigation into the incident.

Seven Tamil detainees in Bogambara Remand Prison in Kandy were severely attacked by prison officials on 14 June 2011 inside the prison premises. The details of the detainees are as follows:

1. Ramaia Rubachandiran (38) of Walaygala, Kandy father of three who was arrested on 13 May 2008
2. Weersami Sivasubramaniyam (35) of Rathwatta, Matale who is a father of two and arrested on 10 August 2008
3. Ganasean Pushparaja (29) of Lindhula, Hatton a father of one child and who was arrested on 21 September 2008
4. Ramaiya Thevarasa (34) of Putu Kudiyeruppu who was arrested on 1 June 2009
5. Vishwanadan Rameshkumar of Ratwatte, Ukuwala who is a father of one child and arrested on 9 August 2008
6. Velu Yogarasa (24) of Marugola, Ukuwela who was arrested on 9 August 2008
7. Fernando (25) of Ukuwella, Thalawakala who was arrested on 16 August 2008.

Following a dispute between two groups of Sinhalese prisoners several officers came to the prison to investigate the matter. This dispute was due to a territorial argument as both groups sell drugs in the prisons compound.

While the prison officials were carrying out their investigation they started to torture Tamil detainees in the remand prison who had no connection whatsoever with the dispute. The particular detainees have been held for several years without

being charged due to delays in the judicial system. The officers abandoned their investigation and started to torture these detainees, threatening that they would face the same difficulties as Kuttamanni and Thangathurai, two former detainees who were killed some years ago. The incident pertaining to their deaths became nation-wide news at the time. The prisoners were bleeding from their injuries and suffering greatly from pain. The prison officials admitted all seven detainees to the Prison Hospital for treatment.

The prison authorities paid no attention to the incident and no investigation into the violations of the detainee's rights has been instigated.

The police also have not made any effort to investigate these brutal attacks. While prisoners can make complaints within the prison itself they are not permitted to make complaints to the outside authorities. The Headquarters Police Station of Kandy is situated in close proximity to the location where the incident took place. The HQI of the said police station is supposed to initiate an investigation on any incident that endangers the lives of detainees but he has ignored his official duties.

53. Murder and abduction due to failure of the police to provide protection

A wealthy businessman was killed by a relative of his second wife who later attempted to abduct his two daughters. Prior to his murder the deceased complained to the Ragama Police requesting protection but no action was taken. The suspected mastermind behind the killing and abduction, the second wife, has not been arrested by the police.

Ms. Monali Alwis (23) and Jinadari Alwis (22) both of No. 276/10/A, Werulugahalanda, Thewatte Road, Ragama in the district of Gampaha are two sisters studying at the most prestigious schools in Colombo. Monali completed her university entrance exam A/L while Jinadari completed her O/Ls. Their mother Neelani De Silva died in 1990.

Monali and Jinadari were brought up by their grandmother until 2007. Thereafter, their father, Gamini Alwis who was a businessmen and a part time teacher took over caring for his two daughters. Gamini Alwis owned land and property in Ragama. Monali and Jinadari were happy to live with their father until he got married to H.G Leela Gamage, a schoolteacher at the Basilica School in Ragama.

Leela soon brought her nephew, Chanaka Harshan, from Matara to live with them in Ragama. Chanaka had no proper education and was four years younger than Monali. However Chanaka was interested in Monali and was encouraged to pursue a relationship by Leela. However, when Gamini Alwis found out about the proposed relationship he was very angry and chased Chanaka from the house in 2009.

**August 4, 2011 -
Urgent Appeal Case:
AHRC-UAC-134-2011**

**ISSUES: Police
inaction; denial of
justice; witness
protection; impunity;
rule of law**

During this period Chanaka threatened Monali that he would somehow take her and kill anyone who opposed him. This was reported to the Ragama Police Station by Gamini Alwis in May and once again in August 2009. Despite making two complaints to the police about the threats no action was taken by the officers.

On 8 December 2010 when Monali and her sister Jinadari were sleeping they were awakened by some strange noises from their father's room, which was close-by. Soon they heard their father screaming. Frightened, Monali and Jinadari hid under their beds and some strangers walked into their room. The strangers pulled them out from under the beds and threatened that if they did not accompany them the father would be killed. One of the men had a knife and Monali recognized him as Chanaka Harshan, the nephew of their stepmother.

The men ordered Monali and her sister to walk to a van outside the house but then found that the van had already gone, so they were made to walk through a lonely road to the new overhead bridge at Ragama town until they found a three-wheeler.

However, the three-wheeler that carried Monali, Jinadari, Chanaka and the other two men stopped to fill up with petrol at one of the sheds in Kadawata town, which was very close to the Kadawata Police Station. The driver and the men got off at this point and Monali and Jinadari, taking the opportunity, got off the vehicle and shouted for help. They clung to the three-wheeler driver for protection and at their cries for help the three men ran off and disappeared.

Monali and Jinadari were then taken to Kadawatha Police Station and from there handed over to the Ragama Police Station and soon they heard that Gamini Alwis, their father, was dead. Allegedly he had been killed by the three men while he struggled with them. Monali and Jinadari were handed over by the police to one of their aunts in Ratmalana.

The stepmother Leela Gamage was upstairs at home while all this happened. Monali and Jinadari both believe that their stepmother knew what was to take place but did not take any steps to protect their injured father or either of them. Furthermore, Monali and Jinadari states that the killing of their father and the attempted kidnap happened with the full knowledge of their stepmother and that she actively participated in the planning. Without her assistance it would not have been possible for the suspects to enter the house and complete their mission.

The driver of the van who was hired by Chanaka from Matara, after witnessing the murder of Gamini Alwis became scared and returned to home. That same evening he made a report to the Matara Headquarters Police Station.

Later the Ragama Police Station filed a criminal case in the Magistrate's Court of Gampaha regarding the killing of Gamini Alwis following which four identification parades have been held since December 2010. However, the stepmother has been seen

in the company of the police. Monali and Jinadari identified Chanaka Harshan during one of the parades, however, to everyone's surprise, Leela, who is believed to have masterminded the murder and the abduction, was not arrested.

Monali and Jinadari feel that the whole drama was planned by the stepmother HG Leela Gamage to take over the property of their father. However since she is so friendly with the police, she has not been arrested or questioned.

Chanaka was arrested after a week of the incident and is now remanded; the case was called on the 22 June 2011 but was postponed. The driver was arrested and released on bail and one more suspect was arrested as well.

54. Man tortured into a confession by the TID

Mr. Kalappam Manoharan was illegally arrested by officers attached to the TID branch of Kandy Headquarters Police Station on 11 August 2008. Monoharan, a casual labourer, lived in the same village his whole life. After he was arrested he was severely tortured and later forced to sign a document prepared by the police officers. Later he was produced before three Magistrate's Courts in Kandy, Matale and Dambulla, accused of fabricated charges, which he vehemently denied. He remains in remand.

Mr. Kalappam Manoharan (32) of Ratwatte Lower Division, Ukuwela in the Matale district was a casual labourer and is married to Ms. Yogeshwari. They have a young son.

The TID branch of Kandy Headquarters Police Station sent a message to Manoharan to come and make a statement on 11 August 2008 and when he went to the TID branch he was arrested as a suspect who had assisted the LTTE.

Later he learned from his wife that a woman by the name of Anthony Chandra from Ukuwela was arrested as an LTTE suspect and when she was tortured by the TID and asked about the names of her neighbours she mentioned Monoharan. Manoharan vehemently states that he does not have any connection or knowledge about any organization in the North of Sri Lanka or any political party. Furthermore, he says that he does not have any relatives from that area either.

He was severely tortured by the TID officers in Kandy while in detention at the Kandy TID branch. Following the torture he was told to sign documents which he did to escape being further tortured.

He was then transferred to Kadugannawa Police Station where he was detained for six months and produced before the Magistrate of Kandy. He was then detained at Bogambara Remand Prison where he remains.

Later the officers attached to the TID filed three cases with fabricated charges. One case was filed in Magistrate's Court of Dambulla, another one was in the Magistrate's Court of Kandy and the third case was filed in the Magistrate's Court of Matale.

**August 9, 2011 -
Urgent Appeal Case:
AHRC-UAC-136-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
fabricated charge;
torture; impunity; rule
of law**

Monoharan categorically denied all these cases and states that officers of the TID filed these cases to cover up the torture that they inflicted on him.

Manoharan believes that the blank papers that he signed were used by the TID officers to prove that he had made a confession. The so-called confession is written in Sinhala, a language he cannot speak read or write.

Manoharan has been languishing in the police cells and in the remand prison since 2008. Later he found out that following the TID preparing fabricated documents, the AG filed a fourth case against him in the High Court of Kandy under case number HC/ 52/2010 still using the confession that was extracted due to torture by the TID.

55. Innocent man illegally arrested and charged with a fabricated case by TID

Mr. Veerasamy Sivasupramaniam was illegally arrested by officers attached to the TID branch of Kandy Headquarters Police Station on 18 August 2008. Veerasamy was a tailor and the owner of a shop in Matale town. After he was arrested he was severely tortured and later forced to sign a document prepared by the police officers. He was produced before the Magistrate's Court of Matale accused with a fabricated charge which he vehemently denied. Veerasamy has remained in remand prison for the period of three years without trial.

Mr. Veerasamy Sivasupramaniam (35) of Ratwatte Lower Division, Ukuwela in the district of Matale is married and the father of two sons and a daughter. He was a tailor and had a tailoring shop in Matale town.

Veerasamy was asked to appear at the TID branch Headquarters Police Station of Kandy on the 18 August 2008 and when he went there he was arrested and accused of aiding and abetting terrorist activities.

He was detained at the TID branch for three months and was severely tortured every day. Later he was forced to sign a document by the TID officers. Then he was transferred to the Teldeniya Police Station where he was detained for another two weeks.

He was then produced before the Magistrate's Court of Matale on 22 December 2008. Then he was remanded and sent to Bogambara Remand Prison. When his relatives tried make a bail application for him in court it was refused. He is still in remand prison without being formally charged.

Veerasamy states that he has never committed any crime relating to aiding or abiding to any terrorist organization. Furthermore, he says that he does not have even knowledge on any of those activities.

August 10, 2011 -
Urgent Appeal Case:
AHRC-UAC-137-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charge; impunity; rule
of law

56. Still no arrest after vicious attack on the news editor of Uthayan Newspaper

The chief news editor of the Jaffna-based Tamil newspaper 'Uthayan', Mr. Gnanasundaram Kuganathan was assaulted by a group of unidentified persons on 29 July 2011. Following the assault Mr. Kuganathan was admitted to the Jaffna Teaching Hospital in critical condition. Later several investigations were initiated by different authorities, one of them on the instructions of the president, but none of the culprits have been arrested or produced before the courts.

The chief news editor of the Jaffna-based newspaper 'Uthayan', Mr. Gnanasundaram Kuganathan (59) was assaulted by a group of unidentified persons on 29 July 2011 and was admitted to the Jaffna Teaching Hospital in critical condition.

Kuganathan received a telephone call on the afternoon of the same day from someone who inquired as to what time he would leave the office. Under the impression that the caller meant to visit the newspaper offices regarding some potential information, Kuganathan provided the caller with the information.

On his way home from work, Kuganathan was assaulted by two men, who beat him with iron bars. Following the attack he was admitted to the Jaffna Teaching Hospital where the hospital authorities confirmed that his condition was critical.

Following the incident it was reported that the Sri Lanka Army had sent several teams into the area to track down the suspects. While the area is ostensibly under civilian control there is a heavy military presence. It was also revealed that the police also had deployed several teams to arrest the two men who had arrived on a motorbike to assault Kuganathan. Later following the instructions of the president himself the IGP N.K. Ilangakoon immediately launched an investigation into the incident. The IGP later handed over a preliminary report on the attack to the president who, in typical manner, has not revealed the contents.



August 10, 2011 -
Urgent Appeal Case:
AHRC-UAC-138-2011

ISSUES: Freedom of
expression; impunity;
rule of law

WATCH A VIDEO ON THIS CASE:

http://www.youtube.com/watch?v=xwQY5_uEIsI



57. No prosecution of the police officers who tortured Neth FM Journalist

Journalist Mr. Nilupa Sanjaya Liyanagehewa of Neth FM, one of the Sri Lanka's leading electronic media institutions, was assaulted by a group of 15 police officers attached to the Mulleriyawa Police Station on 4 June 2011. He was later admitted to the National Hospital of Colombo in critical condition. Police Headquarters announced that eight officers, including the OIC and the one SI of the station have been interdicted following the investigation conducted by the Special Investigation Unit of the Sri Lanka Police. However, the government has not shown any interest in prosecuting the perpetrators.

August 12, 2011 -
Urgent Appeal Case:
AHRC-UAC-139-2011

ISSUES: Freedom of
expression; torture;
impunity; rule of law

A journalist of Neth FM, one of Sri Lanka's leading electronic media institutions, Mr. Nilupa Sanjaya Liyanagehewa, was seriously assaulted by a team of 15 police officers attached to the Mulleriyawa Police Station on 4 June 2011.

On this particular day Sanjaya had a family gathering in his home at Angoda, Mulleriyawa in the district of Colombo. As Mr. Sanjaya approached his house a group of uniformed police officers brutally assaulted him. The reason the officers gave for the unjustifiable and criminal assault was that he rode a motorcycle without wearing a helmet. Later the officers brought Sanjaya, who was, by then, in severe condition with injuries suffered due to the torture to the Mulleriyawa Police Station. He was later admitted to the National Hospital of Colombo and later transferred to a private hospital.

Several days after the incident the Sri Lanka Police Headquarters revealed that the OIC and seven other policemen of Mulleriyawa Police Station had been suspended over the alleged assault. Furthermore, it was announced that an IP and one SI were among the officers who were interdicted.

In recent months many journalists have been assaulted and tortured, some of them in broad daylight and in full view of the public. At the beginning those attacked were targeted because they were considered opponents of the government. However, more recently journalists are being targeting irrespective of their identity and political views. Even journalists attached to the state media are being assaulted. However, it is important to note that even in these cases no prosecution ever takes place.

58. Senior military officer arbitrarily arrested, tortured and now faces fabricated charges

August 12, 2011 -
Urgent Appeal Case:
AHRC-UAC-140-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity;
rule of law

Lieutenant Colonel Wickramasinghe Arachchige Ranjith Chandrasiri Perera was illegally arrested and severely tortured by police officers attached to the CID and the Colombo Crime Division on 14 May 2009. He was not given any reason for his arrest and was vaguely accused of committing a crime against the state, which he denied vehemently. Lt. Col. Wickramasinghe states that as he worked very closely with the former Army General, Sarath Fonseka, who later ran as the common candidate in the presidential elections, he was considered as an enemy of the state. Lt. Col. Wickramasinghe remains in remand prison without trial.

Lieutenant Colonel Wickramasinghe Arachchige Ranjith Chandrasiri Perera (47) of No. 5B/27, Army Quarters, Kendalanda, Homagama is a permanent resident of Diayatallawa in Badulla District. He is a commissioned Officer attached to the Sri Lanka Army. In 2009 Lt. Col. Wickramasinghe was serving as the Commander of the Transit Army Camp at Ratmalana.

Lt. Col. Wickramasinghe was arrested by a group of officers attached to the CID of the Sri Lanka Police on the 14 May 2009 at around 11.30am with the vague accusation that he had committed a crime against the state. He vehemently denied the

accusation at that time and continues to do so. Lt. Col. Wickramasinghe questioned the arresting officers for further reasons for arresting him. The officers were not able to answer.

Lt. Col. Wickramasinghe was then taken to an unknown location close to Bambalapitiya and a few hours later transferred to the Colombo Crime Division (CCD) in Dematagoda. Then several officers blindfolded him and severely assaulted him on separate occasions during the course of the day. According to Lt. Col. Wickramasinghe he was brought to the Harbour Police Fort Colombo and detained there until the 23 June 2009.

On that day at around 10.30am officers again blindfolded him and forcibly took him to an unknown location by a vehicle. At this new location he was severely assaulted until he fell unconscious. When he regained consciousness he could not stand up. The torture caused grievous injuries to him and he was then taken to the CCD at around 10.30pm that evening.

On the morning of 24 June at 10:30 he was produced before a doctor who advised the police officers immediately to admit him to a hospital. He was then taken to the National Hospital of Colombo at 3:30pm. The doctors who examined Lt. Col. Wickramasinghe considered the severity of his injuries and referred him to be admitted to the Intensive Care Unit (ICU). But the police officers working against the doctor's advice brought him to the Military Hospital, Galle Face Colombo at 5.30pm on the same day and admitted him. The doctors at the Military Hospital admitted him to the ICU and started treatment for his injuries. He remained there until July 14 and was thereafter brought back to the CCD.

Lt. Col. Wickramasinghe was detained at the CCD until 19 September. Following that, after almost one year of detention without charge or being produced before a court he was transferred to the CID in police headquarters and detained there until 14 August 2010.

It was on that day (14 August) that he was produced before the Magistrate's Court of Colombo, remanded and sent to the Magazine Prison in Colombo. At no time did the magistrate question the length of his illegal detention.

Lt. Col. Wickramasinghe clearly indentified the police officers who tortured him at the CCD and CID as Anura Senanayake, DIG, SSP Doole, SSP Vaas Gunawardena the director of the CCD, Chief Inspector (CI) Jayathilaka the OIC of the CCD, IP Wijertatne of CCD, SI Jayakody of the State Intelligence Service (SIS), PC Chathuranga of CCD, PC Ranathunga of CCD, PC Rahuman of SIS, PC Rohan of SIS, PC Madushanka and Major Bulathwela attached to Military Intelligence.

Lt. Col. Wickramasinghe has filed a fundamental rights application in the Supreme Court registered as SCFR/879/2009.

Later Lt. Col. Wickramasinghe was produced before the Chief Consultant JMO Ananda Samarasekara to assess his medical condition. The medical report pertaining to Lt. Col. Wickramasinghe, prepared by the JMO number O/60304 has clearly stated that there is sufficient medical evidence to support the allegation of assault after 14 May 2009. It states that Lt. Col. Wickramasinghe was unable to stand on his feet due to severe assault and had fallen unconscious. Clinical notes of the medical records are consistent with the statement in the petitioner. The medical report records as follows:

“The findings of presence of contusion, joint pain, body pain, generalize body pain, presence of cervical color (treatment), mild tenderness of the abdomen and poor hydration as observed in the clinical notes on the day of the admission 25-06-2009 to the hospital. Therefore the observation on the medical condition that have been made in this regards in the clinical notes of the medical records are consistent with the statement in the petition.”

Lt. Col. Wickramasinghe is still detained at the Magazine Prison Colombo. He still does not know what charges have been leveled against him by the police officers. As a military officer he worked very close to General Sarath Fonseka, the former Military Commander. General Fonseka later became the opponent of the present government as he ran against the incumbent president as the common opposition presidential candidate. Lt. Col. Wickramasinghe vehemently states that he has not committed any crime against the state and executed his duties as a well-disciplined military officer, following the legitimate and lawful orders of his higher ranking officers at all times.

59. Disabled man illegally and arbitrarily detained for over two years

Mr. Alexander Thayaparan was illegally arrested by officers attached to the Sri Lanka Navy on 17 April 2009. Thayaparan’s leg was amputated due to shelling some years earlier. He and his family were displaced by force due to the movements of the LTTE. When they were able to escape the LTTE and flee to the government-controlled area he was arrested by officers of the Sri Lankan Navy. Initially he was detained in Boossa Welfare Center until being produced before the Magistrate of Colombo. Mr. Thayaparan has been in remand prison for more than two years since his arrest without fair trial or the possibility of bail. The TID officer handling his case has been intentionally delaying the investigation.

Mr. Alexander Thayaparan (48) of No 352, Hospital Road, Mannar is married to Sebastkunamalar and they have three daughters aged 14, 18 and 19 and a son aged 10.

Thayaparan is originally from Uyilankulam in the Mannar District. On 17 April 2009, Thayaparan was arrested by officers attached to the Sri Lankan Navy at Puthumathalan in the Mullaitivu District. Neither at the time of arrest nor later was he given any reason for his arrest. He and his family were forced to move to Puthumathalan by the LTTE along with the villagers of his area.

August 16, 2011 -
Urgent Appeal Case:
AHRC-UAC-143-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charge; impunity; rule
of law

After the arrest he was transferred and detained at the Boossa Detention Center and later at the Welikada Remand Prison. Although no formal charges have been made against him, Thayaparan has been falsely accused of having links with the LTTE and has spent over two years in detention.

During the war he was seriously injured by shelling, and his left leg was amputated above the knee in 1990. He now uses an artificial limb.

According to the testimony of his wife Sebasatkunamalar, in 2009 their family was displaced several times as a result of the military operation in the Vanni region. On 21 March 2009 a shell struck their home but they were able to escape. Following this attack, they were displaced to Puthumathalan where they faced severe difficulties due to the constant shelling. When it became impossible to remain safely in Puthumathalan, Thayaparan and his family, along with others, left the area by sea on 17 April 2009. Thayaparan's children and wife went in one boat and Thayaparan assured them that he would follow them in another.

They were afraid for their lives and were not sure whether they would survive the sea journey. After around eight hours their boats were stopped by the Navy, who assisted them with food and water. The Navy took them to the Jaffna Welfare Center where they were held for seven months, until 15 October 2009.

Thayaparan's wife did not get any details regarding the second boat in which her husband travelled and had no information regarding his whereabouts. Later the wife and children were released from the Jaffna Welfare Center. When she contacted the International Committee of the Red Cross (ICRC) for information regarding Thayaparan she was informed that he was being held at the Boossa Detention Center.

On 23 December 2009 Sebastkunamalar visited Thayaparan at Boossa and he told her that investigations into his case had been completed by the authorities and that he would be released shortly. However, he had still not been released after several months. On 8 October 2010 Thayaparan was produced before the Magistrate of Colombo, detained, and transferred to the Welikada Remand Prison.

Later Thayaparan and his wife learned that he was suspected of aiding and abetting the LTTE and that the case was being handled by the police officers attached to the TID.

Despite severe financial difficulties Sebastkunamalar attends each and every hearing when Thayaparan is brought to court for the extension of his remand. As she is the sole breadwinner of the family she has suffered immensely and does not have the means to provide for their children's education and basic needs. On several occasions she directly addressed the magistrate in open court and pleaded Thayaparan's innocence, explained about their difficulties and begged for his release.

In the meantime Thayaparan continues to be detained at the Welikada Remand Prison without trial. Sebastkunamalar states that she and her children face an uncertain future as a result of this enforced separation from Thayaparan.

Thayaparan states that he was illegally arrested and arbitrarily detained. As he is a disabled man Thayaparan faces enormous difficulties at the prison. He firmly believes that the treatment he has been subjected to constitutes torture under the local and international law. He also categorically states that the TID officers are intentionally delaying the investigation thereby preventing his release while knowing that he is an innocent man.

60. Innocent man illegally arrested, tortured and charged with fabricated case

Mr. Wasantha Abeysinghe was illegally arrested by police officers attached to the Sigiriya Police Station on 12 July 2011. After his arrest he was severely tortured and later produced before the Magistrate of Dambulla and remanded. He was falsely charged with attempted murder, which is a non-bailable offence. This prevents the court from granting bail, making it easier for the police to cover up the torture. Wasantha is being detained in Remand Prison of Rajaveediya.

August 17, 2011 -
Urgent Appeal Case:
AHRC-UAC-144-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

Mr. Wasantha Abeysinghe (43) of Air Force Road, Kimbissa in the Matale District is a farmer by profession and married to Ms. Niluka Sanjeevani. Wasantha is a father of two children.

On 12 July 2011 Wasantha exchanged some words with a villager in the same village in public. At one point the other party tried to assault him but Wasantha was lucky enough to escape the incident and went home.

However, that night a group of police officers attached to the Sigiriya Police Station came to his home. They arrested Wasantha without informing him of the reason for the arrest. Then Wasantha was brought to the Sigiriya Police Station.

At the police station Wasantha was stripped naked, severely beaten, slapped, kicked and was severely tortured by the same officers that arrested him.

He was then produced before the Magistrate's Court of Dambulla and remanded at the Raja Veediya Remand Prison. Wasantha was able to inform his wife Niluka about the torture that he underwent at the hands of the officers at the Sigiriya Police Station and complained of body pain. Wasantha informed that he had still not been given any medical treatment.

Wasantha later learned that police officers have falsely accused him with the charge of attempted murder, which is a non-bailable offence. Wasantha states that police officers filed such a serious fabricated charge against him to delay him getting out of remand prison as he was in a severe condition after being subjected to serious torture.

Later Wasantha learned that police officers are now trying to file another fabricated case against him on possession of an unauthorized gun and to prevent him getting release from the remand prison. The illegal possession of a gun is also a non-bailable offence.

He learned that the number of the fabricated case filed by the police officers in the Magistrate's Court Dambulla is B/699/2011. Considering his medical condition the relatives tried to get Wasantha released on bail, but it was refused by the magistrate. Later his relatives filed an appeal application for the bail in the High Court of Kandy with the number of HC/217/2011.

61. Boy illegally arrested and severely tortured by the Panwila Police

Palle Gedara Srinath Saliya Jayaratne surrendered himself to the Panwila police as he had been accused of theft. After consulting a lawyer and receiving assurances from the police that he would not be ill-treated, he accompanied his parents to the police station. At the station he and his parents were verbally abused by the officers. They held the child and severely tortured him before taking him back to the village where they told the assembled villagers that he was a thief and assaulted him again in broad daylight.

Palle Gedara Srinath Saliya Jayaratne is a boy of 17 years and a resident of No. 53/10, Glasstown, Angammana, Panwila in the district of Kandy. He sat for the General Certificate of Education Ordinary Level in 2010 from Devalegammedda School, following which he found employment at a farm in Colombo on 28 June 2011.

Two police officers of Panwila Police Station, namely the OIC of the crime branch, IP Ruwanthilaka and another officer, Jayasundara visited his home and inquired about Saliya from his parents, who replied that he was not at home. Then the police officers told them that a cassette radio has been stolen from Devalegammedda School. As Saliya was not available at the home, the officers left a telephone number and advised the parents to tell their son to speak to the police. The parents conveyed this message to Saliya by phone.

On 2 July 2011, Saliya came home at about 12pm to attend the funeral of his uncle at Anuradhapura. He made a call to the Panwila Police Station and inquired as to why they came in search of him. The officers replied that they wanted his assistance. The same day at about 6 pm, he called the principal of the school and told him that he had been named in connection with a theft. During this call the principal told him that he had not mentioned 'Saliya Putha's (Son Saliya's name) name to the police.

At 2.30pm on 3 July 2011, he went to meet Mr. Saman Ratnayake, Attorney-at-Law, with his parents and told him that he was innocent and did not commit this theft. The lawyer telephoned the police station stating that he was sending Saliya with his parents to the police and that they should not assault

**August 19, 2011 -
Urgent Appeal Case:
AHRC-UAC-146-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law**

him. The police officer who took the call duly promised not to assault Saliya. The parents were advised by the lawyer to take Saliya to the police station at 9am the following day.

Accordingly the next at about 9am Saliya was produced to the police by his parents. Then the police officers IP Ruwanthilaka and Jayasundara scolded him using obscene language. Saliya told them that he never robbed anything and that he was innocent. Then, the police officers scolded the parents and told them not to come between them and the child. Then, they took him and told him to sit on a chair. They then made a call to the principal and requested him to send the letter, which is said to have been written by a 12-year-old student.

Shortly thereafter, a teacher named Bandara produced that letter to the police. Even this teacher told Saliya's parents that there was no evidence or information implicating Saliya in this letter. Then, the parents were removed from the room. However, Saliya's mother said she would not leave the place until she knew what was going to happen to her son. Outside the room she then heard Saliya crying and the sound of assault. When she tried to enter the room she was obstructed by the police.

After some time they were told that Saliya had fainted. The parents went to a nearby shop and brought a bottle of cool drink and some snacks, thinking that the child was hungry. When they returned that found that Saliya had been placed in a cell. They gave him the drink and the food, which he could not eat, and it was then that he told them he had been assaulted.

At about 2.30pm the parents went home. At 5.30pm the police officers took Saliya to his village, and introduced him to the villagers as the thief who broke into the school. They then assaulted him in front of the villagers. Unable to bear the pain of the assault he begged them to stop and told them that he would buy a replacement cassette radio through his father. When he was taken back to the police station later they met Saliya's father on the bridge at Angammana and told him, "Your big fellow is there, look at him."

Saliya's mother informed their lawyer of the incident by telephone. She told him about the assault in the police station and at the village and asked him to do something. However, when the lawyer phoned the police and questioned them about the incident they denied that he had been assaulted but admitted that he had been thoroughly interrogated.

When Saliya's mother went to the police station at about 7.30pm with a food parcel she found him lying on the concrete floor of the cell. He told her, "Mother, I am unable to get up and come out." She asked him to come near to the door of the cell so she could give him that food parcel but when she handed it to him he was too weak to hold it and it fell to the floor. When the mother asked what had happened to him he told that they had held him down over a table and assaulted him with a wooden pole. By then he was in tears and begged his mother to speak to the lawyer and have him released.

When the mother had told the lawyer about the assault he promised to speak to the police again on this matter. Later, the lawyer requested the mother to meet him at his office at Karalliyadda at 8am on 5 July 2011.

When she met the lawyer, he gave her the address of SETIK, a human rights NGO, and advised her to make a complaint. Accordingly, Saliya's parents went to this NGO and explained the situation. They assisted the parents to make a formal complaint to the regional office of the HRC, Kandy, and met the legal officer at 2.30pm in her office.

When the legal officer contacted the Panwila Police by phone, she was told that they were holding no such person. She repeated his details and warned the police officer not to assault him any further. She also told him that it was illegal to keep a suspect for more than 24 hours.

Later that day the parents returned to the police station with a food parcel. On arrival they found that now Saliya's mouth had been injured as he had been struck by a pole. Again, Saliya's mother spoke to the lawyer. He again promised to speak to the police and advised her to make a complaint to SETIK.

At about 6pm the legal officer at the Human Rights Unit of SETIK and an officer of the AHRC in SETIK accompanied the parents to the Panwila Police Station where they observed firsthand the injuries caused to Saliya. They met with IP Ruwantilaka of the crime branch and the legal officer and the officer of the Human Rights Unit told him that it was illegal to assault a suspect and keep him in police remand for more than 24 hours.

When the father went to the police station at about 8am the following day the police told him that Saliya would be produced at the Teldeniya Magistrate's Court. At 11.45am the police took Saliya to the Makkanigama Government Hospital and as the doctor was not available he was then taken to Naranpanawa Government Hospital for a medical report.

Later at about 1.30pm Saliya was taken to the Magistrate's Court. He was escorted to the court by Sergeant Palitha No. 16199 and produced to the magistrate at about 2pm. The counsel for the defendant told the court that his client was not guilty of the charge. He also said that it was illegal to keep him in police remand for more than 24 hours, and that in addition, during this period his client had been assaulted by the police. He stated that as a result of this assault, damage has been caused to his feet, toes cheeks, head, mouth and lips.

After considering the defense counsel's submission the magistrate ordered Saliya to be examined by the JMO and that he be produced in court on 13 July 2011 with the medical report. He was sent to the probation centre until then.

Later Saliya learned that the case filed against him is No. B 531/ 2011 in the Magistrate's Court of Teldeniya.

62. Innocent villagers illegally arrested, tortured and charged with fabricated charges

August 26, 2011 -
Urgent Appeal Case:
AHRC-UAC-148-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

Over 100 men from Navanthurai, a village in the Jaffna District in Northern Province, were illegally arrested and detained in an operation conducted by the Sri Lanka Army at around 1.15am on 23 August 2011. The villagers were severely beaten by the army and dragged to the main road near the Navanthurai Army Detachment located around 300 metres from the village. All the arrestees were loaded onto buses and handed over to the Jaffna Headquarters Police Station at around 4am. They were brought to the Jaffna Magistrate's Court at 10am but not produced before the magistrate before 1pm the same day. Despite their injuries, the men were held without treatment for over 8 hours. Twenty of the most seriously injured were admitted to the Jaffna Teaching Hospital after 10am, following the intervention of the magistrate. The remainder was denied treatment until around 7.30pm when all detainees were admitted for treatment to the Jaffna Teaching Hospital.

At around 8pm on 22 August 2011, villagers spotted five 'grease yakas' (suspicious people engaged in criminal activities in the recent past which created almost superstition fear among the people in several parts of the country) in the Navanthurai area. Three men were seen inside the Navanthurai church and two others sitting in the trees. When the villagers surrounded and tried to capture the men, they ran into the Navanthurai Army Detachment.

The villagers gathered at the entrance to the army camp and demanded that the army produce the grease devils that had run into the camp. The army refused. A short while later, the villagers saw the grease yakas being driven out of the camp in an army jeep. They had changed into military uniform and one man even brandished a knife at the villagers from the safety of the jeep. Agitated by the protection given by the military to the grease yakas the villagers threw stones at the jeep. Shots were then fired by the army and the crowd was dispersed by around 9.30pm.



The same night at around 1.15am on the 23 August, the army entered Navanthurai in the district of Jaffna and arrested and detained between 100 and 120 young men from the village. According to eyewitnesses, around 12 soldiers entered each house in the village and dragged out men who were sleeping with their families and children. The men were brutally and indiscriminately beaten with rifle butts and iron rods and dragged along the road towards the army detachment located around 300 metres from the village. Women and children were also beaten in the attack.

When the relatives visited the village that evening they saw bullet holes in the walls of houses where shots had been fired. Doors and windows had been broken in several houses and villagers said that the army had destroyed furniture and goods inside each house. Many said that valuables including jewelry, phones and money had been taken by the military during the operation.

One villager who is a local businessman said that the army personnel went to his house four times that night and each time they severely beat the men who were inside the house. His 16-year-old son was beaten and dragged into the street. The men and young boys of school-going age were beaten inside their houses and again on the street while being dragged up to the army camp. A group of people who had gathered in the village for a funeral vigil were also beaten and detained.

The arrestees were believed to have been held near the army camp until around 4am when they were taken away in buses and handed over to the Jaffna Headquarters Police Station. Later the same day around 100 men were produced before the Magistrate of Jaffna by the police officers attached to the Jaffna Headquarters Police Station. The men were brought to court in their injured state at around 10am. They were not given access to their relatives until the magistrate intervened and ordered the police to allow one family member to visit each of the detainees. Several Catholic priests, nuns and local civil society activists were also present at the court. According to those present, the men had visible injuries and showed signs of having been severely beaten.

The magistrate ordered 18 of the more seriously injured to be admitted to hospital and for the medical certificates to be submitted to the court. The men were produced before the magistrate in batches after lunch at around 1pm. Later the relatives were informed that the rest of the detainees were admitted to hospital only at around 7.30pm, based on the order of the magistrate.

The ASP Jaffna appeared in person before the magistrate and made a submission to court, accusing the villagers of unlawful gathering. But he did not mention about the complaints of the victims and the relatives regarding the severe tortured perpetrated upon them by the army.

In the evening of August 23, the Magistrate of Jaffna ordered 95 persons who were arrested by the police in Navanthurai to be remanded. The magistrate also ordered all detainees to be admitted to hospital for treatment and for the medical certificates to be submitted in court.



63. Police ignore complaints of young man subjected to attacks by wealthy businessman

Mr. D.K.K.S. Shehan Fernando is in danger of losing his life due to the actions of a wealthy businessman in the Ja-Ela area. The officers of the Ja-Ela Police Station are refusing to investigate the victim's allegations while at the same time aiding the perpetrator of several physical attacks and attempts at abduction. The entire matter is the result of a misunderstanding and the violence perpetrated by the businessman to which the police are turning a blind eye, is completely out of proportion to the young man's alleged offence.

Twenty-two-year-old Diyaththara Kalutara Kalusayakkarage Sajith Shehan Fernando of No. 22 St. Mary's Road Ja-Ela has

September 5, 2011 -
Urgent Appeal Case:
AHRC-UAC-151-2011

ISSUES: Threat to life;
denial of investigation;
arbitrary detention;
imminent threat of
torture; impunity;
rule of law

complained that his life is under severe threat due to a powerful businessman aided by some police officers pursuing him with white vans to abduct him and also by using criminal elements to severely assault him seemingly with the intention of killing him.

On 25 May 2011, Shehan went to a shop, Wasantha Motors, to buy spare parts for his motorcycle. A person at the shop told him that they were closed and therefore they would not sell the parts that he required. However, at the time the doors of the shop were still open and Shehan explained that since he was going to work the next day could they please consider selling him the spare parts he required. Then two persons in the shop shouted, "Do you not understand what we told you?" Without warning they started to assault him. A third person, the owner of the shop, alighted from a nearby car and asked what was happening. He also struck Shehan, who then ran away.

The next day Shehan went to his job and his brother went to the shop to get the spare parts. His brother was detained in the shop and an uncle, Roshan, had to go to the shop and rescue him. On the same day a group of persons arrived in a white van at Shehan's house and inquired as to his whereabouts from his mother. His mother in turn inquired as to why they were looking for Shehan and they replied that the director of Wasantha Motors was taking treatment at the Intensive Care Unit because Shehan pushed him, causing him to strike his head on some concrete. On the evening of the same day (26th), another group of people arrived at the house and threatened Shehan's mother who then made a complaint to the Ja-Ela police the same night.

On the 7 June 2011, the OIC of the Ja-Ela Police Station made a telephone call to Shehan's mother asking her to come to the police station at 9am the following day to inquire into her complaint. When she arrived at that time she was detained at the station until 7pm. During this detention two persons whom she believed to be criminals arrived at the police station. On the instructions of the OIC of the station the OIC of the Petty Offenses Section recorded that her complaint had been brought to a settlement and forced the mother to sign it. Thereafter, the two other persons were sent away but Shehan's mother was kept at the station until Shehan would be presented. After detaining her that night a case was filed against her in the Magistrate's Court of Kanuwana for harbouring a criminal, meaning her son, Shehan.

Five days later Shehan's Uncle Roshan who had earlier rescued his younger brother, was also charged at the same Magistrate's Court for making death threats. Shehan believes that this charge was filed as an act of revenge against his uncle for intervening on his behalf. Thereafter, as the police were looking for Shehan he surrendered himself to court.

On 9 August 2011, when Shehan was going to work a group of people came in a van with tinted windows and tried to kidnap him but he managed to escape and run away. Shehan complained

about this matter through the Emergency Hotline of the Police Department, and this is recorded in the CID ii at page 390/127. In that complaint the vehicle number is given as WPGX 9511. The Ja-Ela police did not conduct any investigation into this complaint. A further complaint was made at the Peliyagoda Police Station on 11 August 2011. Regarding this complaint also there has been no investigation.

On 29 August at around 5.15pm when he was walking to a bus to return home after work five persons who arrived in a Land Cruiser that did not have a license plate attacked Shehan, striking him on his hands and legs with iron poles. As they were attacking him, Shehan managed to run back into his workshop. From there he was taken in a vehicle belonging to the workshop to a nearby hospital and from there he was transferred to the Ragama Hospital. A complaint regarding this matter was made on the same day to the Seduwa Police Station and the incident was also reported to the OIC of the Ja-Ela Police Station. However, once again, no action was taken in this complaint.

64. Young man was illegally arrested and tortured by the Kakirawa Police

Mr. Aadawalage Gayan Indika was travelling with his brother on his motorbike when they were stopped by plain clothed persons who demanded their identities. When Gayan in turn demanded the identities of the group he was told that they were officers of the Kakiwara Police Station. Gayan was accused of making illicit liquor and when he refused the accusation he was severely beaten by the officers who he believes were working hand in hand with the person actually producing the liquor.

Mr. Aadawalage Gayan Indika (26) of No 6th Canal, Kagama in Kakirawa in the district of Anuradhapura is married and the father of one son. He is a barber by profession.

On 7 August 2011 Gayan was on his way to drop his brother at Walpaluwa Garage in the same village on his motorbike. Some people in civilian clothes signaled him to stop his motorbike. He did so, and one of the group asked for his identity and that of his brother. Gayan simply questioned the identity of three people and one person answered that he was IP Jagoda of Kakirawa Police Station. Then IP Jagoda told the brothers that they had received information that Gayan is engaged in the production of illicit liquor. Gayan was shocked at this and told the officers that he had never engaged in such activity at any time in his life. Ignoring this IP Jagoda asked the location of the place where they produced the liquor. Again Gayan refused the accusation. At that point they forced him to lie down on the ground and started beating him with sticks and branches. While all three officers joined in the assault IP Jagoda was the most violent. Following this one officer, later identified as Nimal, asked Gayan to come to the side of the road which he did. Gayan was asked to pay a bribe so that they could go on their way but he repeated that he had never engaged in such an activity and was not willing to accept such accusations.

September 7, 2011 -
Urgent Appeal Case:
AHRC-UAC-155-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law



Then officer Nimal told Gayan to get onto the motorbike of the other officer named Bandara. He went on to say that he knew the place where the illicit liquor was hidden. Then they started to proceed ahead. While they travelling one officer questioned Gayan as to whether he knew a villager called Mahatun who is continuously engaged in producing and selling illicit liquor. Gayan replied that he did. When they arrived at the destination Gayan noticed that the police officers moved forward and met with Mahatun and talked to him in private. He noticed that the officers searched some bushes and discovered some equipment. Gayan was not party to the discussion between the officers and Mahatun but noticed that the equipment was left at the same place when they set off to the police station at Kakirawa. Then Gayan saw that his wife and his brother-in-law came in search of him and met with the police officers. They talked to the officers and vehemently opposed Gayan's arrest and the accusation that he was producing and selling illicit liquor. They strongly told the officers that Gayan was innocent and had never engaged in committing any crime. Then the police officers announced that they could not release Gayan at that moment as he had been severely beaten. They openly told Gayan's wife and brother-in-law that they were going to file a fabricated charge against him.

Later Gayan was brought to the Kakirawa Police Station. Within a short time an officer came with a glass bottle filled with pale coloured liquid, some paper and some other stationery. The officer forced Gayan to put his signature on the paper, which he did out of fear of further torture. After having the signature and later the fingerprints also to the paper the officer arrogantly announced to Gayan, "Though you told that there was no illicit liquor in your possession, see now there is evidence of liquor in your name".

Later he was released on police bail when his wife and brother-in-law came to the police station. He went home but as he was in severe pain they took him to the Galnewa Government Hospital for treatment at around 10pm on the same day. The doctors advised them to admit Gayan for treatment. While he was treated at that hospital he started vomiting, so he was transferred to the Anuradhapura Teaching Hospital for further treatment on August 10. He was treated in that hospital for a further five days and discharged on August 15. While he was treated at hospital the JMO examined him and recorded the marks of injuries inflicted by the police torture.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/r2llanka/>

65. An innocent man and his brother are tortured by the Kosmodara Police

Mr. Dissanayake Mudiyanseelage Chandana was severely tortured by police officers attached to the Kosmodara Police Station. Despite being examined by a JMO at the Matara Teaching Hospital and registering a complaint with the HRC no action has been taken to investigate the incident.

Mr. Dissanayake Mudiyanseelage Chandana (29) of Kosmodara, Deniyaya in the Matara District was tortured by police officers attached to the Kosmodara Police Station on 15 June 2011.

On that day at about 7.30pm two unknown persons in civilian clothes came to Chandana's house and announced that they wanted to search the premises. They were told that they would not be allowed to do unless they proved their identity and to show the search warrant issued by a court.

At that time one of them became furious and struck a heavy blow to Chandana's face. Chandana rushed into the house and closed the door. The two persons outside then shouted that they were from the Kosmodara Police Station and ordered him to open the door.

Then Chandana told them "If you gentlemen are from the police either you must be in uniform or prove your identity".

Thereafter, about half an hour later, a group of police officers also in civilian clothes came to Chandana's house with batons and clubs and entered the house forcibly and started to assault Chandana severely. Due to the assault Chandana was struck on the lip, which began to bleed, but despite this the officers did not stop the assault. They continued to assault Chandana until he fell unconscious. Thereafter, Chandana and his brother were arrested and brought to the Kosmodara Police Station. Then they were taken to the Deniyaya Police Station.

Neither at the time of arrest or afterwards was Chandana informed the reason for his arrest, nor was his brother.

The next day the police filed a fabricated case against these two young men in the Magistrate's Court of Deniyaya. When they were produced before the magistrate both of them were released on cash bail of Rs. 5000 and surety Rs 50,000.

The following day Chandana became ill and went to a doctor in the area. However, the doctor felt that Chandana's condition was serious and advised him to go to Deniyaya Government Hospital. Chandana then he went to that Hospital where he admitted and treated. Then on the following day he was transferred to the Matara Teaching Hospital where he was once again admitted. He treated there for two days and was examined by the JMO. Later, Chandana complained about this incident to the HRC.

September 8, 2011 -
Urgent Appeal Case:
AHRC-UAC-158-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law

66. An innocent man is detained for more than three years without being charged

Mr. Yogarasa Shashheran has been detained in Welikada Remand Prison without being charged for more than three years. When government forces advanced towards the Northern Region Yogarasa surrendered to the army along with hundreds of other civilian in 2008. Then he was transferred to several detention camps and is presently detained in Welikada Remand Prison. The authorities have not filed any charge against him.

September 9, 2011 -
Urgent Appeal Case:
AHRC-UAC-161-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity;
rule of law

Mr. Yogarasa Shashheran (22) was born in Kilinochchi and lost his parents at the age of 6. He was raised with the help of neighbours and charities. At one point he was abducted while still an under-aged child by the cadres attached to the LTTE, but he was able to escape.

When the Armed Forces of the government captured the Northern Vanni region during the final stages of the war in 2008 he surrendered to the army along with several hundred other refugees.

Like most of the younger men, he was questioned by the army. He was first detained at the Welikada camp in Vavuniya District and then transferred to Boossa Detention Camp in Galle. Later he was transferred to Kandakadu Camp in July and once again brought to the TID unit for questioning before being returned to Boosssa.

While he was in the custody of the TID in Colombo he was tortured to get information. He answered all the questioned they raised with prevarication and clearly told the officers that he has not committed any crime, nor was he a member of the LTTE.

Then he was transformed to the Welikada Remand Prison. When Yogarasa questioned the prison officials as to his detention they told him that he was supposed to be released soon as there were no charges against him. However, Yogarasa remains in detention Welikada Remand Prison without being charged.

67. Police fail to investigate abduction of a teenage girl

The 19-year-old daughter of Mr. R.J.K. Niel and his wife Ms. Ajantha Edirisinghe was abducted by a person on 3 September 2011. When his daughter went missing Niel made a complaint to the Nuwara Eliya Headquarters Police Station and to the Balagolla Police Station. The first station accepted and recorded the complaint but failed to conduct any investigation. The second station refused to accept the complaint. Mr. Niel then made a complaint to the ASP in Kandy against the inaction of the both police stations. Even then the police refused to investigate the incident on the basis that there were not enough police officers to attend to the matter due to the International Cricket Tournament in Pallekalle Stadium.

September 12, 2011 -
Urgent Appeal Case:
AHRC-UAC-164-2011

ISSUES: Police
inaction; denial of
justice; women's rights;
impunity; rule of law

Mr. R.J.K. Niel and his wife Ms. Ajantha Edirisinghe of No. 13, Vijithapura, Magastota, Nuwara Eliya are married and the parents of four children, three daughters and a son. The eldest daughter, Malathi (not her real name) was a student of Gamini Maha

Vidyalaya, Nuwara Eliya. Mr. Niel is working at the Nuwara-Eliya Municipal Council. Malathi was preparing for her university entrance exam (General Certificate Exam- Advance Level) in the science stream. She is an intelligent student and followed tuition classes during the weekend in Kandy.

Mr. Niel learned from his daughter that a boy by the name of Kamal, a three-wheeler driver was interested in his daughter and had approached her. However, she did not consent to a relationship explaining that that she was a student.

On the 3 September 2011 his daughter went to her school to sit for her final paper (Sinhala General Paper) and did not return home. Around 2.20pm Mr. Niel received a telephone call from an unknown person who identified himself as 'Kamal' and said that Malathi was with him, and, if possible to save her within an hour. This message implied that the young lady was in danger.

Mr. Niel immediately went to the Nuwara Eliya Headquarters Police Station, made a complaint and informed the incident to the officers on duty. The officers recorded the complaint with the reference No. W CIB 86/32. The police officers then promised him that they were informing the Balagolla Police Station to get further assistance to continue the investigation.

The following day, 4 September 2011 Mr. Niel himself went to Kamal's house in Mahawatte, Kundasale in search of his daughter and Kamal's father, who was under the influence of liquor, suddenly assaulted him.

The next day, 5 September 2011 Mr. Niel went to the Balagolla Police Station to make a further complaint but the police officers refused to accept it and told him that he should go to the Nuwara Eliya Police Station again.

Mr. Niel then made a complaint to the office of the ASP of Kandy on September 9 regarding the inaction of the police officers attached to the Headquarters Police Station of Nuwara Eliya and the illegal action of the officers of the Balagolla Police Station.

The officers of the ASP's office again directed him to the Balagolla Police Station. However, the officers at that station told him that because of the cricket match between Sri Lanka and Australia being played in the Pallekelle International Stadium there were no police officers available to attend to this case.

68. Police file two fabricated charges against a woman after illegal arrest and torture

Ms. Weerawila Gamage Sepalika was illegally arrested and severely tortured by the police officers attached to the Ambalantota Police Station on 18 May 2011. Four police officers in plain clothes came to her house and carried out an illegal search as no warrant had been issued. Sepalika was alone in the house and when she tried to prevent the officers from entering she was severely assaulted, arrested and brought to the police station.

September 15, 2011 -
Urgent Appeal Case:
AHRC-UAC-168-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity; rule
of law, women's rights

Ms. Weerawila Gamage Sepalika (40) of Arawanamulla, Baragama, Ambalantota in Hambantota District is married to Mr. Sumithrapala Liyanage (43). They are both farmers by profession. They have three children.

On 18 May 2011 a group of police officers in civilian clothes attached to the Ambalantota Police Station came to Sepalika's house while she was alone at around 10am in the morning. Sepalika was able to identify two of the officers later as a SI and a PC Siriwardana and two other officers.

When the police officers approached her house Sepalika went to the front and the officers told her that they wanted to enter the house and search it. Sepalika replied that as her husband was not at home she did not want the male officers to enter into her house at that moment. Then police officers told that as she was selling illicit liquor they wanted to search the house. Then Sepalika requested a search warrant issued by a court. At that point the officers shouted at her and forcefully entered the house and started to pull apart all their belongings. While this was going on the officers continuously shouted at her with obscene language and then started to beat her.

They dragged her outside the house by her hair while beating and kicking her legs and thighs. Sepalika suffered several injuries and was bleeding. The officers dragged her to the police jeep parked near the house and brought her to the Ambalantota Police Station. As she was terrified and in great pain she started to scream but none of the officers paid any attention. At the station the officers cuffed her and detained her in a cell. After several hours they took her out of the cell and brought her to the Ambalantota Government Hospital where she was produced before a doctor. The doctor who examined her advised the officers to admit her for further treatment. They allowed her to be admitted but she was guarded by four police officers at all times.

Contrary to police regulations when arresting a female suspect, neither at the time of her arrest nor when she was taken to the police station was she accompanied by a female police officer. Neither was a female police officer present when they searched the house.

Later on the next day (19 May) Sepalika was brought back to the Ambalantota Police Station and in turn produced before the Magistrate's Court of Thangalle on two fabricated charges: that of the possession and distribution of cannabis and the of obstructing police officers in the execution of their duties.

Sepalika vehemently denies those two charges. She states that the police officers did not at the time of arrest or after arrest or even at the hospital or while she was detained at the police station ever questioned her over the possession of cannabis or any other illegal substance. Furthermore, the police officers never produced any of the cannabis they claim to have found in

her house or on the surrounding land. Other than the charge of possession made by the police there is independent evidence linking her or any member of her family with this charge.

She believes that the police filed the fabricated charge of distribution of cannabis against her so they can prevent her from getting bail from the court at the first instance. She also believes that the reason for this is to keep her in remand to prevent her by complaining against the respondent police officers on the violation of her rights.

69. Former navy sailor drowned in police custody

A man was drowned while in police custody. He was arrested on 11 August 2011 by the police officers attached to the Athurugiriya Police. Then he was detained there illegally for 19 days. Later on 30 August, according to the police, the victim was brought to Wawala, Nawagamuwa for the purpose of revealing to them a cache of weapons. However, the police then state that they found him dead by drowning in the Kalani River. The fact that no proper investigation has been carried out yet is a denial of justice to the victim and his family.

Mr. Asaka Botheju of Panagoda in the district of Colombo was arrested by the police officers attached to the Athurugiriya Police Station on 11 August 2011 at Koswatte, Athurugiriya.

He was arrested along with two other persons named Gayan Chandana and Upul Sanjeeva Koralage. Then he was detained at Athurugiriya Police Station.

Later on 30 August 2011, after 19 days of illegal custody he was brought to Wewala, Nawagamuwa in Colombo. However, he was then found dead by drowning by the same officers in the Kalaniya River. They have offered no explanation as to how he came to be in the river when he was supposed to be in their custody.

Asanka was a former Sri Lanka navy sailor attached to the veteran Special Boat Squadron (SBS) and an expert swimmer as well. The police have offered no explanation as to how he, despite being an expert swimmer, 'drowned' in full view of the officers.

Later the police announced that Asanka was wanted in connection with many crimes, and died after he jumped into the Kelani River in the Nawagamuwa area. Police stated that the incident took place when Asanka was taking the police to a place where he had hidden a T-56 firearm.

After arrest Asanka was detained in police custody for a period of 19 days without going before a judge, which is illegal. Furthermore, the police at no time produced him before any court and can offer no legal justification for detaining him inside the police station for this length of time.

Asanka's arrest, prolonged detention and extrajudicial killing have not been investigated nor have the alleged perpetrators been brought before a court of law. The authorities have not yet revealed any information regarding a proper Death Inquest of Asanka's body or a post-mortem report since the death.

September 16, 2011 -
Urgent Appeal Case:
AHRC-UAC-169-2011

ISSUES: Extrajudicial
killing; impunity; rule of
law

70. Kirindiwala Police tortured a man to fulfill the whims of a third party

September 19, 2011 -
Urgent Appeal Case:
AHRC-UAC-170-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity;
rule of law

Mr. Kirigalbadage Chaminda Sanath Kumara is married and a labourer by profession. Police officers of the Kirindiwala Police Station came to his house supposedly to investigate a complaint made by the victim's sister-in-law and even though the matter had been settled by a Mediation Board they arrested the victim and severely tortured him at the police station. After a series of operations the victim now suffers memory loss.

Mr. Kirigalbadage Chaminda Sanath Kumara (38) of No. 171/1, Bodiya Road, Walapola, Papiliwala in the district of Gampaha is married and a labourer by profession.

On 24 August 2011 police officers attached to the Kirindiwala Police Station came to his house and were met by Sanath's wife, Ms. Rupika Wijekanthige. The officers without offering an explanation rudely demanded the whereabouts of Sanath. When he appeared before the officers they accused him of having an exchange of words with his sister-in-law who stays in his parent's house. Sanath explained to the officers that he had had words with his sister-in-law as she had abandoned and maltreated his parents. Sanath explained to the officers that when she complained to the Kirindiwala Police Station regarding the incident the case was referred to the Mediation Board and the matter was settled already. To prove this he showed the officers the document issued by the Mediation Board on the settlement.

Then the officers shouted at him and his wife and took him to the police station. Sanath was put into a cell and the officers started to assault him until he fell down and started to vomit.

One-and-a-half hours after Sanath was taken from his house the police called his sister-in-law and wife requesting them to come to the Radawana Government Hospital as his condition was serious. Then immediately Rupika and Sanath's mother rushed to the hospital. At the hospital they found that Sanath was bleeding severely from a head wound and that there was even a large amount of blood on the floor. There was also evidence that he had vomited.

The police officers asked Rupika to enter her name as the guardian who admitted Sanath into the hospital. But Rupika refused and stated that when Sanath was arrested he was in good health and that they were responsible for his present condition. The police officers tried to force the hospital staff to change the entry notes in the hospital books, which the staff members vehemently refused to do.

Sometime later Rupika and Sanath's mother returned home. At around 1am in the morning of the following day, a group of police officers arrived at Sanath's house and told Rupika that they wanted to make a search of the house. Rupika and her daughter had to wait outside but they observed that the officers were making notes and moving the belongings about. She understood then that the officers were making notes to prove that Sanath was injured inside the house to cover up the case of his torture by the police officers.

Meanwhile Sanath's mother came to the scene. The officers asked her to sign the documents they had prepared. The mother was seriously frightened and feared for Sanath's life if she refused to sign. She eventually signed the documents, which were never read or never explained to her. Following this the officers left the house.

The police officers asked Rupika to go to the hospital at 5am and then to the police station. Rupika went to see the Sanath along with his elder brother and elder sister. The hospital authorities informed them that even though the patient was in severe condition they could not transfer him to another hospital due to the lack of ambulance facilities. The family members then brought Sanath to the Wathupitiwala District Hospital by a private vehicle.

Just after he was admitted to this hospital the authorities transferred Sanath to the National Hospital of Sri Lanka (NHSL) in Colombo for further treatment. He was treated as an indoor patient in the NHSL and underwent several surgical operations.

Since he was discharged, Sanath suffers from memory loss and is unable to cope with his work as a labourer.

Two days after Sanath was admitted to the NHSL police officers arrived at the house and informed Rupika to come to the station and meet the OIC. She met the OIC who informed her that he was ready to take action against the police officers if Sanath had been tortured after arrest. He asked Rupika to request Sanath to assist him by giving a statement to the police. However, still nothing has happened with regard to the investigation.



WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=G9RRPflZhiQ>



71. Delays in prosecuting persons accused of assaulting V FM journalist

Journalist Mr. Ruwan Sugathadasa was assaulted by an unknown group of people on 2 September 2011. Ruwan is a journalist by profession and the Managing Director of 'V FM'. Later he was admitted to the South Colombo Teaching Hospital for treatment. Police Headquarters announced that two suspects had been arrested and produced before the Magistrate's Court of Nugegoda along with a car allegedly used by the assailants. But still the prosecution had not yet started.

Mr. Ruwan Sugathadasa of Gangaarama Road, Boralesgamuwa in the Colombo District was assaulted by an unknown group of people on 2 September 2011.

Ruwan is a journalist and the Managing Director of 'V FM', a leading national electronic radio channel in Sri Lanka.

Ruwan was assaulted when he was returning to his home at around 7.30pm. He was severely beaten up by a three-member gang with poles close to his residence. They had allegedly used a shovel, an *ekel*-broom and a club to beat Mr. Ruwan.

**September 20, 2011 -
Urgent Appeal Case:
AHRC-UAC-171-2011**

**ISSUES: Freedom of
expression; torture;
impunity; rule of law**



Ruwan sustained injuries in the assault and was later admitted to the South Colombo Teaching Hospital and later transferred to a private hospital in Colombo for further treatment.

Following the incident police started an investigation and later announced that they have arrested two persons on suspicion of the assault. The police stated that the officers had also seized a car used by the three suspects in the crime. The police informed the media that they suspect that the culprits are residents of the Madiwela area in Colombo.

The police revealed that the three suspects involved in the attack have been arrested and are due to be produced for an identification parade. Later they were produced before the Magistrate of Nugegoda and remanded.

72. A man killed by officers of the STF

Mr. Garusinhage Priyantha was extrajudicially killed by officers attached to the STF. Priyantha was arrested by the police officers at the 'Morning Side Estate' in Sooriyawewa and was brought to their station and detained. According to the STF officers he was brought to a house at a *chena* cultivation in the Deiyandara area in Sooriywewa on the night of 3 July 2011 where he was shot dead by the police officers.

Mr. Garusinhage Priyantha (45) of Nelu-Yaya Kithulkote at Thanamalvila in Monaragala District was extrajudicially killed by the police officers attached to the STF.

Priyantha was arrested on 3 July 2011 by the police officers attached to the STF at the 'Morning Side Estate' in Sooriyawewa and was brought to their station and detained. On the evening of the same day he was brought to a house at a *chena* cultivation in the Deiyandara area in Sooriywewa where he was shot dead.

Later the police announced that while Priyantha was in police custody he had divulged to his interrogators that he had a cache of arms, including a T81 assault rifle, hidden inside a house at the cultivation in the Deiyandara area in Sooriywewa. Then while showing the weapons Priyantha was killed during a confrontation with the STF when they entered the house.

73. Suspect assaulted in front of the Jaffna Magistrate by police

Mr. Udaya Pushparaja Antony Nithyaraja was illegally arrested and severely assaulted by seven police officers in front of the Magistrate of Jaffna while the court was in session on 20 September 2011. Antony had voluntarily gone to the court and appeared before the magistrate through his lawyer and stated that he was ready to assist or appear before the court if there was any criminal investigation against him. The magistrate after considering the police submissions and court documents released him. However, seven police officers in civilian clothes arrested him and started beating Antony in the presence of the magistrate, lawyers, court staff and a large number of people. He was dragged to the Jaffna Headquarters Police Station for detention.

Mr. Udaya Pushparaja Antony Nithyaraja (31) of Jaffna District was illegally arrested and severely assaulted by seven police

September 21, 2011 -
Urgent Appeal Case:
AHRC-UAC-172-2011

ISSUES: Extrajudicial
killing; impunity;
rule of law

officers from the Jaffna Headquarters Police Station on 20 September 2011.

Antony learned that the police had started an investigation into a crime and that his name was on the list of persons to be questioned. As a law abiding citizen Antony on the same day went directly to his lawyer Mr. Thawabalasingham and then to the Magistrate's Court of Jaffna and voluntarily made motion and an application to the magistrate and informed the court that if there is any necessity of his presence or assistance for the investigation he was ready to cooperate. Furthermore, he said that if the court needed him to be prosecuted for any crime then he was ready to assist by voluntarily obeying any order even to the extent of remanding him.

The magistrate called the case in open court and considered his application with the assistance of the police officers appearing for the HQI of the Headquarters Police Station of Jaffna. Then the magistrate announced that according to the B-report filed by the HQI Jaffna there was no mention of Antony and that he was not mentioned as a suspected person who was to be arrested or prosecuted. The magistrate then duly released Antony.

However, immediately upon his release a group of seven police officers in civilian clothes entered the courthouse and started to severely assault Antony in front of the magistrate. Antony started to plead with the officers not to assault him and cried out, seeking others to rescue him from the beating. This heinous assault took place inside the courthouse while the magistrate was on the bench still hearing cases. Lawyers, the staff officers of the court and the general public witnessed the assault. The police then dragged Antony from the courthouse and brought him to the Headquarters Police Station of Jaffna.

The Bar Association of Jaffna District protested against the ruthless and arrogant behaviour of the police officers and refused to appear in all five courts in Jaffna District from September 21 onwards until the responsible police officers were taken before the court for prosecution. The lawyers of the Jaffna Bar Association demanded that efficient and coherent steps be taken against the responsible police officers, that the Chief Justice and the other judges of the Supreme Court intervene and made necessary steps to prevent police officers from carrying out such gross violations and for the Bar Association of Sri Lanka to intervene and take strong actions to prevent the repetition of such incidents.

Immediately following the incident the magistrate called the senior police officers of Jaffna District to the courts and demanded that steps be taken to provide justice for this violation. The two senior police officers who appeared before the magistrate apologised. However, no steps were taken to investigate the violation of Antony's rights.

**September 23, 2011 -
Urgent Appeal Case:
AHRC-UAC-175-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity;
rule of law**

74. OIC of the Pitabaddara Police led his officers to torture a complainant

September 23, 2011 -
Urgent Appeal Case:
AHRC-UAC-176-2011

**ISSUES: Illegal arrest;
arbitrary detention;
torture; impunity;
rule of law**

Mr. Jayasinghe Arachchige Chathura Manohara was illegally arrested and severely tortured by police officers attached to the Pitabaddara Police Station on 10 July 2011. Manohara made a complaint to the police seeking protection for him and his house from the group of thieves who tried to enter his home and rob him of his belongings. The police offered no assistance despite the fact that the station is within three minutes from his house. Manohara's neighbours were successful in capturing the suspects but when he expressed his anger at the police for their failure to act he was illegally arrested and severely tortured. Later the police produced Manohara with two fabricated charges before the Magistrate's Court of Kotapala.

Mr. Jayasinghe Arachchige Chathura Manohara (29) of 'Darshani', Deniyaya Road, Pitabaddara in the Matara District was illegally arrested and severely tortured by police officers attached the Pitabaddara Police Station on 10 July 2011. He is the Secretary of the Traders Association of Pitabaddara and a trader by profession.

On 10 July 2011, Manohara returned home after seeing a musical show with his wife and daughter. At around 11.55pm, someone shouted in a threatening manner near his bedroom, saying "open the door". Manohara asked him who he was and the man replied, "I am an army person". Manohara heard three other fellows talking and became suspicious. He then made a phone call to the Pitabaddara Police Station on 041 2281262.

Manohara informed the police officer through the phone that he was facing a problem from an unknown gang that had come to his home and threatened him. He urged them to take action to secure the safety of himself, his family and property.

While he was making this call the people in front of his house demanded that he open the door and that if he refused they would break it open. By 12.20am no one from the police had come to investigate the matter so Manohara made a second call and the officer who answered said that they would send someone immediately.

However, when no one came from the police, Manohara phoned three of his colleagues and informed them of what was happening. Within moments he heard shouting in front of his house and knocks to the doors.

Manohara heard one fellow ask "who are you?" and realised that the voice belonged to his friend, Buddhika, one of the men whom he called for help. At that time, Manohara opened the door and saw two persons, one wearing an army t-shirt. When Buddhika asked who they were and what they wanted the one wearing the army t-shirt tried to strike him with his fist and Manohara tried to protect him.

The same person seized a wooden pole and tried to assault Buddhika while the other tried to run away. However, by now Manohara's other friends had arrived and they caught him.

Manohara questioned one of the assailants who told him that they had gone there by mistake. The other remained silent. By now there were a large number of neighbours at the scene and finally, at 12.35am three officers of the Pitabaddara Police Station came to his home.

Manohara complained to the police officers that they always arrived late forcing the members of the community to do their job for them. He went on to say that they only arrived after the job was done and that they offered no security to the villagers. In this manner Manohara expressed his disfavour about the police.

He told the officers that he and his friends had handed all the accused to the police but that he never expect any justice from the Pitabaddara Police. He went on to say that he would complain in person to the SSP, Matara.

A junior police officer, named Sugath made a phone call to Arjuna Wijewardane, the OIC, of the Pitabaddara Police Station. Sugath informed Manohara that the OIC was not available and that they could not take the suspects to the police station because the OIC was attending a birthday party at Ellalagawawatte Gedara.

However, within five minutes at around 12.45 the OIC came to Manohara's home. The officer was not in uniform and appeared to be inebriated. Manohara complained to the OIC about what had happened earlier and the lack of action by his officers. At that time around 15 villagers were there at Manohara's house.

Then the OIC asked Manohara "Are you going to teach me about my duties? I will show you how I am doing my duties". At that point he started beating Manohara about the face. The OIC told Manohara he would never give him a chance to complain about this and asked the officers to take the suspects. After they left Manohara discussed what had happened with the people who were still gathered around his home.

Around 1.15am the OIC returned to his home with five other officers by three-wheeler and two bikes. The OIC had a wooden pole and warned everyone to stay away. Then he started to assault Manohara with that stick. When the OIC instructed an officer to handcuff Manohara his wife came and asked the OIC what he had done wrong. In response the OIC assaulted Manohara's wife and pushed her aside. At that time, Manohara's daughter was hanging onto his leg and the OIC kicked her so that she fell to the floor. When Manohara's wife pleaded with the OIC not to hurt the girl he told her to take the daughter and leave.

Following that the OIC continued to hit Manohara until he was brought to the police station by three-wheeler.

The OIC kept Manohara in a room and ordered the officers to close all the doors and windows of the building and close the main gate also up to 6am. He told them not to allow anyone into the police station and that none of them should go out for any duty. Then, the OIC went to the room where Manohara was detained,



closed the door and started to assault him with a steel chair. He assaulted Manohara for 20 minutes continuously while Manohara pleaded with the OIC not to beat him.

The OIC continued Manohara's torture by holding him about the neck and striking his head against a table until the table glass was broken. After that he started to kick him in the abdomen. By this time Manohara was bleeding from his mouth and nose. Then the OIC called some officers and ordered them to remove all of his clothes.

The OIC then told the same officers to bring two wooden poles and some rope. Once again the OIC kicked Manohara and said that at that time when he went to Manohara's house Manohara wanted to complain to the senior police officers against the Pitabaddara Police Station. He taunted Manohara by asking how he expected to go to the ASP now.

After few minutes, the officers came with two wooden poles and several fabric ropes and the OIC tied Manohara's wrists and ankles. He was then hung by the two poles that had been placed on two tables. Manohara started screaming and pleaded with the OIC to release him as he suffered with enormous pain. Then the OIC shouted that no one could transfer him from that station. Although Manohara was in great pain he realised that the OIC was too drunk to realise what he was doing.

Then the OIC called the officer called Sugath and ordered him to record Manohara's screaming with his mobile phone while he was being tortured, which Sugath did. Then the OIC threatened Manohara that he would only be released after 5am.

As Manohara continued screaming the OIC ordered Sugath to stuff his mouth with cloth. When this was done Manohara felt that he was suffocating. While he was hanging on the pole Manohara's legs started to cramp up and this added to the pain. The OIC told him that the next day he was going to play the recorded screams to all the people of the town. He went on to boast that he had killed 52 Sinhalese people and an uncountable amount of Tamils as aN STF officer in his service and that he had worked for STF for 16 years. He said that it would be an easy thing for him to kill Manohara but that too many people had seen him at his home and witnessed his arrest.

After being hung in this manner for an hour Manohara was brought to another room inside the police compound of the Pitabaddara Police Station. There he was seated on the ground near the bed inside the room and one of his wrists was cuffed to a leg of the bed. Manohara noticed that his hands, legs and face were swollen. He noticed that he was still bleeding from his face mouth and nose.

At around 7am an officer came to the room where Manohara was detained and he told Manohara that the OIC had behaved like animal; that he was barbaric and very cruel. After some time another officer, later identified as Yasapala, approached

Manohara and suggested that to finalize the matter Manohara should plead guilty for some crimes. Manohara vehemently refused the suggestion.

Then at 8am, the officer Sugath approached Manohara and shouted that he was talking too much and not following the orders. He then kicked him two times. Another officer later identified as Chamara also beat him three times.

At 2pm of the same day police officers produced Manohara before the DMO of the Morawaka Government Hospital. Manohara explained the way in which he was tortured by the OIC and the other officers. After making some notes the doctor simply stated that this was the way of treating the people who 'assisted' the police in their activities.

Then at 2.30pm Manohara was produced before the magistrate at the Kotapola Magistrate's Court. There he learned that the police had filed two fabricated charges against him. In one case he was charged with obstructing the duty of the police officer by holding the collar of the OIC's shirt. The second charge was that of causing minor injuries to a person. Manohara vehemently denied both cases. When he was produced before the magistrate the several lawyers appeared for him and submitted the facts relating to the severe torture Manohara suffered at the hand of police. The magistrate observed the injuries and signs of torture on Manohara's body and released him on bail.

Manohara later learned that the case numbers that the police have filed against him were: 18414 on obstructing the official duties of the police officer and 18413 for the causing minor injuries to a person.

Immediately Manohara was admitted to the General Hospital of Matara and was treated at ward number 3. He was discharged on July 15 after five days of treatment. During his stay at the hospital he underwent six x-ray examinations by the doctors. The doctors explained that there were injuries to the spinal column so he has to rest for a time. While he was treated at this hospital the JMO also examined him.

While Manohara was being treated at hospital a person who himself identified him as police officer Yasapala of the Pitabaddara Police Station called him on July 12 to tell him that the general public was going to hold a protest in the town of Pitabaddara against his torture by the police officers attached to the Pitabaddara Police Station. Yasapala pleaded with Manohara to prevent that from taking place but Manohara explained him that he was still under treatment and unable to do anything. Yasapala explained that the OIC was ready to provide any support for him. After 10 minutes Yasapala called him again and explained that he had made the earlier call at the request of the OIC of the station.

Later Manohara learned that there was a large gathering of the public and a large protest in the Pitabaddra Town with the participation of around 2000 on July 13. Manohara learned that the police department had transferred the OIC of the Pitabaddara Police Station to the office of the ASP of Matara.

Manohara states that later he learned that the name of the police officers who participated in torturing him also included, PC 40078 Chaminda, PC 40629 Pradeep, PC 84066 Lakmal and PC 85875 Yogananda. He states that if the suspects are produced before an identification parade he could identify the suspects.

Manohara states that he has complained to the HRC, the SSP Matara, the IGP and the Deputy IGP (DIG) Southern Province seeking justice against the violation of his rights. However, neither the police department nor any other law enforcement authority has yet started any investigation on the matter.

75. Child beaten by teacher in full view of class; no action taken

A 13-year-old school child was beaten by his class teacher in full view of the other students of his class. The parents of the child and others demonstrated in front of the school and the educational authorities promised to take action. However, the perpetrator is still working at the same school under the Ministry of Education.

September 24, 2011 -
Urgent Appeal Case:
AHRC-UAC-178-2011

ISSUES: Torture; fair
trial; right to
education; impunity;
rule of law

Mr. Vimalasena Tuduwara and Ms. Wickramasinghe Vithanage Gunasilee are the father and the mother of Janith Chathuranga Tuduwara (13) of Malpudanaella, Pitabaddara in the Matara District.

Janith studies at grade 8 of the Pitabaddara Navodya National School. On 14 July 2011 Janith went to school as usual. When the class teacher came to the class and asked the students as to how the tablecloth on the teacher's table got dirty no one offered an explanation. The class teacher then ordered the students to throw away the tablecloth. Janith raised his hand and told the teacher of his willingness to take the tablecloth home and asked his parents to launder it. Janith informed the teacher that as the tablecloth was bought by the money collected by the students he thought it should be reused.

On hearing this, the teacher became angry and shouted at Janith. Without warning he took a wooden pole and started to beat the child. This incident was witnessed by all the students of the class but none of them were able to stop the teacher. As a result of the beating Janith received an injury to the head and was admitted to the Morawaka Government Hospital.

In order to oppose the assault on Janith the other parents organised a protest on 17 July 2011 in front of the school. While the protest was going on the officers of the Divisional Educational Office spoke to the protestors and pleaded with them to stop the protest. They promised the protestors that they would initiate an investigation into the incident and would take necessary actions

against the perpetrator. The protestors were satisfied with this explanation and stopped their action. However, neither the police nor the educational authorities have investigated the incident.

WATCH A VIDEO ON THIS CASE:

<http://www.youtube.com/watch?v=pe67HGSErYg>



76. Innocent man detained for three years without being charged suffers renal failure

Mr. Rasaratnam Jegatheeswaran is currently detained in Welikada Prison in Colombo. Presently Rasaratnam is being treated at the Intensive Care Unit of the National Hospital in Colombo due to chronic kidney disease. Doctors have revealed to his wife that her husband is undergoing dialysis treatment. Rasaratnam has been detained in different camps and prisons for three years after being detained by the TID.

Mr. Rasaratnam Jegatheeswaran (33) of Thiriketheeshwaram in Mannar District is presently detained in Welikada Prison in Colombo and has been in detention for more than three years since 2009 without being charged before the courts.

Rasaratnam is now being treated at the ICU of the National Hospital in Colombo due to chronic kidney disease and is undergoing dialysis.

Rasaratnam was a permanent resident of Mannar District in the Northern Province. Like many persons he lived under the rule of the former LTTE. He was forced to undergo training by the LTTE due to their forced conscriptions. After he married Ranitha Jegatheeswaran he was able to live with her.

In early 2009 when the fighting intensified between the government forces and the LTTE hundreds of civilians tried to escape from the LTTE-controlled areas. However, when Rasaratnam and Ranitha made their attempt he was injured at Mullivaikal.

He was rescued by the International Committee of the Red Cross and then taken to Trincomalee Base Hospital for treatment.

After the treatment he was discharged from the hospital but then arrested at Pulmudda soon after and sent to Boosa Detention Camp along with several hundred other people. He was never given any reason for his arrest. Eventually he was transferred to Welikade Prison where he fell ill a few months ago.

According to his wife, Ranitha, Rasaratnam has neither been charged nor produced in court since his arrest in 2009.

Ranitha has appealed for his release as he is critically ill and in need of urgent and effective medical assistance. The doctors at the National Hospital have revealed that he has been diagnosed with renal failure and he is undergoing dialysis treatment.

**September 27, 2011 -
Urgent Appeal Case:
AHRC-UAC-179-2011**

**ISSUES: Illegal arrest;
arbitrary detention;
torture; fabricated
charge; impunity; right
to health; rule of law**

Rasaratnam is in need of a kidney transplant and the doctors have said that intensive medical care is required during the post transplant period and therefore, it is necessary that he should be released from prison.

As the police have failed to either charge Rasaratnam or produce him before a court of law after a three-year period of detention it is unlikely that they can now provide any excuse for his further incarceration.

Ranitha states that his release is being delayed due to the intentional failure on the part of the officers attached to the TID.

77. Authorities fail to investigate death threats made against another journalist

Mr. Krishan Jeewaka Jayaruk is the regional news reporter of the Sinhala medium 'Lankadeepa' and English medium 'Daily Mirror' newspapers, both are the of the most widely circulated newspapers in the island. On 1 September 2011 he received death threats from one of the leading politicians of the ruling party. Though Jayaruk made a complaint to the Headquarters Police Station of Matara regarding the incident the police failed to make an investigation.

Mr. Krishan Jeewaka Jayaruk of Matara District is the regional news reporter of the Sinhala medium 'Lankadeepa' and English medium 'Daily Mirror' newspapers, both are the most circulated newspapers in the island.

On 1 September 2011, Jayaruk was allegedly been threatened by a member of the United Peoples Freedom Alliance (UPFA) ruling party from the Southern Provincial Council, Aruna Gunaratne. Jayaruk was verbally abused with obscene language and threatened with death if he continued with his journalistic work regarding the provincial councilor.

On the same day, Jayaruk received a phone call from Mr. Gunaratne on his mobile +94 77 3679348 telling him that he would be killed if any further news stories regarding the provincial council member were published. Mr. Gunaratne had inquired from Jayaruk as to why he did not speak to him about the matter before filing the story.

Following the incident Jayaruk had lodged a complaint regarding the death threat with the Matara Headquarters Police Station. The reference number of the complaint filed was MCR 4006/11. He had also recorded the conversation he had with the provincial council member for his own safety.

Jayaruk states that he made a news report to his paper regarding an incident of burglary that happened at the house of a provincial councilor. He states that reporting and making a news article following such as incident was well within his mandate and while making his report he followed all journalistic ethics and conduct.

September 27, 2011 -
Urgent Appeal Case:
AHRC-UAC-180-2011

ISSUES: Freedom of
expression; impunity;
police negligence;
rule of law

78. Body of Special Forces soldier exhumed following complaint of death by torture

Ms. PAD Ariyawathi Saman Kumari has made a complaint that her son, a soldier who was attached to the Special Forces of the Sri Lanka Army, was tortured and killed on 9 September 2010 while he was serving in Mulativu District. The mother of the deceased soldier states that her son, Nuwarapakshage Madushanka, complained about sexual harassment by a major. She believes that as he opposed the harassment he was later tortured and killed by the military officer. An impartial investigation has been denied by the law enforcement agencies and Ms. Ariyawathi believes that this is because of interference by the military officers.

Ms. PAD Ariyawathi Saman Kumari (54) of No. 133, Thummodara Colony, Naththandiya in the Puttalam District was the mother of two sons, Mr. Nuwarapakshage Madushanka being one of them.

Madushanka joined the Sri Lanka Army and after completing basic training he was attached to the Special Forces on 12 February 2010. Then he was then posted the Vavuniya Army Camp for service.

When Madushanka came home on vacation in August 2010 he told his mother and one of his relatives that he was suffering enormous difficulties because of a senior officer, a major in the camp. He revealed that this particular major was sexually harassing him. He reported that the major had selected four soldiers for his 'amusement' and Madushanka was one of them. As a result he had to face continual harassment. He went on to say that if he refused the major's advances he would be tortured and perhaps even killed.

After his vacation was over he had to report to the work on 21 August 2010 but due to the harassment that he faced he was reluctant to do so. However, Ms. Ariyawathi encouraged her son to report for service as otherwise he would be in breach of military law and classified as a deserter.

It was Madushanka's habit to call his mother after returning to his camp. However, by 30 August he had still not called. Then, several days later on 6 September 2010 several police officers attached to the Koswatte Police Station came to Ms. Ariyawathi's home and informed her that Madushanka had died at Mulativu and she was asked to come to Vavuniya to accept the body.

Ms. Ariyawathi went to Vavuniya with some of her relatives on the same day. The army officers who were there did not allow her or any of her relatives to see the body. When asked how Madushanka had died the officers informed her that Madushanka had committed suicide.

They tried to see the body again the following day but were prevented until 4.30pm. Then Ms. Ariyawathi and her relatives were able to see several injuries on the neck and abdomen and several other injuries on other parts of the body. They observed that one leg was wrapped with fabric.

September 28, 2011 -
Urgent Appeal Case:
AHRC-UAC-181-2011

ISSUES: Torture;
impunity; extrajudicial
killing; rule of law

Upon seeing the condition of the body Ms. Ariyawathi refused to accept the cause of death as suicide and vehemently told the officers that she was suspicious. The officers present insisted that she accept their explanation that Madushanka had committed suicide but she refused and told them that there was no reason for Madushanka to have taken his own life.

At the Post Mortem Inquiry the doctor who carried out the examination revealed that there was an injury to the spinal cord and that it was a fracture. Furthermore, the doctor revealed that the cause of death was a continuous hemorrhage from an injury on the leg, which he estimated to have continued for a period of five hours. He explained that if the appropriate medical treatment had been provided to Madushanka promptly the death could have been prevented. The doctor informed Ms. Ariyawathi that there were ten injuries marks on the body.

Ms. Ariyawathi requested an immediate and effective investigation into Madushanka's death, as she firmly believed that her son had died due to torture. However, Ms. Ariyawathi's requests were not acted upon and she believes that the army officers are preventing the investigation from taking place.

Then Ms. Ariyawathi made a special application to the Magistrate's Court of Mulativu and submitted her facts relating to the cause of her son's death. She requested the exhumation of the body and pleaded with the magistrate to have a special inquiry into the death of her son. She submitted her request to the magistrate to have the responsible military officers arrested for torturing and killing her son.

Following her request to the magistrate made an order to exhume the body, which took place on 26 August 2011.

79. Human rights defender beaten to death in public by STF officers

Mr. Perumal Sivakumara has died after being tortured in public by officers attached to the STF of the Sri Lanka Police. Perumal, a well-known civil rights activist, had gone to the town along with a friend to buy some medicine. At that time a large number of people had gathered at the church because a stranger had been terrorizing the village. When Perumal approached the gathering police officers arrived and started to beat some of the people. Despite the pleadings of Perumal he was severely tortured and later admitted to the Puttalam Base Hospital where he later died. No investigation has been started into the torture and extrajudicial killing of Perumal.

Mr. Perumal Sivakumara (32) of Kalpitiya Road, Norochhole in the Puttalam District was a father of three children. He was a leaf vendor by profession but was also a human rights defender and worked very closely with many civil rights protection movements and organizations in the area. Perumal first started to work with the 'Right to Life Human Rights Secretariat' in Katunayaka. Perumal was instrumental to many human rights organizations to organize demonstrations and protests against human rights violations in the area. He was highly recognized

September 28, 2011 -
Urgent Appeal Case:
AHRC-UAC-183-2011

ISSUES: Extrajudicial
killing; torture;
impunity; human rights
defender; right to life;
rule of law

and respected by the people of the area and the society as a whole as a social worker and the civil rights defender. Perumal played a pivotal role in building the Human Rights Defenders Group for Nerochchole with the large people's gatherings in year 2006.

In 2006 Perumal was diagnosed with heart disease and underwent surgery following which he was continuously under treatment. On 22 August 2011 he wanted to buy some medicine prescribed by his doctor and went to the Kalpitiya Town at 5pm. He went with one of his friends, Mr. Janaka Pradeep.

While he was in town he heard that the bell of the church ringing. Janaka and Perumal after identifying the special need of the church for the people's interventions went there. Then he saw around five hundred people gathered at the church. Perumal questioned the crowd as to the reason for being there. Then he learned that a strange person has come to the area and the scared people had come to the church for protection.

Within a few moments a large number of police officers attached to the STF came to the church in a police jeep. They all had wooden sticks in their hands. Without inquiring anything or giving any warnings the STF officers started to beat the people who were at the church who tried to run away. Then several police officers approached Perumal and mercilessly assaulted him with sticks. Perumal pleaded with the officers not to assault him, as he was a heart patient. Without listening to his pleadings the officers continuously assaulted Perumal who also tried to escape. Finally Perumal fell to the ground. With the help of other people he was able stand up again and started to walk.

Perumal suffered ten injuries on his legs and hands and was in great pain. With difficulty he was able to come to his home, where he informed his family of the situation.

Several hours later his condition became severe. The relatives brought Perumal to the Base Hospital of Puttalam at 9.30pm. Then the doctor who examined him advised that he be admitted for further treatment and he was subsequently admitted to the ward number 6 of the hospital.

While he was undergoing treatment his condition deteriorated and he passed away at 10am on 23 August 2011.

Shortly following his death several senior police officers approached his relatives and warned them that they should not state that the death was due to the assault that happened at the church compound. They warned the relatives not to take any legal proceedings against the killing. They told the relatives that if the assured that there would not be any further legal proceedings against the police then they could make necessary steps to hand over the dead body that day itself. The officers requested a statement to the effect that there would be no action against the police but the relatives did not agree.



Human rights organizations along with the relatives of Perumal complained to the law enforcement agencies seeking justice against the public torture of Perumal and for an impartial, prompt and effective investigation into his death. But the relatives and the civil society groups' states that still none of these law enforcement agencies have started any investigation unto the incident.

80. Failure to prosecute police officers responsible for killing of FTZ worker

Mr. Roshan Chanaka Rathnasekara succumbed to injuries on 1 June 2011 sustained as a result of gunshot injuries received in the indiscriminate shooting by the police officers attached to the Negombo and Seeduwa Police Stations. The Sri Lanka police opened fire at the workers who gathered on 29 May 2011 while they were protesting the government's introduction of the new Private Sector Pensions Bill. Without prior warning the police opened fire on the workers. The injured were not provided speedy medical assistance and Roshan died later in hospital due to loss of blood. Only two police officers were arrested and no steps have been taken to prosecute them. While compensation is being offered to the victim's family this must in no way compromise the prosecution of the guilty.

Mr. Roshan Chanaka Rathnasekara (22) of Gal-Oluwa, Minuwangoda in the district of Gampaha, succumbed to his injuries on 1 June 2011 as a result of gunshot wounds received when police officers attached to the Negombo and Seeduwa Police Stations opened fire on a group of protesters and others who were not involved in the demonstration.

After completing his school education Roshan joined a company inside the FTZ in Katunayake in January 2011. The Katunayake FTZ is situated in the Gampaha District on 190 hectares of land and there are about 84 factories on the land employing 50,000 workers.

On 30 May 2011, about 600 persons gathered within the FTZ protesting the "Employees' Pension Benefits Fund Bill". Hundreds of police officers, mainly from the Negombo and Seeduwa Police Stations, were present in the area and at around 12.03 pm, the officers attempted to disperse the crowd by using tear gas. This was done without any warning against peaceful protesters.

When the workers attempted to flee the police officers, armed with guns and iron poles, charged the FTZ workers. Some officers threw stones and other unidentified objects at them. Some of the workers were critically injured and warded at various hospitals. During the melee the police opened fire and witnesses have testified that there was no reason for the police to use live ammunition as the protesters were actually dispersing at the time of the shooting. It was also noted that the police used deadly force and did not fire warning rounds as was required of them.

After the police opened fire at the gathered workers they forcefully entered the FTZ and broke open several company gates. They then entered those companies and started to shoot the

September 30, 2011 -
Urgent Appeal Case:
AHRC-UAC-184-2011

ISSUES: Extrajudicial
killing; right to life;
denial of justice; labour
rights; impunity;
rule of law

workers inside. Roshan was among those injured and it must be highlighted at this point that none of the workers who were inside the companies had taken part in the demonstration.

During the death inquest held before the Magistrate of Negombo in giving evidence the Negombo ASP Adikari Wijayananda Silva of Negombo, stated that Roshan's death was a result of the shooting by the police.

As a result of this collective and massive assault by hundreds of police officers more than 300 workers were severely injured. Out of those injured some were admitted to the Negombo Base Hospital and other more seriously injured workers were then transferred to the Ragama Teaching Hospital. Among the injured eight workers were found to be in critical condition and were admitted to the Intensive Care Unit (ICU) of the hospital. Roshan was among them.

The shooting was not the result of indiscriminate firing by any one officer. The DIG of the range and the two Senior Superintendents of Police (SSP) along with several ASPs were present. The shooting and the subsequent killing of Roshan occurred under the close supervision of these senior officers.

After the shooting, the injured workers were brought to the Kesselwatte Police Station. They, with Roshan amongst them, were kept in the police compound without being afforded medical assistance.

Roshan underwent surgery in an attempt to save his life but by 7.30pm of 1 June 2011 he succumbed to his injuries. When announcing his death the doctors detailed that the gunshots in the hip area had caused massive damage to the internal organs. The doctors explained that Roshan died due to severe hemorrhaging.

It was only due to the heavy internal and external pressure from different parts of the word and peoples' forums that the IGP accepted responsibility for the incident and announced that he was withdrawing from his service. (He was later given the post of Ambassador to Brazil, hardly a punishment posting.)

Several days later only two police officers, the OIC of Seeduwa, Chief Inspector R M Rathnayaka and the OIC of the Environmental Unit of the same police station IP RPKL Ranasinghe were arrested by the CID of the Sri Lanka Police. They were produced before the Magistrate of Negombo and remanded.

The case was taken up on 15 August 2011 for consideration of the bail applications filed by the two police officers. The magistrate transferred the matter to the High Court of Negombo for further consideration. When on August 18 the matter was taken up the High Court Judge enlarged both officers on bail.

The act of murdering a person and causing serious injuries to many others by indiscriminate discharge of weapons constitutes crimes under the Penal Code of Sri Lanka. Legally



suspects arrested for committing murder cannot be enlarged by a magistrate. Even the High Court cannot enlarge a suspect arrested for committing murder until the investigation into the case is concluded. Furthermore, if the matter received a high degree of public interest this should also have been considered by the deciding judge.

81. Innocent man is extrajudicially killed by officers of the Dompe Police

October 3, 2011 -
Urgent Appeal Case:
AHRC-UAC-187-2011

ISSUES: Extrajudicial
killing; impunity; rule
of law

Mr. Ganearachchi Appuhamilage Gayan Saranga was arrested and extrajudicially killed by the police officers attached to the Dompe Police Station on 29 September 2011. Saranga was first arrested at his wife's home and the police informed his relatives they needed to record a statement from him regarding the transportation of a water pump in his three-wheeler. When the wife tried to visit him later at the police station she was refused permission to see him. Later at 11pm of the same day Saranga's corpse was handed over to the mortuary of the Dompe Government Hospital by the police officers. The police stated that while Saranga was being taken to the place where he had hidden the stolen water pump he fell out of running police jeep and later succumbed to his injuries. Later the IGP officially announced by special communiqué that there is no evidence to prove the version of the police.

Mr. Ganearachchi Appuhamilage Gayan Saranga (29) of Katulanda, Dekatana, Dompe in the Gampaha District was arrested and extrajudicially killed by police officers attached to the Dompe Police Station on 29 September 2011.

Saranga was married, the father of one child and a three-wheeler driver by profession. According to his mother, Ms. Lalani Ajantha (54), Saranga was arrested while he was at his wife's home at Pattiwela in Dompe on 29 September 2011 at 5.15pm. Five police officers attached to the Dompe Police Station requested Saranga to accompany them to the police station to record a statement. Saranga's father identified one police officer, who was a closely known friend, who went to the police officers and demanded the reason for the arrest. The officers explained that they were only arresting him to record a statement about transporting a water pump by his three-wheeler.

The mother, father and the wife of Saranga followed the police officers and pleaded with the police officers not to assault Saranga, stating that he had never engaged in any crime. The police officers promised them that they were not going to harm Saranga. They then took Saranga to the police station along with his three-wheeler.

When Saranga did not come back, his wife Rashika went to the police station to see what had happened to her husband. However, when she tried to enter the station the police officers in front prevented her and asked her to go home. Then she was afraid for Saranga's safety and once again she pleaded with the officers not to torture him. Then she returned home.

Later in the morning of the following day she learned that Saranga had been killed and his body handed over to the Mortuary of Dompe Government Hospital. Then his wife and hundreds of relatives and friends of Saranga rushed to the hospital mortuary and observed the dead body and demanded the reason for his death. They all were able to see several dozen marks of injury very clearly on the body. They learned that Saranga had been hung and beaten by the police officers while he was in the custody and that the noise of the torture and his pleading with the officers had been heard by many people in the vicinity of the police station.

Police Headquarters then issued a communiqué stating that the police had arrested a suspected criminal wanted for more than 20 crimes and that while the suspect was being taken to a place where he had hidden the stolen property he had fallen from the speeding police jeep and succumbed to his injuries.

However, when the communiqué was received, along with the news of his death thousands of people surrounded the Dompe Police Station and demanded the quick and speedy action against the police officers who were responsible for the death.

On 2 October 2011 the IGP issued a statement that the earlier version of the police could not be proved. The IGP stated that he had directed the CID of the police to investigate the incident.

Along with the Crimes OIC, the CID arrested an SI, a PS and two PCs on the evening of October 2. Later on, three of the arrested police officers were produced before the Magistrate of Gampaha and remanded till the 14 October. The case has now been postponed pending the development of further investigations into the incident.



82. No prosecution of police officers responsible for assaulting FTZ workers

Mr. K H Rangana Pushpakumara, Mr. M H A Sameera Sandaruwa and Mr. Maharambage Pradeep Kumara Priyadarshana on 30 May 2011 participated in an action organized by the factory workers trade unions. Police officers attached to the Katunayake Police Station approached the workers and without issuing any warnings started assaulting them. The men were injured but were not provided with medical treatment, which in itself constitutes torture. They were brought to the Katunayaka Police Station where they were detained illegally for two hours. Then they were warned and allowed to go to hospital. No police officers have been arrested for illegally arresting and publicly torturing or detaining Rangana and other fellow workers. Despite the fact that many trade unions and the civil society organizations continue to seek justice no action has been taken against the errant officers or their commanders.

Mr. K H Rangana Pushpakumara (31) of No. 140/A, Webada West, Webada. Rangana is married. Mr. Maharambage Pradeep Kumara Priyadarshana (28) of Jambolagahamullahena, Dippitiya, Mahapallegama is single. Mr. M H A Sameera Sandaruwa (28) of 'Sameera Sevana', Dumkola Watte, Daragala, Waimada in the Badulla District is single. All three men work at Noratel Lanka Ltd in the FTZ in Katunaya.

October 4 & 10, 2011 -
Urgent Appeal Cases:
AHRC-UAC-191-2011
AHRC-UAC-198-2011

ISSUES: Illegal arrest;
arbitrary detention;
torture; denial of
justice; labour rights;
impunity; rule of law

On 30 May 2011 the men reported to work early as usual. Then by 10.30am it was announced that there would be a collective trade union action by all the workers against the newly introduced government's Private Sector Pension Bill in front of the main gate of the FTZ, so thousands of workers came and participated.

Within a few minutes, hundreds of police officers mainly attached to the Katunayaka Police Station surrounded the protesting workers. Then the police officers without making any warning started to beat the workers. Those in front of the gathering were the female workers and they were beaten indiscriminately by the police.

The police baton-charged the workers before using tear gas and the workers ran inside the factories for protection.

The police then entered the FTZ and started to chase the workers, entering into the factories. They then started to drag the workers from the factories to the gate, following which they intentionally started to damage the factory property and the vehicles that were parked in the compounds.

Later the police officers ordered the workers to form two lines. The officers then stood on either side and instructed the workers to move forward. As they did the police officers beat them from both sides with poles and iron chains. If any worker looked directly at a police officer then that particular worker was severely beaten again. The workers were terrified with this situation.

Many workers were injured, including the two men. But the police paid no attention to them or any of the other workers who were injured.

The workers were then loaded on to buses and taken to the Katunayaka Police Station. The workers who were injured started to yell, but no assistance was provided by the police.

At the police station the workers were asked to provide the names and the addresses of the other workers. Out of fear of further torture all the workers gave the information that the police demanded. They were detained for more than one-and-a-half-hours at the police station and they observed that more than 200 workers were at the police station at that time.

The officers then ordered the workers to come out of the station and to sit on the ground surrounding the bus that had brought them to the station. The workers followed the orders but some fainted and fell to the ground.

After 30 minutes a senior military officer came to the scene with Sarath Gunarathna, a powerful politician who is the deputy minister of the area. They warned the workers that this would be the result if they engaged in protests against the government. He warned the workers that by taking trade union action some political parties benefited so they should not participate in them.

Then the senior military officer ordered the workers to be taken back to the main gate of the FTZ. Then the officer observed that another set of workers were still participating in the trade union action against the same Bill. He ordered the injured workers to go and inform the protesting workers that they were injured and beaten for protesting and to stop the protest. Some injured workers did the same while the police officers and the senior military officer watched their movements.

Finally the men were brought to the Wijaya Kumaratunga Government Hospital for treatment and then were transferred to the Teaching Hospital of Ragama for further treatment. Rangana was discharged from the Ragama Hospital after five days. Pradeep was discharged after three days. Both men continue to suffer from the torture that they experienced.

Sameera along with other injured workers was brought to the Negombo Base Hospital for treatment and was released shortly after.

83. Another innocent is extrajudicially killed by officers of the Moratuwa Police

Mr. Kamaranga Hannadige Lalith Susantha Peiris was arrested and extrajudicially killed by police officers attached to the Moratuwa Headquarters Police Station. Several hours before the killing a police constable attached to the Police Guard Point, Modara in Moratuwa Police Division was injured while trying to settle a dispute between two parties. He later succumbed to his injuries. Following this a police team headed by the OIC of the Headquarters Police Station of Moratuwa arrested Lalith and his brothers along with other persons.

Mr. Kamaranga Hannadige Lalith Susantha Peiris (32), No. 80, Tsunami Housing Scheme, Modara, Moratuwa in the Colombo District was arrested and extrajudicially killed by the police officers attached to the Moratuwa Headquarters Police Station on 3 October 2011.

Lalith was arrested along with four of his brothers by a police team attached to the Criminal Branch of the Headquarters Police Station Moratuwa on 3 October 2011. The police team was commanded by the OIC of the Crime Branch IP Hettiarachchi. Then Lalith, his brothers, Jagath Nishantha Peiris, Sanath Nilantha Peiris, Ajith Prasanna Peiris were brought to the police station and detained.

Later Lalith was brought to the Bolgoda River by a group of police officers, allegedly to show them where he had concealed a knife. According to the official police version he drowned while attempting to escape.

Before Lalith's death, several hours earlier in the morning of October 3 a police constable attached to the Police Guard Point Modara in Moratuwa Police Division was injured while trying to settle a dispute between two parties that arose in the Modara area. He later succumbed to his injuries.

October 6, 2011 -
Urgent Appeal Case:
AHRC-UAC-193-2011

ISSUES: Extrajudicial
killing; impunity; rule
of law

Following the officer's death a police team headed by the OIC of the Headquarters Police Station of Moratuwa arrested Lalith and his brothers along with other persons. Later the police announced that after the arrest they had brought Lalith to a location at one inlet in the Bolgoda River where he revealed that the sword and the large knife used in the killing was hidden by him. Then when they were bringing him back to the police station the deceased had committed suicide by jumping into the water. The police claimed that before jumping into the water he attacked a police officer who was in the boat as well.

84. Eighth case of killing of beggars in the Kalaniya Police Division

The AHRC made an exceptional Urgent Appeal after observing the increased numbers of systematic killings of beggars in Sri Lankan cities over the past few months. A beggar was clubbed to death by unidentified assailants with a sharp weapon during the early hours of 4 October 2011 at Kelaniya in Gampaha District. This is the eighth beggar who reported to have been killed in the past three months. In the name of modernization and the beautification of the cities, around a dozen beggars were similarly killed in the city of Colombo in 2010. Investigation or prosecution of the assailants failed to occur in all of these cases.

Another beggar was clubbed to death by unidentified assailants with a sharp weapon during the early hours of 4 October 2011 in Kelaniya in Gampaha District. The beggar was found with severe head injuries on the road in front of 'Priyantha Iron Tech' of Biyagama Road, Gonawala, Kalaniya.

This is the eighth such instance in which a beggar was killed by a blow to the head in the past three months within the Kalaniya Police Division. Earlier, the police recovered the bodies of seven beggars from various locations in urban areas with severe head injuries. The killing of beggars has been reported in the Paliyagoda, Kalaniya and Kiribathgoda areas of the Kalaniya Police Division.

The police have yet to uncover the motive behind this mindless killing. The police reported that they believe these killings are being carried out by cliques who make money from these beggars, and ask them to meet specific monetary targets. When the beggars are unable to meet the targets, they are badly assaulted or killed.

The beggars who were reported dead to the Kalaniya Police Division were found at the following locations:

1. Nawaloka Circle, Paliyagoda
2. Pattiya Junction, Paliyagoda
3. Near the 'Sanasa Bank' of Biyagama Road in Paliyagoda
4. Near the 4th mile post, Kandy Road in Paliyagoda
5. At turning road to the Pattiya Junction from Biyagama Road in Paliyagoda
6. At Kiribathgoda Town

October 6, 2011 -
Urgent Appeal Case:
AHRC-UAC-194-2011

ISSUES: Extrajudicial
killing; impunity; rule of
law

7. At seventh-mile post in Kelaniya

In 2010, as the Sri Lankan government prepared for the 'International Indian Film Academy' Awards the government created propaganda about the need to beautify the city by removing beggars. Soon after, there was a mysterious series of extrajudicial killings of around a dozen beggars in the city of Colombo.

85. The assault on the Registrar of the SLMC should be investigated

The AHRC is making an exceptional Urgent Appeal following the assault on Dr. N J Nonis, the Registrar of the Sri Lanka Medical Council (SLMC) by two unknown persons on 4 October 2011.

Dr. N J Nonis the Registrar of the Sri Lanka Medical Council (SLMC) was assaulted on 4 October 2011 in front of his residence at No. 09/01 A, Nemon Jecab Mendis Mawatha, Idama, Moratuwa in the Colombo District. Dr. Nonis, a consultant medical doctor, formally retired from his government service presently holds the office of Registrar of the SLMC. He also acts as a private channeling consultant.

On the day of the attack when the doctor was returning home as usual he stopped his vehicle in front of his house. Then two persons came on a motorbike and stopped beside his car. One of them showed an address written on a piece of paper and pretended that he was seeking his help. However, when the doctor tried to read the paper the other man struck him on the head. Terrified, the doctor, who is an elderly gentleman, turned his head forward at which the next blow struck his neck. At the same time both men warned him of something in strong language. However, due to the shock and the pain the terrified doctor could not recall the exact wording or the meaning of the warning.

Dr. Nonis made a complaint to the Moratuwa Headquarters Police Station regarding the assault, which included the registration number of the motorcycle.

Later the police stated that they had arrested a person on suspicion of the assault. According to the police the suspect is a resident of Kaludewal of Panadura. Though the police announced that the arrested suspect is to be produced for an identification parade the progress of the investigation is not known.

The nature of this assault is itself highly suspicious and deeply concerns many parties in the country. This particular attack against the registrar of the SLMC occurred not as an isolated incident, but one of a series of high profile attacks which involve the executive and administrative matters.

Incident 1

When several of Sri Lanka's eminent international cricket players were accused of and found positive for doping it was found that the President's 'personal physician' Eliyantha White, officially treated those players. The official qualification of the physician

**October 10, 2011 -
Urgent Appeal Case:
AHRC-UAC-200-2011**

**ISSUES: Assault; right
to occupation; right to
education; health
rights; impunity; rule
of law**

was questioned and it was Dr. Nonis, as the Registrar of the Sri Lanka Medical Council (SLMC) who officially stated, “We do not have any information about his qualifications nor of his having been registered in the other two medical councils in Sri Lanka – Ayurveda or Homoeopathy”.

Incident 2

The Sri Lanka Medical Council (SLMC) is the statutory body that is mandated to regulate medical education (both undergraduate and post-graduate). It is also the disciplinary body for doctors in Sri Lanka. A doctor cannot practice Western Medicine in Sri Lanka without registration with the Sri Lanka Medical Council.

Several days before the attack, the SLMC and its president came under verbal attack by a senior politician, S B Dissanayake, the Minister of Higher Education, in the media. The reason for this was the refusal to accept the medical graduates from the South Asian Institute of Technology and Medicine (SAITM), a private medical institution, as the quality and the standard of this particular institution was in doubt.

The cause for Dr. Nonis’ refusal of the degrees offered by the private medical college is due to the contravention of the Medical Ordinance. The first part of the course offered by the SAITM is done in Sri Lanka but the second part is done in Russia and degrees offered after conducting courses in two different places cannot be recognized.

Incident 3

Those affected by the Examination for Registration to Practice Medicine in Sri Lanka (ERPM) the results of which were released recently are also suspected of involvement in this attack. The medical degree holders from foreign universities have to sit for this examination to qualify for registration with the SLMC. One of the aims of Dr. Nonis was to maintain international standards for the medical profession.

It is well known that the many students who have gained foreign medical degrees belong to influential families of the country. In order to register, an applicant has to successfully complete the examination conducted by the SLMC under section 16 of the SLMC Act. The recently held examinations produced a 16 per cent pass rate only.

Incident 4

Regarding the government’s establishment procedure of private medical colleges was heavily criticized by the Government Medical Officers Association (GMOA). Later S B Dissanayake, the Minister of Higher Education accused the president of the GMOA Dr. Anuruddha Padeniya of being unsuitable to work as a doctor. Later the accusation was withdrawn by the government. Therefore it is not difficult to imagine that the assault on Dr. Nonis is very clear warning and comes from the very top.

Alternative report on Sri Lanka to the UN Committee Against Torture

REDRESS, UK; Rehabilitation and Research Centre for Torture Victims, Denmark; Action by Christians for the Abolition of Torture, France; and, Asian Legal Resource Centre, Hong Kong

This report seeks to identify the systemic problems in legislation and practice in Sri Lanka in response to the critical points highlighted and the questions posed by the Committee Against Torture in the List of Issues and Conclusions and Recommendations on Sri Lanka's second (previous) periodic report (UN Doc. CAT/C/LKA/CO/2, generally distributed by the secretariat on 15 December 2005).

Inadequate legislative, administrative, judicial or other measures taken to prevent acts of torture in territory under Sri Lanka's jurisdiction (article 2)

Custodial safeguards

1. 2007 Presidential Directions and detention practice

In its report Sri Lanka referred to the July 2007 Presidential Directions that purportedly detail steps that should be taken to guarantee rights of persons in police custody. The Committee identified a number of questions in this respect, in particular, whether various custodial safeguards (right to be informed of the reason for arrest, the access to a lawyer of their choice, the right

This article consists an edited and condensed version of a September 2011 joint report submitted to the UN Committee against Torture to coincide with its examination of the combined third and fourth periodic reports of Sri Lanka under the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Doc. CAT/C/LKA/Q/3-4 (generally distributed by the secretariat on 24 June 2011). The report was jointly submitted to the committee by Redress Trust (REDRESS), the Asian Legal Resource Centre (ALRC), the Rehabilitation and Research Centre for Torture Victims (RCT) and Action by Christians for the Abolition of Torture (ACAT France), all of which are non-governmental organisations which are active in the field of international human rights protection in Sri Lanka, based in London, Hong Kong, Copenhagen and Paris, respectively.

“Individuals who are deprived of their liberty by police are arbitrarily denied information regarding the reasons for their arrest, access to a lawyer, and the possibility to inform a family member of their arrest”

to be assisted by an interpreter, right to access a doctor and to receive an independent medical examination, right to habeas corpus) are effectively guaranteed in practice.

The Presidential Directions are not legally binding and cannot replace the formal legislative pronouncements. Parliament is vested with the exclusive power to make laws in Sri Lanka. The Presidential Directions are therefore of no relevance to the judiciary, which is supposed to act pursuant to the laws only and with no regard to any directions from any person except a superior court or tribunal or other person entitled under law to direct or supervise a judge or judicial officer. As there is no provision in law entitling the President to issue directions of the nature in question, their legal basis and effect are unclear. In any event, the practical effect of the Presidential Directions is negligible. Reports testify to widespread and systematic non-compliance with the most fundamental legal safeguards meant to protect detainees.

In response to the question raised by the Committee concerning the observance of the safeguards aimed at the prevention of torture in custody, it should be observed that the individuals who are deprived of their liberty by police are arbitrarily denied information regarding the reasons for their arrest, access to a lawyer, and the possibility to inform a family member of their arrest. This widespread and systematic practice is illustrated, among many other reported examples, by the facts of the case of Mohammed Amir Sultan who was illegally arrested and subjected to torture by the police officers attached to the Katupotha Police Station in October 2010.

2. Effective access to a lawyer of one's choice

In response to the question raised by the Committee concerning treatment of lawyers who represent individuals alleging human rights abuses, it should be noted that there have been a number of incidents in which arrested or detained persons were denied effective access to lawyers of their choice, especially at the most crucial initial stages of their arrest and first interrogations by the police. Intimidation of lawyers themselves who appear for clients in cases where police officers are involved is also evident. There are reported incidents of the assaults on lawyers who have visited police stations together with their clients; for example, it was reported that Mr D.W.C. Mohotti, attorney-at-law, while accompanying his client, was assaulted by police officers at the Bambalapitiya Police Station on 24 October 2008, and had his identity card taken away from him. This incident illustrates a widespread lack of respect of lawyers and their role in the criminal justice process and a failure to ensure that lawyers are able to perform their professional functions without intimidation, hindrance, harassment and improper interference. Conversely, reports point to a widespread practice of cultivating lawyers who are inclined to take the side of police. Those incidents indirectly lead to the effective denial of a right to qualified legal assistance of those in police custody.

3. Effective access to independent medical examination

In response to the Committee's question on the medical examination of those in custody, it should be observed that the judicial medical officers responsible for medical examinations are formally independent of police and report to the health care authorities. However, in practice they frequently find themselves subject to considerable police influence. This concerns, in particular, the police practices of refusing to leave a room or a place when judicial medical officers examine individuals who may have suffered from torture and ill-treatment, and write their reports. For example, a judicial medical officer was forced to examine Mr A.A. Priyantha Kumara, who was violently assaulted by police in Dodangoda on 12 February 2007, in a hospital in the presence of a police officer from the same police post to which the alleged perpetrators belonged.

“There are reported cases of judicial medical officers’ complicity in covering up evidence of torture”

It is also common practice for judicial medical officers not to fill in the sections provided for their comments in the medico-legal reports. This section is intended to provide the judicial medical officer with the opportunity to give his or her expert opinion on the degree to which medical findings on the alleged victim correlate with his or her allegation of torture or ill-treatment. The judicial medical officers rarely do so in practice, although, it is their responsibility to state conclusively whether the injuries are consistent or inconsistent with the allegations of torture or ill-treatment. There are also reported cases of judicial medical officers’ complicity in covering up evidence of torture.

Judicial medical officers are reportedly reluctant to send police guards away, out of fear of a detainee escaping because there is an acute shortage of safe rooms available for medical examinations. Moreover, when a judicial medical officer reports on injuries, a copy of his or her report is mandatorily sent to the police. As most torture allegations are linked to police conduct, it effectively gives an early warning to the culprits, allowing them to tamper with evidence and intimidate victims and witnesses, where applicable. It is advisable to change this practice so that the copy of the report of the judicial medical officer is sent to the magistrate in charge of the inquiry rather than to the police. While the introduction of judicial medical officers is a welcome step, more needs to be done in order to ensure their operational independence.

4. Effective access to interpretation and translation

In response to the point raised by the Committee concerning alleged shortages of Tamil-speaking court-appointed interpreters, it is to be observed that there are shortcomings in access to Tamil-Sinhala judicial translators and interpreters at all stages of the criminal proceedings, from recording a complaint by the police to the prosecution in court. Apart from a separate violation of the defendants’ fair trial rights, this situation contributes significantly to the vulnerability of the Tamil detainees.

“The National Human Rights Commission routinely fails to provide the victim with information concerning the nature of steps taken by the Commission in response to a complaint”

There is a significant shortage of competent Tamil-speaking judicial translators and interpreters; for example, there are no Tamil-Sinhala judicial interpreters attached to the High Courts of Jaffna, Kegall and Kurunegala, and no Tamil-Sinhala interpreters and translators attached to the police stations.

There are few Tamil-speaking police officers, prosecutors and judges, which adds to the overall situation of heightened vulnerability of Tamil detainees.

The role of institutions in the prevention of torture

1. Role and status of the National Human Rights Commission

The Committee invited information on the role of various bodies including the National Human Rights Commission. Although the National Human Rights Commission has statutory powers to monitor the welfare and respect for the rights of detainees, its powers of inspection are weak and its alarming unwillingness to do so is a cause of great disappointment and enormous concern. For example, the National Human Rights Commission now routinely fails to provide the victim or his or her counsel with information concerning the nature of steps taken by the Commission in response to the respective complaint. Further, the National Human Rights Commission does not proceed if the victim has filed a fundamental rights' petition with the Supreme Court (the action he is obliged to take pursuant to the Supreme Court Rules within thirty days of the alleged violation). One of the leading Sri Lankan legal commentators recently wrote of “[t]he severe decrease of constitutional and statutory legitimacy” of the National Human Rights Commission witnessed now.

The Committee invited information on the National Human Rights Commission's compliance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights. The National Human Rights Commission's failure to comply with the Paris Principles was confirmed by the ICC Subcommittee on Accreditation which downgraded the Sri Lankan National Human Rights Commission from a status “A” to a status “B” national human rights institution. In its report the Subcommittee expressed concern about the independence of the Commissioners and questioned whether the actual practice of the National Human Rights Commission remained balanced, objective and non-political particularly with regard to the discontinuation of follow-up to 2000 cases of disappearances in July 2006. The Subcommittee also noted that the National Human Rights Commission had failed to issue annual reports on human rights as required by the Paris Principles. The independence of the National Human Rights Commission suffered further setback in 2010 with the adoption of the 18th amendment to the 1978 Constitution of Sri Lanka. It should be noted, as a general remark, that the national human rights institutions are complementary mechanisms which are not substitute for the general criminal justice system.

2. Role and status of the judiciary

The Committee invited information on the measures in place to fully ensure the independence of the Sri Lankan judiciary in conformity with the Basic Principles on the Independence of the Judiciary, in particular, in so far as the procedure for the appointment of judges, the duration of their mandate, the rules governing their removability and the ways in which they may be dismissed from office are concerned. The lack of active judicial control over the lawfulness of detention and detainees' well-being including their exposure to torture is partly explained by the lack of judges' institutional independence from other branches of the Sri Lankan Government. In this regard, it has been recognised by the Supreme Court of Sri Lanka that

"the process of impeachment of superior court Judges can be held like a sword of [D]emocles over incumbent Judges who would be placed in peril of an inquiry to be held within Parliament by a Panel consisting of Members of Parliament" [*In the matter of a Reference under Article 129(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka* (No. 01/08), Judgment of 17 March 2008 delivered by Chief Justice Silva and joined by Justices Amararatunga, Marsoof, Somawansa and Balapatabendi].

With adoption of the 18th amendment to the Constitution, the appointment of the Chief Justice and judges of the Supreme Court and the Court of Appeals no longer need to be approved by the Constitutional Council.

Magistrates rarely visit remand prisons, although they are duty bound to do so. Each magistrate regularly submits statistical data about his or her activities, including the number of cases disposed of and hearings conducted. The relevant forms do not require magistrates to report on how many visits to the remand prisons within the respective judicial circuit he or she has conducted. As a result of this lack of transparency and control, independent judicial oversight of places of detention has become ineffective if not inoperative altogether.

The remedy of habeas corpus is equally ineffective. A recently conducted comprehensive study of 880 judgments of various courts in Sri Lanka on habeas corpus applications demonstrates that almost all of them have now been rejected.

Another systemic problem capable of facilitating ill-treatment in the custodial context is excessive use of bail and keeping of suspects in pre-trial detention for prolonged periods of time, often under falsified charges.

Situation of individuals detained under the Emergency Regulations

The Committee requested information on the State party's compliance with its obligations under article 2 of the Convention with specific emphasis on the information about the fate of persons detained under the Emergency Regulations and the Prevention of Terrorism Act. The above-mentioned fundamental safeguards are absent in respect of the persons arrested under

“The lack of active judicial control over the lawfulness of detention and detainees' well-being including their exposure to torture is partly explained by the lack of judges' institutional independence from other branches of government”

“There is no intention of the government to repeal the Prevention of Terrorism Act”

the Emergency Regulations and the Prevention of Terrorism Act. Although the Emergency Regulations were allowed to lapse on 31 August 2011, there is no intention of the Government to repeal the Prevention of Terrorism Act. Instead, the Attorney General recently announced the Government's plans to introduce new regulations under the Prevention of Terrorism Act. The situation of total arbitrariness in which those detainees find themselves is exacerbated by the fact that they are being held in undisclosed and remote locations in the Northern Province. In particular, such makeshift detention centres are frequently disguised as orphanages, children's centres, welfare centres or medical institutions. In this situation there is no realistic opportunity for independent monitoring of those places of detention, for example, by magistrates even if they were prepared, in the circumstances, to exercise their right to do so, as they will not be able to locate the relevant de facto detention centre.

One of the recent examples of mass detention under the Emergency Regulations took place in the village of Navanthurai, Jaffna District, Northern Province, on 23 August 2011. In a late-night operation conducted by the Sri Lankan Army more than one hundred villagers were arrested and subsequently detained. They were severely beaten up with rifle butts and iron rods and dragged to the premises of the army detachment not far from their village. Women and children who tried to defend their husbands and fathers were also beaten. Those injured were initially not provided with medical treatment. The Assistant Superintendent of Police for the Jaffna District who appeared in person in the subsequent proceedings before the Magistrate accused the villagers of “unlawful gathering”, thus suggesting that the latter had been detained by the Army on the basis of the provisions of the Emergency Regulations.

Prevention of violence against women including sexual violence

The Committee specifically requested information on the prevention of violence against women including domestic and sexual violence. The number of the reported cases of violence against women, including sexual violence, continues to grow while the response on the part of police and other State authorities to date remains unsatisfactory. The Asian Human Rights Commission (AHRC) received information on the rape of a 9-year old daughter of Mr Mohammad Mulafar and Ms Siththi Farina in October 2010. The results of the examination of the victim by a judicial medical officer, as well as her testimony, initially prompted the police to act. However, because the suspect was an influential and wealthy businessman, the officers of the Peradeniya Police Station failed to take him in custody but instead pleaded with the victim's parents suggesting out-of-court settlement. When the rape charges were finally brought against the man in question, the brother-in-law of the suspect threatened to kill the parents of the girl, and the police failed to act in order

to protect them. It is highly probable that the case will end in a withdrawal of charges against the wealthy and influential accused and the discontinuation of the pertinent proceedings.

In addition to a failure to adequately investigate and prosecute cases of sexual violence, police personnel are reportedly frequently themselves involved in the crimes in question. This is illustrated by the case of Ms Padmini Sriyalatha. On 7 October 2006, the victim was attacked in a public toilet by a drunken police constable attached to the Ratnapura Police Station, whom she was able to identify. The police constable attempted to sexually assault her and inflicted several bodily injuries. When confronted by the victim's husband, the police constable threatened him with reprisals. In spite of numerous complaints, the identification of the assailant by her victim, and medically confirmed injuries, no criminal or disciplinary action has yet been taken against the alleged perpetrator.

Absence of the legal concept of command responsibility

In response to the question raised by the Committee, it should be noted that the concept of command responsibility is not incorporated into Sri Lankan law, including the Penal Code and the Convention Against Torture Act, No. 22 of 1994.

Lack of sensitisation and human rights education among public officials (article 10)

The Committee requested information on the human rights training provided for law-enforcement and other public officials. The co-signatories are not aware of any verifiable information concerning the implementation of the so-called National Action Plan for the Promotion and Protection of Human Rights in Sri Lanka. It is evident, however, that the Government of Sri Lanka fails to promote human rights education and awareness. One of the leading domestic legal commentators, Kishali Pinto-Jayawardena, noted that "the lack of skilled and trained regular police personnel remains a fundamental problem" (*The Rule of Law in Decline*, Copenhagen, 2009, p. 175).

Moreover, the Government attempts to discredit the very idea of human rights. The authorities frequently refer to human rights as a "western concept" that is detrimental to national integrity and sovereignty. In an interview given recently to a French journalist, Mr Mahinda Rajapakse, President of Sri Lanka, was reported as referring to the "so-called activists and defenders of human rights" as "getting benefits thanks to that" (*Sunday Leader*, 13 March 2011).

The Government characterised the report of the UN Panel of Experts on the Accountability in Sri Lanka, referred to on several occasions throughout the List of Issues, as "illegal", "biased", "baseless" and "unilateral".

“In addition to a failure to adequately investigate and prosecute cases of sexual violence, police personnel are reportedly frequently themselves involved in the crimes in question”

“The statutory
minimal sentence
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The totality of the Government’s comments on human rights and the individuals and bodies seeking to promote and protect human rights results in the cultivation of a negative perception of human rights and reinforce a climate of impunity.

Such an attitude openly expressed at the highest levels of administration seemingly contributes to an indifferent attitude towards human rights education, especially among law-enforcement personnel, in violation of article 10 of the Convention.

Failure to promptly and impartially examine and investigate credible torture complaints and ensure protection of victims and witnesses (articles 12 and 13)

One of the most crucial issues severely undermining Sri Lanka’s compliance with its obligations under the Convention is its systemic failure to promptly and impartially examine credible allegations of torture and other forms of cruel, inhuman or degrading treatment or punishment. It concerns, in particular, the failure to conduct Convention-compliant criminal investigations into such allegations in respect of torture and ill-treatment, particularly enforced disappearances, committed during the final phase of the internal armed conflict in 2009 and in respect of torture and ill-treatment committed outside of that context, that it so-called “routine police torture”.

Torture as a criminal offence and its interpretation by Sri Lanka’s judiciary

The statutory minimal sentence of seven years’ imprisonment for torture is no longer applicable following a judgment handed down by the Supreme Court in 2008. The Supreme Court found in *In the matter of a Reference in terms of Article 125(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka* (No. 03/08, Judgment of 15 October 2008 delivered by Justice Ratnayake and joined by Chief Justice Silva and Justice Amaratunga) that the statutory minimal mandatory sentence was unconstitutional and that, therefore, “the High Court is not inhibited from imposing a sentence that it deems appropriate in the exercise of its judicial discretion notwithstanding the minimum mandatory sentence”. This dictum is now used in other cases, including cases where allegations linked with torture are levelled against the accused. This case-law development has led to the possibility of imposing minimal or even conditional custodial sentences for the torture-related offences. This is not in line with the Committee’s understanding that by defining the offence of torture under article 1 of the Convention as distinct from common assault or other crimes States Parties should also ensure “appropriate punishment that takes into account the gravity of the offence”. It seems, on the basis of available information, that the courts in Sri Lanka more frequently give suspended sentences for crimes, including such crimes as murder and rape. It seems that this policy is motivated by the desire to get the accused to agree to a guilty plea and not to

contest charges and therefore to avoid trials, as the criminal justice system is generally overburdened. To take one example, one magistrate has recently disposed of 206 cases in a single day.

Investigation of allegations of torture and ill-treatment

1. Independence

The lack of independence and impartiality of investigations into allegations of torture and ill-treatment, particularly by the police, is a central factor that perpetuates the climate of impunity. The practice of investigations conducted by the special investigation units, which allowed for some degree of impartiality, has in practice been largely discontinued. The Police Complaints Commission delegated its statutory authority to hold inquiries into allegations of police misconduct back to the police. It follows that the allegations of torture committed by police are investigated by the police themselves, often by the very police officers implicated or their colleagues. It goes without saying that such investigations are defective from the very outset. For example, it was the officers of the Moragahahena Police Station who were dispatched to inquire into the allegations of ill-treatment of Mr T. Sunil Hemachandra, including taking testimonies of the victim, his co-detainee and his relatives, although the alleged ill-treatment had taken place at the premises of the same police station and in the police vehicle driven by the officers of the same police station.

As the bulk of torture allegations are linked with routine police activities, it is indispensable to follow-up on the Committee's recommendation on the creation of an independent body with a view to ensuring prompt, impartial and exhaustive investigations into all allegations of torture, ill-treatment and enforced disappearances committed by law-enforcement officials. So far, no steps have been taken by the authorities to establish such a body.

The courts fail to exercise independent judicial control by ordering investigations into credible allegations of torture. By way of an illustration, the Supreme Court of Sri Lanka, when seized of the fundamental rights' petition lodged by the relatives of Mr T. Sunil Hemachandra, did not order an independent investigation into the circumstances of the facts complained of, but instead entirely relied on the account provided by police rejecting the petitioners' version of events as not "supported by contemporaneous evidence" [*Guneththige Misilin Nona and Jayalatha v. Muthubanda, Maheepala, Wijemannna, Inspector General of Police and the Attorney General* (No. 429/2003), Judgment of 6 August 2010 delivered by Justice Shiranee Tilakawardane and joined by Justices Sripavan and Imam]. This approach, which can only be described as abdication by the judiciary of its constitutional responsibilities, is entirely at odds with the applicable international standards which do not permit the transfer of the burden of proof in its entirety onto the torture

“The courts fail to exercise independent judicial control by ordering investigations into credible allegations of torture”

“In those isolated cases where judges embark on an independent examination of torture allegations brought before them, they are almost immediately rebuked by the higher courts”

survivor and his or her next-of-kin, but require that the necessary steps be taken by the authorities which were given notice of the credible torture allegations, including the judicial authorities. As it has recently been emphasised by the Human Rights Committee, it is up to the State to demonstrate that its authorities did address the torture allegations advanced by the torture survivors and/or their next-of-kin expeditiously and adequately, including in the context of the relevant judicial proceedings.

The role of the Attorney General has also fundamentally changed. Having previously been an independent legal officer, the Attorney General now defends the Government and State agents, even those who are accused of torture, in particular, in fundamental rights' proceedings before the Supreme Court. Defending them in the fundamental rights' proceedings, the Attorney General is then responsible for prosecuting them in criminal proceedings. This creates an obvious conflict of interests. When, against all odds, a criminal case with torture charges makes its way to court, the Attorney General can withdraw it at his own discretion. Although under domestic law the Attorney General's decision to withdraw a case in such circumstances is not binding upon the court and is ultimately within the judge's discretion, in practice the judicial proceedings are almost invariably discontinued following such a withdrawal. The change in the Attorney General's role appears to those observing the situation to be associated with the wish of the Government of Sri Lanka to have as few indictments in respect of such crimes as torture as possible as the number of such indictments is used as an indicator of overall human rights situation. The Attorney General is therefore expected to play a role in giving "a good image" to the nation.

In those isolated cases where judges embark on an independent examination of torture allegations brought before them, they are almost immediately rebuked by the higher courts. The Court of Appeal, presided over by the President of that Court, recently held that the decision of a magistrate to proceed with a non-summary inquiry into ill-treatment allegedly committed by police officers leading to the victim's death was taken in contravention of the Criminal Procedure Code and halted the inquiry. The Court of Appeal also ordered the unconditional release of the police officers allegedly involved, whose arrest had been ordered by the magistrate. This decision proves the trend of the further weakening of the role of the judiciary which is de facto deprived of its independent role in verification and investigation of credible allegations of torture, cruel, inhuman and degrading treatment or punishment. Taking into account the above-mentioned loss of legitimacy and ineffectiveness displayed by the National Human Rights Commission, the police have effectively become the only governmental agency in charge of investigating torture allegations. However, it is most frequently the police officers who are reportedly involved in torturing the detainees. The alleged perpetrators are not reassigned or

suspended from service pending investigation. These factors, in combination, have resulted in a cycle of impunity evidenced by a negligible number of successful investigations and prosecutions. In fact, not more than a half-dozen of such prosecutions took place under the CAT Act since its entry into force. Basil Fernando, of the AHRC, notes the following:

These days, anything and everything is possible within that system, however illegal. Whether police officers engage in drug dealing and protecting the drug dealers; whether they use their powers of arrest and detention to obtain bribes for themselves; whether they help politicians by putting their opponents behind bars under false charges, using anti-terrorism laws and anti-drug laws; or engage in any other type of illegality, there is hardly anything the system can do to stop it. Cosmetic measures such as arresting a few low-ranking officers do not make any difference. (*Sri Lanka: Impunity, Criminal Justice and Human Rights*, Hong Kong, 2010, pp. 51-52.)

One of the measures which is critically required to address this systemic problem is the full implementation of the earlier recommendation of the Committee to set up an independent agency charged with investigating credible allegations of torture and ill-treatment committed by the members of the law-enforcement personnel in Sri Lanka, primarily by police officers. So far, no steps have been taken by the authorities in order to have such agency established.

In order to implement this Committee's recommendation, one possible institutional solution towards ensuring the independence of investigations is to enhance the role of magistrates in supervising police investigations. The Supreme Court of India opined the following in 2007:

In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he [or she] can issue a direction to the police to do the investigation properly, and can monitor the same... The power in the Magistrate to order further investigation... is an independent power, and does not affect the power of the investigating officer to further investigate the case... Hence the Magistrate can order re-opening of the investigation even after the police submits the final report. (*Sakiri Vasu v. State of Uttar Pradesh and Others*, Supreme Court of India, Case No. 1685/2007, Judgment of 7 December 2007, at paras. 15-16.)

This pronouncement led to a new practice in some Indian States, including Kerala, in recent years. According to this new practice which was affirmed by the High Court of Kerala, the investigation into the most sensitive cases is conducted under close supervision of the judicial magistrate akin to an "inquisitorial judge" or "juge d'instruction" in some Romano-German legal systems, such as France. Such judicial control – if it is exercised thoroughly and independently – is capable of ensuring an effective investigation in compliance with the strict standards set by the Convention.

“One possible institutional solution towards ensuring the independence of investigations is to enhance the role of magistrates in supervising police investigations”

2. Promptness

“A further systemic factor of long-standing concern is the exorbitant delays in the investigation and judicial proceedings concerning torture and other forms of ill-treatment”

A further systemic factor of long-standing concern is the exorbitant delays in the investigation and judicial proceedings concerning torture and other forms of ill-treatment. This critical issue is well illustrated by the case of Mr Lalith Rajapakse. In that case, the Human Rights Committee identified the following instances of impermissible delays: the Attorney General did not initiate a criminal investigation into credible allegation of ill-treatment until more than three months after the incident, indictments were served only four years after the alleged incident, and the courts took an extremely prolonged period of time to examine the case. The Human Rights Committee emphasised that the expeditiousness and effectiveness required of the domestic remedies are particularly important in the adjudication of cases involving torture and that the prolonged remedies are ineffective. The general situation with the delays has not changed since the time of the facts of the Lalith Rajapakse's case and, as it has been highlighted in the special report produced by REDRESS, lengthy delays continue to frustrate any legal remedies for torture victims.

Protection of victims and witnesses

The failure to protect witnesses from threats and intimidation constitutes a crucial impediment to effective investigation into instances of torture and ill-treatment in light of a practice of threats and harassments, including killing, of victims and witnesses. The Committee requested the updated information on the status of the draft bill on Witness and Victims of Crime Protection which was presented to the Sri Lankan Parliament back in 2008. This draft bill has not been adopted by the Sri Lankan Parliament and is still pending before the Parliament. There is no verifiable information at the time of writing of this submission as to the tangible prospective of this bill to be adopted and become law. Absence of legislation on protection of victims and witnesses significantly facilitates impunity.

Information on specific cases referred to by the Committee

The Committee requested comments on the status of efforts to prosecute the perpetrators of the 2002 murder of Mr Gerald Perera. Six police officers who were charged with torturing Mr Gerald Perera were acquitted by the High Court. The appeal against that acquittal is currently pending before the Court of Appeal. The case relating to the murder of Mr Gerald Perera is still pending before the High Court of Negombo. This case of torture and subsequent murder of an innocent man, allegedly by a group of police officers, in broad daylight clearly demonstrates the incapacity of the Sri Lankan criminal justice system to respond effectively and in compliance with the Convention to the grave human rights violations alleged to have been committed by its

own law-enforcement personnel. The story of Mr Gerald Perera was told in a movie specially screened by the AHRC to commemorate the sixth anniversary of his assassination.

The Committee requested information on investigations and disciplinary/criminal proceedings concerning a range of individual cases of assassinations, abductions, enforced disappearances and severe beatings. In response to this request, the following information is produced.

The killing of journalist Lasantha Wickremetunga has been referred to as an example of what is “now a common occurrence” in Sri Lanka by Ms Margaret Sekaggya, UN Special Rapporteur on the Situation of Human Rights Defenders, in her remarks made in Geneva in February 2009. There is no evidence of any meaningful investigation, disciplinary or criminal proceedings in this case.

Likewise, there has not been an impartial and effective inquiry into the circumstances of the abduction and brutal beating of Poddala Jayantha, secretary-general of the Sri Lanka Journalist Association, in June 2009. In view of the remarks made by President Rajapakse when he was informed by one of his ministers about Poddala Jayantha’s misfortunes, and the vilification campaign conducted against him by a state-controlled television channel, there are justified concerns that this prominent media specialist has been singled out by the authorities as another victim of the state-sponsored attacks on the media.

No effective measures were taken to establish the whereabouts of Mr Sinnavan Stephen Sunthararaj, a human rights defender who was based in Jaffna. He was abducted in May 2009. The AHRC subsequently received information that his life was in immediate danger. No information about his fate is available.

The case involving the death of two young men, Dinesh Tharanga Fernando and Danushka Udaya, in police custody in Angulana is pending before the High Court in Colombo.

The murder of Siyaguna Kosgodage Anton Sugath Nishantha Fernando, a human rights defender and himself torture survivor, in September 2008 stands out. Following his death, Sugath’s wife and children were pursuing a fundamental rights’ petition before the Supreme Court of Sri Lanka and requested that their family be afforded protection against police. Sugath was assassinated, and his murder has not been investigated. His family had to flee abroad because of fear for their own safety. ALRC and REDRESS assisted Sugath’s widow and children in taking their case to the Human Rights Committee. It was registered in February 2009 and is now pending before the Human Rights Committee. The Human Rights Committee also requested the Sri Lankan authorities, under rule 92 of its rules of procedure, to take measures “to ensure protection” of Ms Peiris, Sugath’s widow, and their children. No steps have been taken, however, by the

“The killing of journalist Lasantha Wickremetunga has been referred to as an example of what is ‘now a common occurrence’ in Sri Lanka by the UN Special Rapporteur on the Situation of Human Rights Defenders”

“Sri Lanka does not have a specific policy on the provision of redress to torture survivors”

Sri Lankan authorities to comply with that explicit interim measures’ request of the Human Rights Committee. Following their return to Sri Lanka, Ms Peiris received a number of threats. In particular, her car was chased and she received a number of anonymous phone calls with death threats to herself and her children. In September 2009, the counsel for the family wrote to the Human Rights Committee drawing their attention to Sri Lanka’s failure to comply with the order made under rule 92 of the rules of procedure of the Human Rights Committee and inviting the Human Rights Committee to draw the attention of the Sri Lankan Government to the interim measures ordered under rule 92 and request them to take appropriate actions to ensure the necessary protection of Ms Peiris and her children. No measures were taken by the Sri Lankan authorities to that effect. This case illustrates the persistent refusal of the Government of Sri Lanka to meaningfully co-operate with the international human rights treaty bodies.

Failure to provide redress to torture survivors including compensation and as full rehabilitation as possible (article 14)

The Committee requested information concerning the efforts of Sri Lanka to make physical, psychological, and social, rehabilitation services available to all victims of torture.

Sri Lanka does not have a specific policy on the provision of redress to torture survivors. A right to compensation is only available to victims in the context of the fundamental rights’ petition before the Supreme Court but not in the context of the criminal proceedings into credible allegations of torture, cruel, inhuman and degrading treatment or punishment.

The amount of compensation granted has been inconsistent and is often very small. In some cases even the compensation ordered by courts is not paid in full.

Though the Sri Lankan National Human Rights Commission may recommend awards of compensation to torture survivors, such recommendations lack binding force and are not enforced.

As at the time of the Committee’s last consideration of Sri Lanka’s report, there are still no rehabilitation services provided by the State that are available throughout Sri Lanka to all torture survivors, such as physical, psychological, and social rehabilitation services. The psychological scars of the torture survivors are not properly healed.

Some rehabilitation services which are available to torture survivors and members of their families in Sri Lanka are provided by civil society actors such as locally active non-governmental organisations. Human Rights Office in Kandy, for example, regularly organises series of workshops and training activities for torture survivors, their next-of-kin and the wider communities affected.

The conflict in the North-East and the findings of the UN Panel of Experts

The current submission takes note of the prominence given to the Report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka published in April 2011 by the Committee in its List of Issues, particularly in the context of articles 2, 11, 12 and 13. Notably, the Committee is the first treaty body that has the opportunity to consider Sri Lanka's treaty obligations in light of the Panel's findings.

The Panel found credible allegations, based on a large number of submissions and its own inquiries, of "potential serious violations committed by the Government of Sri Lanka" (this submission does not consider allegations of violations committed by the Liberation Tigers of Tamil Eelam (LTTE) as they do not directly fall within the purview of this Committee). The Panel of Experts' Report provides evidence that suggest violations both of Sri Lanka's negative obligation to refrain from committing torture and ill-treatment and its positive obligation to prevent and respond to such violations. Implementation of these positive duties flowing in particular from articles 2, 12, 13, 14 and 16 are still outstanding, namely (i) holding those responsible to account; (ii) providing reparation to victims; and (iii) putting in place effective guarantees of non-repetition, which requires undertaking the necessary legislative and institutional reforms.

Sri Lanka's response, both domestically since the end of the conflict and internationally following the publication of the Panel's Report and broadcasting of related documentation, is characterised by a denial of any responsibility and a refusal to undertake a prompt, impartial and effective investigation into allegations of torture and ill-treatment, or other violations for that matter. Immediate political responses to the Report were disparaging with senior government officials calling the report 'divisive,' 'biased,' and 'unbalanced' as well as 'illegal', 'baseless' and 'unilateral'. The President called for protests and joined rallies over the 2011 May Day holiday. In July 2011, the Ministry of Defence released a detailed report entitled Humanitarian Operation: Factual Analysis-July 2006-May 2009 relating to the conduct of the conflict, which fails to acknowledge the UN Panel of Experts findings, and instead depicts the last phase of the war as a campaign that sought to minimise civilian casualties while restoring 'normalcy' in the North-East.

The Government continues to portray the LTTE as the only party responsible for violations and refers to the Lessons Learnt and Reconciliation Commission (LLRC) as the sole and sufficient response mechanism. However, as found by the Panel and others, such as Amnesty International, the LLRC has no mandate to conduct the requisite investigations; nor can it provide adequate reparation to victims of violations. In fact, victims of torture have only received limited and inadequate reparation, if any, to date.

“The Government continues to portray the LTTE as the only party responsible for violations during the conflict”

“Torture, in particular by the police, remains endemic in Sri Lanka”

The findings of the Panel therefore remain fully relevant in light of Sri Lanka’s failure to comply with its obligations under international human rights law, including CAT.

The Panel made detailed recommendations. It is the primary responsibility of Sri Lanka to comply with its obligations under the CAT and other international treaties. However, should Sri Lanka continue to fail to take the requisite measures despite the availability of credible evidence of torture and ill-treatment, it is the responsibility of the United Nations and its organs, as well as the treaty bodies, to do their utmost to ensure accountability and justice for the victims of these violations. Indeed, the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights already urged Sri Lanka to co-operate with the UN Panel of Experts and the Committee on the Elimination of Discrimination against Women urged Sri Lanka to ‘consider having an independent international accountability mechanism’; it is now the next logical step to call for a full implementation of the Panel’s recommendations. This could build on previous precedents where UN bodies have urged the Secretary-General to call for the establishment of an international accountability mechanism, namely the International Criminal Tribunal for the former Yugoslavia. Conversely, a failure to take action would compound the climate of impunity in Sri Lanka and would constitute a betrayal of the Convention against Torture, which was adopted ‘to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world’.

Conclusions and recommendations

Torture, in particular by the police, remains endemic in Sri Lanka. In spite of the large number of credible allegations of torture and other forms of ill-treatment, there have been few prosecutions and even fewer convictions of the torturers. This lamentable situation reflects serious shortcomings in investigation methods and accountability mechanisms that result in an overall climate of impunity.

The Sri Lankan authorities must, among other measures to be taken, urgently address the following issues as crucial steps towards the fulfilment of their obligations under the Convention:

- ensuring effective access to a lawyer of one’s choice, independent medical examination, next-of-kin and, where necessary, translators to all arrested and detained persons;
- ensuring effective independent oversight of places of detention;
- establishing an independent body to investigate all allegations of torture, cruel, inhuman and degrading treatment committed by representatives of the law enforcement agencies, including police officers;
- ensuring effective independence of judicial medical officers;

- adopting the requisite legislation and putting in place the institutional mechanisms for the effective protection of victims and witnesses;

- ensuring that amounts of compensation ordered are consistent and fully paid;

- ensuring that rehabilitation services are made available to torture survivors and members of their families.

In relation to the findings of the Panel of Experts' Report the Committee is requested to urge the Government of Sri Lanka to:

- acknowledge that there are credible allegations of torture, ill-treatment and other violations, to promptly commence genuine investigations into these allegations in compliance with articles 12 and 13 of the Convention, and to report back to the Committee within six months on what steps it has taken in this regard;

- specifically criminalize enforced disappearances;

- consent to the establishment of an independent international mechanism having the mandate proposed by the Panel of Experts, and to report back to the Committee within six months on what steps it has taken in this regard. The Committee should also urge the UN Secretary-General to proceed without further delay with the establishment of such an independent international mechanism;

- take effective measures aimed at ending the practice of torture and ill-treatment in custodial situations, including the repeal of the Prevention of Terrorism Act and putting in place effective custodial safeguards by means of legislative and institutional changes. The Government of Sri Lanka should provide for effective monitoring of all detention facilities through national bodies, such as an impartial and credible national human rights commission. In addition, it should disclose the location of camps and other detention facilities set up in the context of the conflict, and permit immediate access to any remaining facilities; it should also give an undertaking not to hinder access by monitoring bodies such as the ICRC to any detention facilities in future;

- undertake a thorough investigation into allegations of torture in custody, as well as torture and ill-treatment prior to executions and enforced disappearances, in line with its obligations under articles 12 and 13 of the Convention. This should include considering the recommendations by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child allegations of specific incidents of rape and sexual violence, as well as the killing of children, respectively. It should also comprise various forms of ill-treatment arising out of the conduct of warfare and the denial of humanitarian assistance. The Government of Sri Lanka should provide the families of victims with all of the relevant factual information that it holds about the violations, including the location of bodies where applicable, acknowledge its

“The government should provide for effective monitoring of all detention facilities through national bodies ”

responsibility and provide reparation in conformity with its obligations under article 14 of the Convention;

- ensure that any ‘transitional justice’ measures taken following the conflict are in full conformity with Sri Lanka’s obligations under the Convention and do not detract from the rights of victims. This comprises the right to an effective remedy and adequate reparation, including, in particular, acknowledgment and truth, in addition to restitution, compensation and rehabilitation;
- include consideration of discrimination as a reason for torture and ill-treatment as part of any investigation and review undertaken, and to put in place guarantees of non-repetition. This includes a wholesale review of measures taken by the Government of Sri Lanka in the North-East during and following the conflict that may have a discriminatory impact on Tamils and may have lowered the threshold for violations (known as ‘dehumanisation’).
- ratify or otherwise become a party to international treaties that enhance protection and accountability for serious human rights violations and international crimes, including in particular the Optional Protocol to the Convention against Torture, the International Convention for the Protection of All Persons from Enforced Disappearance, the Rome Statute of the International Criminal Court, as well as the Additional Protocols to the 1949 Geneva Conventions.

NEW PUBLICATION

Habeas corpus in Sri Lanka: Theory & practice of the great writ in extraordinary times

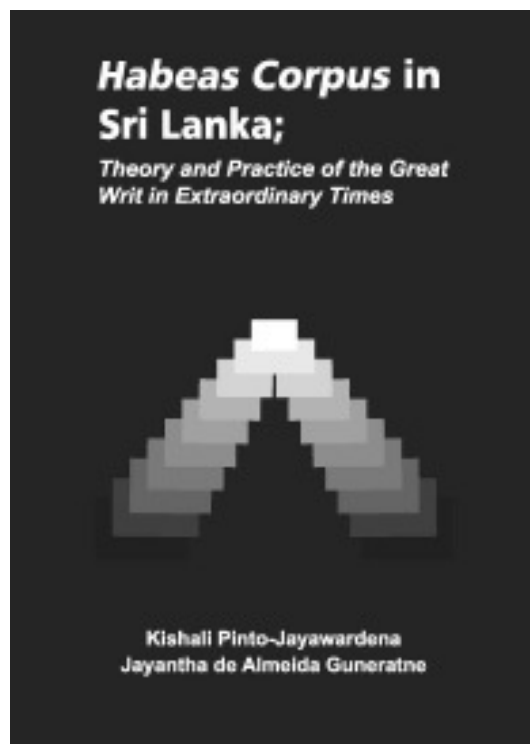
Published in 2011 by Kishali Pinto-Jayawardena and Jayantha de Almeida Guneratne (Law & Society Trust, Sri Lanka)

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The authors' "basic conclusion is that, by and large, the Sri Lankan legal system has demonstrated significant failings in giving effect to habeas corpus as a judicial remedy. The decisions of the courts are markedly different from the way that habeas corpus was dealt with in the pre-independence period, as evidenced, for example, by the famous Bracegirdle case, which demonstrated the will of the Supreme Court at the time to defend the freedom of the individual as against the arbitrary actions of the state. It also demonstrated the Court's power to stand up against the state to protect the freedom of the individual.

This study concludes that in recent decades the approach of the courts has changed substantially. In almost all cases studied, with a few exceptions, courts have dismissed cases rather casually and shown little sympathy for the applicants. Habeas corpus as a judicial remedy for the protection of the freedom of the individual has failed in Sri Lanka, and may disappear altogether from the country. This failure is not due only to factors such as scandalous and shocking delays but also due to much more important changes of attitudes on the part of lawyers and judges (effectively the legal community) towards the remedy itself."

- Basil Fernando, previewing the publication in April 2011



In this issue of *article 2*

SPECIAL COMPILATION: Torture & ill-treatment in Sri Lanka

*Basil Fernando, Director, Policy & Programme Development,
Asian Human Rights Commission & Asian Legal Resource
Centre, Hong Kong*

- Torture and ill-treatment: The tip of the iceberg that is Sri Lanka's dysfunctional justice system

*REDRESS, UK; Rehabilitation and Research Centre for Torture
Victims, Denmark; Action by Christians for the Abolition of
Torture, France; and, Asian Legal Resource Centre, Hong Kong*

- Alternative report on Sri Lanka to the UN Committee
Against Torture

And

- Urgent Appeals issued by the Asian Human Rights
Commission on Sri Lanka in 2011

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